

**Cherokee Funding II, LLC v Express Funding of Am.,
LLC**

2025 NY Slip Op 33345(U)

September 8, 2025

Supreme Court, New York County

Docket Number: Index No. 653433/2024

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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CHEROKEE FUNDING II, LLC,
 Plaintiff,

- v -

EXPRESS FUNDING OF AMERICA, LLC, NEAL ZEER,
 KENNETH BUNN, ALEXANDER FELIX

Defendants.

INDEX NO. 653433/2024

MOTION DATE 08/01/2025

MOTION SEQ. NO. 013

**DECISION + ORDER ON
 MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 013) 338, 339, 340, 341, 342, 344, 351, 352

were read on this motion to SEAL.

Cherokee Funding II, LLC (“Plaintiff”) moves for an order sealing and/or redacting NYSCEF 295, 296, 297 and 298 filed in connection with the motion of Express Funding of America, LLC, Neal Zeer, Keneth Bunn and Alexander Felix (“Defendants”) for a Temporary Restraining Order, Permanent Injunction and Appointment of a Special Master (Mot. Seq. 007). No parties oppose this motion. For the following reasons, Plaintiff’s motion is granted in part.

Pursuant to § 216.1(a) of the Uniform Rules for Trial Courts, this Court may seal a filing “upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties” (22 NYCRR § 216.1[a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of

constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public’s right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed the Plaintiff’s application to seal NYSCEF 296 and 297 and finds that it comports with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain non-public confidential and proprietary information because it contains confidential fundings for claimants, and the disclosure of which could be detrimental to Cherokee’s business, and compromise Cherokee’s relationships with the claimants (*see Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007] [“disclosure could impinge on the privacy rights of third parties who clearly are not litigants herein”]). Additionally, Plaintiff has proposed and justified targeted redactions of NYSCEF 295 (NYSCEF 341). Plaintiff is redirected to file a public, redacted version of NYSCEF 295.

However, the application as to NYSCEF 298 is denied without prejudice. While this email may contain similar confidential information, Plaintiff have not explained why it cannot be protected through redaction. Thus, NYSCEF 298 will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing specific redactions. Any subsequent motion should adhere to this Part’s Sealing Practices and Procedures (*see* <https://www.nycourts.gov/LegacyPDFS/courts/comdiv/NY/PDFs/part3-sealing-practices.pdf>),

including the requirement to submit an affidavit based on personal knowledge attesting to the factual bases for redaction and a spreadsheet setting forth the good faith basis for each proposed redaction.

Accordingly, it is:

ORDERED that Plaintiff's Motion is **GRANTED IN PART** as to NYSCEF 295, 296, 297; and otherwise **DENIED** as NYSCEF 298 without prejudice filing a new motion within twenty-one (21) days to redact confidential portions of documents consistent with this Decision and Order and applicable law; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 295, 296, 297, and 341 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Plaintiff shall file a public redacted version of NYSCEF 292 within five (5) days of the date of this Order; it is further

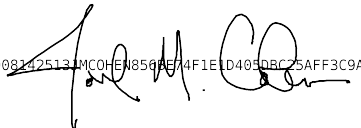
ORDERED that the documents filed as NYSCEF 298 shall remain provisionally sealed for 21 days from the date of the Court's entry of this Decision and Order on NYSCEF. If Defendants files a new motion to seal or redact confidential portions of the documents consistent with this Decision and Order within that 21-day period, the documents shall remain provisionally sealed pending resolution of that motion. If no such motion is filed within 21 days from the entry of this Decision and Order, the parties shall within three business days thereafter direct the County Clerk to file unredacted/unsealed copies of the documents on NYSCEF; it is further

ORDERED that Plaintiff shall serve a copy of this order upon the Clerk's Office within five (5) days of the date of this Order, and such service shall be made in accordance with the

procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website); it is further

ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

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JOEL M. COHEN, J.S.C.

9/8/2025
DATE

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART OTHER
SUBMIT ORDER
FIDUCIARY APPOINTMENT REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: