

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

2025 NY Slip Op 33369(U)

September 8, 2025

Supreme Court, New York County

Docket Number: Index No. 653433/2024

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

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 06/30/2025,  
07/02/2025

MOTION SEQ. NO. 011 012

**DECISION + ORDER ON  
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 011) 280, 281, 282, 285, 291, 292, 294, 303, 314, 322

were read on this motion to SEAL.

The following e-filed documents, listed by NYSCEF document number (Motion 012) 304, 306, 307, 308, 309, 317, 321

were read on this motion to SEAL.

Cherokee Funding II, LLC (“Plaintiff”) moves for an order sealing and/or redacting certain documents 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) pursuant to the parties’ confidentiality order (NYSCEF 272) to allow Defendants to move to permanently seal such documents. In Mot. Seq. 011, Plaintiff seeks to seal and/or redact NYSCEF 280, 281, 282, and 285, and in Mot. Seq. 012, Plaintiff seeks to seal and/or redact NYSCEF 304, 306, and 307. Defendants have not filed any motion to permanently seal these documents, nor have they filed any responsive papers to these motions. For the following reasons, Plaintiff’s motions are granted in part, and otherwise denied without prejudice.

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]).

Here, Cherokee submits that it moved only to temporarily seal certain information to permit Defendants an opportunity to make a sealing application, if Defendants so choses (NYSCEF 292 [“Madavo Affirm.”] ¶4; NYSCEF 309 [“Madavo Affirm.”] ¶3). Defendants did not do so here. Therefore, the motions are denied with one exception: NYSCEF 282 is appropriately sealed as it is a copy of the driver’s license.

However, the Court notes that it appears that Defendants attempted to file a motion to seal the documents referenced in these motions, but that application was returned for correction and was never corrected (NYSCEF 319-320, 323). Therefore, the denial is without prejudice to

refiling, provided that Defendants propose and justify targeted **redactions** that satisfy the requirements of 22 NYCRR § 216.1 (a). The fact that the parties have stipulated to sealing documents, or that they have designated the documents during discovery as “Confidential” or “Highly Confidential,” does not, by itself, require granting of the motion (*see, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324).

The documents will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing and explaining the need for 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 to Seal (Mot. Seq. 011) is **GRANTED IN PART** and NYSCEF 282 shall remain under seal; the motion is otherwise **denied** without prejudice; it is further

**ORDERED** that Plaintiff’s Motion to Seal (Mot. Seq. 012) is **DENIED** without prejudice; it is further

**ORDERED** that such denial is without prejudice to 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

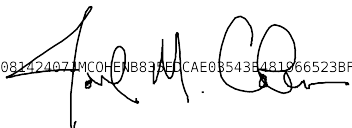
**ORDERED** that the County Clerk shall maintain NYSCEF Document Number 282 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

**ORDERED** that the documents filed as NYSCEF 280, 281, 285, 304, 306, and 307 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 with notice of entry 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); and it is further

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

This constitutes the Decision and Order of the Court.

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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  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
 REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: