

**Fortress Credit Corp. v Cohen**

2025 NY Slip Op 33493(U)

September 16, 2025

Supreme Court, New York County

Docket Number: Index No. 651498/2024

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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FORTRESS CREDIT CORP.	<b>INDEX NO.</b>	<u>651498/2024</u>
Plaintiff,	<b>MOTION DATE</b>	<u>07/07/2025</u>
- v -	<b>MOTION SEQ. NO.</b>	<u>011</u>
CHARLES S. COHEN,	<b>DECISION + ORDER ON MOTION</b>	
Defendant.		

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 011) 412, 413, 416, 418, 420, 421

were read on this motion to SEAL.

Defendant moves for an order permanently sealing certain documents filed in connection with Plaintiff's motion for appointment of a receiver or, alternatively, for a turnover order.

Plaintiff opposes the motion. For the following reasons, the motion is denied without prejudice to filing a new motion proposing targeted redactions of the documents.

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]).

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 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).

In this case, Defendant’s broad and categorical assertions of good cause do not establish a compelling justification to seal the documents at issue in this motion. While portions of certain documents may include sensitive and confidential business information or private financial information of Defendant or nonparties, the record on this motion does not establish that is the case. In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), Defendant will need to propose and justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law.

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 seeking to address the above concerns 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 a non-conclusory good faith basis for each proposed redaction.<sup>1</sup>

Accordingly, it is:

**ORDERED** that Motion Seq. No. 11 is **DENIED** without prejudice to filing a new motion within 14 days to redact confidential portions of the documents consistent with this Decision and Order and applicable law; it is further

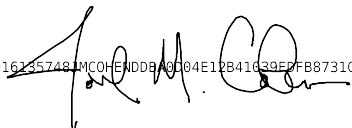
**ORDERED** that the documents filed as NYSCEF Doc. Nos. 361, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, and 404 shall remain provisionally sealed for 14 days from the date of the Court's entry of this Decision and Order on NYSCEF. If Defendant files a new motion to seal or redact confidential portions of the documents consistent with this Decision and Order within that 14-day period, the documents shall remain provisionally sealed pending resolution of that motion. If no such motion is filed within 14 days from the entry of this Decision and Order, the parties shall within three business days thereafter file unsealed copies of the documents on NYSCEF; 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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<sup>1</sup> This is at least the third sealing motion in this case in which the Court has given the movant a second opportunity to propose redactions rather than filing a plainly overbroad motion to seal documents in their entirety (NYSCEF 425, 462). Going forward, the parties should assume that similarly overbroad motions to seal in this action will be denied without the opportunity to file a second motion as to the same documents.

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**JOEL M. COHEN, J.S.C.**

9/16/2025  
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**DATE**

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: