

**CK Opportunities Fund I, L.P. v Morgan Stanley
Senior Funding, Inc.**

2025 NY Slip Op 33926(U)

October 7, 2025

Supreme Court, New York County

Docket Number: Index No. 654526/2023

Judge: Nancy M. Bannon

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. NANCY M. BANNON PART 61M

Justice

-----X

CK OPPORTUNITIES FUND I, L.P., et al

Plaintiffs,

- v -

MORGAN STANLEY SENIOR FUNDING, INC. et al,

Defendants.

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 014) 346, 347, 348, 349, 350, 351, 352, 353, 354, 372, 373, 379

were read on this motion to/for _____ SEAL _____.

The following e-filed documents, listed by NYSCEF document number (Motion 015) 368, 369, 371, 380, 381, 382, 383, 384

were read on this motion to/for _____ SEAL _____.

In this action alleging, *inter alia*, breach of a Credit Agreement, all defendants save for Morgan Stanely Senior Funding, Inc. (collectively, the "Brightline Defendants") and nonparty Fortress Investment Group LLC, move by order to show cause to seal various exhibits filed in support of the plaintiffs' motion to compel the deposition of Wesley Edens, and to file redacted versions in their place (NYSCEF Doc. Nos. 333-335, 337, 338, and 340) (MOT SEQ 014). In an order to show cause dated April 29, 2025, the court granted Fortress' request for a TRO to maintain these documents under seal pending a decision on MOT SEQ 014. Redacted versions of these documents were filed in support of this motion under NYSCEF Doc. Nos. 348-353.

Specifically, in MOT SEQ 014, the Brightline Defendants and Fortress seeks to seal and redact three appellate briefs, two filed by the plaintiffs (NYSCEF Doc. No. 333 and 335), and one by Fortress (NYSCEF Doc. No. 334), all filed on the plaintiffs' appeal of the court's October 31, 2024, order before the Appellate Division, First Department. These three briefs were filed in this action in support of the plaintiffs' motion to compel Wesley Edens to appear for a

deposition. The Brightline Defendants and Fortress have filed proposed redacted versions of these documents on NYSCEF Doc. Nos. 348, 350, and 349, respectively. The same parties also seek to seal email communications that purportedly reveal financial information and business strategies of Fortress and other third-parties (NYSCEF Doc. Nos. 337, 338, and 340). Corresponding redacted versions of these documents are filed under NYSCEF Doc. Nos. 351, 352, and 353. This motion is unopposed.

By MOT SEQ 015, the plaintiffs separately move to seal an exhibit filed in support of its motion to compel - the deposition transcript of Andrew Shanahan (NYSCEF Doc. No. 362). The plaintiffs did not seek a TRO in connection with MOT SEQ 015. This motion is also unopposed but the Brightline Defendants and Fortress cross-move to seal an exhibit filed in opposition to the plaintiffs' motion to compel, NYSCEF Doc. No. 363, which is the same brief filed in MOT SEQ 014 under NYSCEF Doc. No. 333. A redacted version of this document is filed under NYSCEF Doc. No. 382.

MOT SEQ 014 is granted, MOT SEQ 015 is denied, and the cross-motion is granted.

Pursuant to 22 NYCRR 216.1(a), “a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except 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.” The Appellate Division, First Department, 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). Because “confidentiality is clearly the exception, not the rule” (Matter of Hofmann, 284 AD2d 92, 93–94 [1st Dept. 2001]), that Court has authorized sealing “only in strictly limited circumstances.” Gryphon Dom. VI, LLC v APP Intl. Fin. Co., 28 AD3d 322, 325 (1st Dept. 2006); see Mosallem v Berenson, supra. The burden is on the party seeking to seal court records to establish “good cause.” Maxim, Inc. v Feifer, 145 AD3d 516, 517 (1st Dept. 2017). In the business context, good cause may be established where trade secrets are involved (see Matter of Bernstein v On-Line Software Inter. Inc., 232 AD2d 336 [1st Dept. 1996] lv denied 89 NY2d 810 (1997); Matter of Crain Communications, Inc., 135 AD2d 351 [1st Dept. 1987]) or “where the release of documents could threaten a business’s competitive advantage. (Matter of Twentieth Century Fox Film Corp., supra at 488).” Mosallem v

Berenson, *supra* at 350; see Vergara v Mission Capital Advisors, LLC, 187 AD3d 495 (1st Dept. 2020); Mancheski v Gabelli Group Capital Partners, *supra*.

Furthermore “[a] finding of ‘good cause’ presupposes that ... no alternative to sealing can adequately protect the threatened interest.” Mancheski v Gabelli Group Capital Partners, 39 AD3d 499, 502 (2nd Dept. 2007) *citing* In re Herald Co., 734 F2d 93, 100 [2nd Cir. 1984]). Appropriate less restrictive alternative relief may and should be granted to balance the competing interests of public access and the need for secrecy or confidentiality. See Danco Labs v Chemical Works of Gedeon Richter, 274 AD2d 1 (1st Dept. 2000). It is well settled that redaction can be such an appropriate alternative relief. See *id.*; Jose V. v Smiley & Smiley LLP, 214 AD3d 523 (1st Dept. 2023); Gliklad v Derispaska, 185 AD3d 512 (1st Dept. 2020); Maxim, Inc. v Feifer, 145 AD3d 516 (1st Dept. 2016).

The court finds “good cause” to maintain the redactions to the email communications in NYSCEF Doc Nos. 351-353, and to seal their unredacted versions in NYSCEF Doc. Nos. 337, 338, and 340. These documents contain the names of potential third-party investors, and disclosure of this information could impinge on the privacy rights of third parties who are not litigants herein. See Mancheski v Gabelli Group Capital Partners, *supra*.

As to the appellate briefs, NYSCEF Doc. Nos. 333, 334, 335, and 363, the court notes these exhibits are currently filed under seal in regard to the appeal before the Appellate Division under Case No. 2024-07220 (NYSCEF Doc. Nos. 7, 11, and 16). They were filed in this action by the plaintiffs (NYSCEF Doc. Nos. 333-335) and the defendants (NYSCEF Doc. No. 363) under MOT SEQ 013. In their corresponding redacted versions filed under NYSCEF Doc. Nos. 348, 349, 350, and 382, the Brightline Defendants and Fortress seek to redact citations to exhibits the court previously granted sealing. A review of the proposed redactions shows the redactions include citations to NYSCEF Doc. Nos. 160, 161, and 252, which the court granted sealing in orders dated November 14, 2024 (MOT SEQ 006) and July 15, 2025 (MOT SEQ 010). In those prior orders, the court granted that sealing finding that disclosure could impinge on the privacy rights of third parties who are not litigants herein. The court, for the same reason, finds “good cause” for the narrowly tailored redactions proposed on MOT SEQ 014 and the cross-motion to NYSCEF Doc. Nos. 348, 349, 350, and 382, and to seal NYSCEF Doc. Nos. 333, 334, 335, and 363. See Mosallem v Berenson, *supra*; Vergara v Mission Capital Advisors, LLC, *supra*; Mancheski v Gabelli Group Capital Partners, *supra*.

However, the plaintiffs do not meet their burden of establishing good cause to seal the deposition transcript of Shanahan (NYSCEF Doc. No. 362). The plaintiffs do not propose any redactions to these transcripts or otherwise identify with any specificity any information contained within them that warrants sealing. "A finding of 'good cause' presupposes that ... no alternative to sealing can adequately protect the threatened interest." Mancheski v Gabelli Group Capital Partners, supra.

Accordingly, upon the foregoing papers and this court's prior orders, it is

ORDERED that the motion to seal of the Brightline Defendants and non-party Fortress Investment Group LLC (MOT SEQ 014) is granted as "good cause" was shown for such relief, and it is further,

ORDERED that the plaintiffs' motion to seal (MOT SEQ 015) is denied, and the-cross motion of Brightline Defendants and non-party Fortress Investment Group LLC, is granted, and it is further

ORDERED that the Clerk of the Court is directed, upon service upon him of a copy of this order with notice of entry, to permanently seal to all parties except counsel, the court, and court personnel the documents e-filed at NYSCEF Doc. Nos. 333, 334, 335, 337, 338, 340, and 363; and it is further

ORDERED that the Clerk of the Court is directed to accept the redactions on NYSCEF Doc. Nos. 333, 334, 335, 337, 338, 340, and 363, sas found in their respective redacted copies under NYSCEF Doc. Nos. 348, 349, 350, 351, 352, 353, and 382

This constitutes the Decision and Order of the court.


NANCY M. BANNON, J.S.C.
HON. NANCY M. BANNON

10/7/2025

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER