

**Freedman Normand Friedland, LLP v IDT Corp.**

2026 NY Slip Op 30012(U)

January 2, 2026

Supreme Court, New York County

Docket Number: Index No. 655376/2024

Judge: James d'Auguste

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

**PRESENT: Hon. James E. d'Auguste PART 55**

*Justice*

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FREEDMAN NORMAND FRIEDLAND, LLP,

Plaintiff,

- v -

IDT CORPORATION,

Defendant.

-----X

INDEX NO. 655376/2024

MOTION DATE 05/06/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 29, 30, 31, 32, 33, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49

were read on this motion to/for SEAL.

**BACKGROUND**

Plaintiff law firm, which previously served as legal counsel for defendant, commenced this action seeking payment of alleged outstanding legal invoices (the "Invoices") in the amount of approximately \$1.3 million. NYSCEF Doc. No. 1. Plaintiff has moved for summary judgment (*id.* Doc Nos. 9-26) and defendant has opposed the motion and cross-moved to dismiss the complaint. *Id.* Doc. Nos. 51-66. In connection with plaintiff's motion for summary judgment, defendant moved by order to show cause for a sealing order to restrict public access to the Invoices and limit such access to the parties, their attorneys, and court personnel. The Court temporarily granted that relief (*id.* Doc. No. 30) and now, with the motion briefed and submitted, the Court decides the sealing motion on the full merits.

**APPLICABLE LAW**

Both parties in their motion papers focus largely on the question of whether the Invoices contain attorney-client privileged materials. While privileged information is certainly one type of information that may be properly restricted from public disclosure, the standard for sealing

documents is not limited to privileged materials. Specifically, NYCRR Section 216.1 permits this Court to issue an order sealing court records upon a written finding of “good cause.” 22 NYCRR § 216.1(a). Good cause may, for example, include the protection of confidential information because “confidentiality is, in certain circumstances, necessary in order to protect the litigants ....” *In re Twentieth Century Fox Film Corp.*, 190 A.D.2d 483, 486 (1st Dep’t 1993).

Here, the standard for what constitutes good cause must also reflect the fact that, even when seeking payment from a defendant client for allegedly unpaid bills, a plaintiff law firm continues to owe its former client certain ethical duties to protect against the disclosure of materials that are confidential or otherwise potentially harmful to the client if publicly disclosed. In this regard, while Rule 1.6(b)(5)(ii) of the Rules of Professional Conduct permits a lawyer to use confidential information to the extent necessary “to establish or collect a fee,” nonetheless the confidential information may only be divulged “to the extremely limited extent necessary to establish and collect its fees.” *Balestriere PLLC v. BanxCorp*, 96 A.D.3d 497, 498 (1st Dep’t 2012) (quoting *Feeley v. Midas Properties*, 199 A.D.2d 238, 239 (2d Dep’t 1993)).

Moreover, as the New York State Ethics Committee (“Ethics Committee”) warned in its Ethics Opinion 980 (2013):

We caution that Rule 1.6(b)(5)(ii) is no license for counsel to reveal any confidential information beyond what is “reasonably believe[d] necessary” to collect the fee.... [T]hese terms provide significant limits beyond which a lawyer may not go in seeking to collect a fee.... First, a lawyer should not resort to disclosure to collect a fee except in appropriate circumstances. Second, the lawyer should try to avoid the need for disclosure. Third, disclosure must be truly necessary as part of some appropriate and not abusive process to collect the fee. Fourth, disclosure may not be broader in scope or manner than the need that justifies it, and the lawyer should consider possible means to limit damage to the client.

Thus, pursuant to Ethic Opinion 980, plaintiff herein should be assiduously seeking to: (1) avoid the need to disclose defendant's information to the public; (2) avoid abusing process to collect its fee; (3) limit the disclosure to the scope and manner as strictly needed to support its claims for fees; and (4) limit harm to its former client.

### ANALYSIS

Defendant has asserted that the billing and time records in the Invoices contain confidential and privileged information relating to, among other things, legal strategy, sensitive facts, legal research, and case theories, all of which could be utilized by, *inter alia*, defendant's adversaries in a related litigation. NYSCEF Doc. No. 31 at 2. Plaintiff does not dispute that some of this information is sensitive or confidential and that its disclosure could be harmful to defendant. And while plaintiff makes arguments regarding the extent of privileged material contained in the Invoices, as established above, materials need not be proven to be privileged to show good cause for sealing sensitive, confidential, or potentially injurious materials.

Despite the guidance of the Ethics Committee, and for reasons unclear to the Court, plaintiff has opposed the instant motion and thus advocated for the public disclosure of the Invoices and all the sensitive information they contain. For example, plaintiff has argued that the Invoices must be disclosed to the public because: (1) the action concerns legal fees and the Invoices are therefore "discoverable" (NYSCEF Doc. No. 38 at 7); and (2) even if the Invoices were privileged, defendant waived the privilege by contesting the fees. *Id.* at 8-9. However, discoverability is irrelevant – both parties already possess the Invoices. Moreover, as discussed above, good cause to seal court records is not precluded merely because privileged information in the filings may be discoverable or the privilege may have been waived.

Accordingly, it is difficult to understand how in these circumstances (in which, *inter alia*, disclosure of the Invoices may harm defendant in a separately pending litigation) plaintiff law firm can ethically advocate for the supremacy of the public's right of access to its former client's confidential and potentially privileged information over the law firm's specific ethical duties to protect the client's sensitive materials from public exposure and to limit harm to its former client.

Plaintiff has the right to pursue the legal fees it alleges are due but, as noted, its former client's confidential information may only be divulged "to the extremely limited extent necessary to establish and collect its fees." *Balestriere*, 96 A.D.3d at 498. To recover its fees in this action, plaintiff needs to prove its entitlement to the fees to no one but *the Court*, which under the proposed sealing order will have continuing access to the Invoices. Restriction of public access to the Invoices thus allows plaintiff to prosecute its claims, while at the same time accords with plaintiff's ethical duties to assure that disclosure "not be broader in scope or manner than the need that justifies it" and to find "means to limit damage to the client." Ethics Opinion 980 (2013).

When a law firm brings an action against its former client for legal fees, the various ensuing court filings require a court to balance, among other things: (1) the public and private interests in maintaining and enforcing legal professional ethics; (2) the interests of the litigants in preserving the confidentiality of private, sensitive, or potentially injurious information in court filings; and (3) the public interest in open court records. Here, consideration of the first two interests provide sufficient good cause to require the public interest in open court records to yield in a limited way. Accordingly, the Court will continue, as modified herein, the current sealing order, as reflected in NYSCEF Doc. No. 32, which restricts public access to the Invoices and the confidential information contained therein.

Accordingly, for the foregoing reasons, it is hereby

ORDERED that Defendant’s motion (Motion Sequence No. 002) is granted as follows:

(1) the Clerk of the Court is directed to seal the Invoices which were e-filed by plaintiff as NYSCEF Doc. Nos. 15-26 (the “Sealed Documents”); (2) the Clerk of the Court is directed to restrict access to the Sealed Documents from all except the parties, their respective attorneys, and authorized court personnel; (3) plaintiff shall not publicly disclose any privileged, private, confidential, sensitive, or potentially injurious information in the Sealed Documents (“Protected Information”); and (4) when e-filing a document quoting Protected Information, the filing party shall redact the Protected Information and seal said document; and it is further

ORDERED that the foregoing decretal paragraph shall remain in effect until amended or abrogated by further order of the Court.<sup>1</sup>

1/2/2026  
DATE

  
James d’Auguste, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
			<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE

<sup>1</sup> The Court appreciates the invaluable assistance of court attorney Andrew J. Lorin, Esq., in connection with this matter.