

Bartasi v Perceptive Advisors, LLC

2026 NY Slip Op 30298(U)

January 24, 2026

Supreme Court, New York County

Docket Number: Index No. 653314/2025

Judge: Andrea Masley

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

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 48

-----X

GINA BARTASI,

Plaintiff,

- v -

PERCEPTIVE ADVISORS, LLC, PERCEPTIVE CREDIT
OPPORTUNITIES FUND IV, LP, KBI SERVICES, INC.,
LINDA MINTZ, ELLEN HUKKELHOVEN, KATHY HARRIS,
THERESA SEXTON, RIVKA FRIEDMAN, and TARA
COMONTE,

Defendants.

-----X

INDEX NO. 653314/2025

MOTION DATE --

MOTION SEQ. NO. 011

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 011) 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 407

were read on this motion to/for SEAL.

In motion sequence 011, defendants Perceptive Advisors, LLC, Perceptive Credit Opportunities Fund IV, LP, KBI Services Inc., Linda Mintz, Ellen Hukkelhoven, Kathy Harris, Theresa Sexton, Rivka Friedman and Tara Comonte move pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to seal/redact the following documents (see NYSCEF Doc. No. [NYSCEF] 352):

1. Kindbody, Inc. (Kindbody) Secretary’s Certificate (NYSCEF 11¹);
2. Loan Agreement (NYSCEF 15²);

¹ A publicly redacted version is filed at NYSCEF 355. Proposed redactions are filed under seal at NYSCEF 377.

² A publicly redacted version is filed at NYSCEF 356. Proposed redactions are filed under seal at NYSCEF 378.

3. Notice of Default (NYSCEF 16³);
4. Transaction Agreements (NYSCEF 17⁴);
5. Series E Preferred Stock and Warrant Purchase Agreement (NYSCEF 50⁵);
6. Eight Amended and Restated Voting Agreement (NYSCEF 51⁶);
7. Kindbody Inc.'s (Kindbody's) Amended and Restated Certificate of Incorporation (NYSCEF 53⁷);
8. Seventh Amended and Restated Voting Agreement (NYSCEF 54⁸);
9. First Credit Agreement (NYSCEF 120⁹);
10. Second Amended Credit Agreement (NYSCEF 122¹⁰);
11. Third Amended Credit Agreement (NYSCEF 125¹¹);
12. Proposed Board Resolutions Regarding Committees (NYSCEF 126¹²);

³ A publicly redacted version is filed at NYSECF 357. Proposed redactions are filed under seal at NYSECF 379.

⁴ A publicly redacted version is filed at NYSECF 358. Proposed redactions are filed under seal at NYSECF 380.

⁵ A publicly redacted version is filed at NYSECF 359. Proposed redactions are filed under seal at NYSECF 381.

⁶ A publicly redacted version is filed at NYSECF 360. Proposed redactions are filed under seal at NYSECF 382.

⁷ A publicly redacted version is filed at NYSECF 361. Proposed redactions are filed under seal at NYSECF 383.

⁸ A publicly redacted version is filed at NYSECF 362. Proposed redactions are filed under seal at NYSECF 384.

⁹ A publicly redacted version is filed at NYSECF 363. Proposed redactions are filed under seal at NYSECF 385.

¹⁰ A publicly redacted version is filed at NYSECF 364. Proposed redactions are filed under seal at NYSECF 386.

¹¹ A publicly redacted version is filed at NYSECF 365. Proposed redactions are filed under seal at NYSECF 387.

¹² A publicly redacted version is filed at NYSECF 366. Proposed redactions are filed under seal at NYSECF 388.

13. December 7, 2024 Notice of Default (NYSCEF 127¹³);
14. December 31, 2024 Notice of Forbearance (NYSCEF 129¹⁴);
15. November 2024 Email Exchange (NYSCEF 196¹⁵);
16. November 19, 2024 Email Exchange (NYSCEF 197¹⁶);
17. September 3, 2024 Email Exchange (NYSCEF 201¹⁷);
18. November 19, 2024 Email From Linda Mintz (NYSCEF 202¹⁸);
19. Proposed Resolution (NYSCEF 203¹⁹);
20. November 10, 2024 Email Exchange (NYSCEF 204²⁰);
21. September 4, 2024 Term Sheet (NYSCEF 207²¹);
22. August 7, 2024 Term Sheet (NYSCEF 208²²).

The motion is unopposed.

¹³ A publicly redacted version is filed at NYSCEF 367. Proposed redactions are filed under seal at NYSCEF 389.

¹⁴ A publicly redacted version is filed at NYSCEF 368. Proposed redactions are filed under seal at NYSCEF 390. Proposed redactions were also previously filed under seal at NYSCEF 265.

¹⁵ A publicly redacted version is filed at NYSCEF 369. Proposed redactions are filed under seal at NYSCEF 391.

¹⁶ A publicly redacted version is filed at NYSCEF 370. Proposed redactions are filed under seal at NYSCEF 392.

¹⁷ A publicly redacted version is filed at NYSCEF 371. Proposed redactions are filed under seal at NYSCEF 393.

¹⁸ A publicly redacted version is filed at NYSCEF 372. Proposed redactions are filed under seal at NYSCEF 394.

¹⁹ A publicly redacted version is filed at NYSCEF 373. Proposed redactions are filed under seal at NYSCEF 395.

²⁰ A publicly redacted version is filed at NYSCEF 374. Proposed redactions are filed under seal at NYSCEF 396.

²¹ A publicly redacted version is filed at NYSCEF 375. Proposed redactions are filed under seal at NYSCEF 397.

²² A publicly redacted version is filed at NYSCEF 376. Proposed redactions are filed under seal at NYSCEF 398.

Legal Standard

“Under New York law, 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] [citations omitted].) The public’s right to access is, however, not absolute, and under certain circumstances, “public inspection of court records has been limited by numerous statutes.” (*Id.* at 349.) For example, § 216.1(a) of the Uniform Rules for Trial Courts, empowers courts to seal documents only upon a written finding of good cause. It provides:

“Except where otherwise provided by statute or rule, 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. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.” (Uniform Rules for Trial Cts [22 NYCRR] § 216.1 [a].)

The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Mosallem*, 76 AD3d at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotation marks and citation omitted].)

Courts have sealed records where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Similarly, courts have found good cause to redact documents that “contains board resolutions, minutes of . . . board meetings, and internal discussions about equity acquisitions” because this is “competitive business information” and “can be exploited to

the disadvantage of [the company] with no benefit to the public.” (*Continental Industries Group, Inc. v Ustuntas*, 2018 WL 1901982, *2 [Sup Ct, NY County 2018].)

Additionally, courts have recognized a compelling interest in sealing records that contain financial information and that are of minimal public interest. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992]; *D’Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [“[d]efendants ought not to be required to make their private financial information public, merely because they have been named as defendants in a lawsuit, where no substantial public interest would be furthered by public access to that information.”].)

The compelling interest in protecting such information also extends to the financial and private information of nonparties to protect such third parties’ privacy rights. (See *Mancheski v Gabelli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007]; *Linkable Networks, Inc. v Mastercard Inc.*, 81 Misc 3d 1235[A], *7, 2024 NY Slip Op 50077[U], *3 [Sup Ct, NY County 2023] [“the private financial information of a nonparty should be protected”]; see also *MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2013 NY Slip Op 30184[U], *12 [Sup Ct, NY County 2013].)

Discussion

Defendants seek to redact NYSCEF 11, 15, 16, 17, 50, 51, 53, 54, 120, 122, 125, 126, 127, 129, 196, 197, 201, 202, 203, 204, 207 and 208 arguing that these documents contain (i) confidential financial information, details about non-public transactions, and descriptions of nonparty Kindbody’s business strategy that could harm Kindbody’s competitive advantage if publicly disclosed; and (ii) personally identifiable and financial information of non-party investors. (See NYSCEF 354, Sealing Chart.)

Good cause exists to protect from public disclosure private financial and personally identifying information of nonparties and to protect Kindbody and its shareholders from competitive harm, especially since there is no public interest in these documents. Moreover, the proposed redactions are narrowly tailored to serve these compelling interests. (See *Mosallem*, 76 AD3d at 350-351; *Mancheski*, 39 AD3d at 502.)

Accordingly, it is

ORDERED that motion sequence 011 is granted; and it is further

ORDERED that the County Clerk, upon service of this order, is directed to seal NYSCEF 11, 15, 16, 17, 50, 51, 53, 54, 120, 122, 125, 126, 127, 129, 196, 197, 201, 202, 203, 204, 207, 208, 265, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, and 398; and it is further

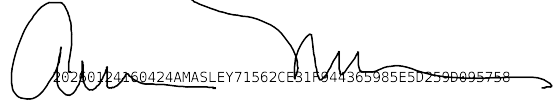
ORDERED that the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that movants shall serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse County Clerk Procedures for Electronically Filed Cases (accessible at the “E-Filing” page on the court’s website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed

sealing order to the court (via sfc-part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for the purposes of trial or other court proceedings on the record, e.g. arguments on motions.



1/24/2026
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE