

Interpublic Group of Cos., Inc. v Fifth Element Health LLC
2026 NY Slip Op 31202(U)
March 24, 2026
Supreme Court, New York County
Docket Number: Index No. 659378/2025
Judge: Joel M. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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THE INTERPUBLIC GROUP OF COMPANIES, INC., IPG
HEALTH, LLC,

Plaintiffs,

- v -

FIFTH ELEMENT HEALTH LLC, RENEE MELLAS, JASON
WEST

Defendants.

INDEX NO. 659378/2025

MOTION DATE 12/19/2025,
12/30/2025,
01/03/2026

MOTION SEQ. NO. 002 003 004

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 289, 295, 297, 298

were read on this motion to SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 003) 230, 231, 232, 233, 285, 287, 290

were read on this motion to SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 004) 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 286, 288

were read on this motion to SEAL

Plaintiffs The Interpublic Group of Companies, Inc., and its subsidiary IPG Health, LLC (“Plaintiffs”) move for an order sealing and/or redacting certain documents filed in connection with its Motion for a Preliminary Injunction and its reply papers: Exhibits Nos. 1-69 to the Affirmation of Celine J. Chan (NYSCEF 64, 66-134) (Mot. Seq. 002); Exhibits Nos. 1–15 to the Chan Affirmation (NYSCEF 236 – 250), Exhibits Nos. A–F to the Supplemental Hawkey Affirmation (NYSCEF 251 – 257), and the Reply Memorandum (NYSCEF 234) (Mot. Seq.

004). Defendants 5th Element Health LLC, Renee Mellas and Jason West (collectively, “Defendants”) move for an order sealing and/or redacting NYSCEF 210, 211, 215-223, and 225-228 filed in connection with their opposition to Plaintiff’s Motion for a Preliminary Injunction (Mot. Seq. 003). No parties oppose any of these motions. For the following reasons, the motions are 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]). Good cause must “rest on a sound basis or legitimate need to take judicial action” (*Danco Labs.*, 274 AD2d at 9).

The Court has reviewed the parties’ submissions and finds them insufficient. Both parties move to seal a substantial portion of the record based on their confidentiality agreement

and the fact that a document was designated as confidential or “attorney’s eyes only.” The fact that the parties have entered into such an agreement is insufficient as it does not *by itself* establish “good cause” (*see MBI Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U], * 9 [Sup Ct, NY County 2012]).

While *portions* of the documents at issue may well include confidential information or sensitive information of many non-parties to this litigation, the parties have not established that such broad and complete sealing is warranted. In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), the parties will need to propose and justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law.

While Plaintiffs did file a redacted version of their Memorandum of Law (NYSCEF 64; NYSCEF 138 [redacted version]), their Reply Memorandum (NYSCEF 234; NYSCEF 261 [redacted version]), and the Supplemental Hawkey Affirmation (NYSCEF 251; NYSCEF 277 [redacted version]), and Defendants provided redactions of Exhibit B to the Affirmation of C. Zachary Rosenberg (NYSCEF 214 [redacted version]; NYSCEF 215), whether those redactions are appropriate remain to be seen based on the instructions above. All motions are therefore denied without prejudice.

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 the good faith basis for

each proposed redaction. Furthermore, the parties are directed to meet and confer prior to refile any subsequent sealing motion. To the extent that either party has moved for sealing based on their opponent's designation of confidentiality, the parties are directed to work together to propose to the Court appropriate redactions that adequately protect any confidentiality concerns.

Accordingly, it is:

ORDERED that Plaintiffs' Motions (Mot. Seq. 002 and 004) are **DENIED**; it is further

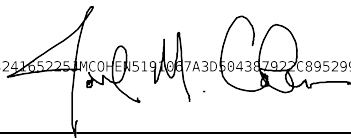
ORDERED that Defendants' Motion (Mot. Seq. 003) is **DENIED**; it is further

ORDERED that these denials are *without prejudice* to filing a new motion within 21 days to redact confidential portions of documents consistent with this Decision and Order and applicable case law; it is further

ORDERED that the documents filed as NYSCEF 64, 66–134, 210, 211, 215–223, 225–228, 234, 236–257 shall remain provisionally sealed for 21 days from the date of the Court's entry of this Decision and Order on NYSCEF. If the parties file 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 unseal copies of the documents on NYSCEF; and it is further

ORDERED that Plaintiffs shall serve a copy of this order 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); 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.

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3/24/2026
DATE

JOEL M. COHEN, 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