

Fortress Credit Corp. v Cohen
2026 NY Slip Op 31306(U)
March 30, 2026
Supreme Court, New York County
Docket Number: Index No. 651498/2024
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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FORTRESS CREDIT CORP.,	INDEX NO.	<u>651498/2024</u>
Plaintiff,	MOTION DATE	<u>10/01/2025</u>
- v -	MOTION SEQ. NO.	<u>017</u>
CHARLES S. COHEN,	DECISION + ORDER ON MOTION	
Defendant.		

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 017) 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 619, 620, 621, 624, 628

were read on this motion to _____ SEAL _____.

Defendant Charles S. Cohen moves for an order sealing and/or redacting portions of Plaintiff’s memorandum of law and exhibits filed in connection with Plaintiff’s receivership motion (Mot. Seq. 010). Plaintiff opposes the motion to the extent it seeks additional redactions to the receivership memorandum. For the reasons set forth below, Defendant’s motion is granted in part.

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). Agreements to seal are insufficient as such agreements do not establish “good cause” (*MBIA Ins. Corp. v Countrywide Home Loans, Inc.*, 2012 NY Slip Op 33147[U], * 9 [Sup Ct, NY County 2012]).

The Court has reviewed the proposed redactions as provided in NYSCEF Doc. Nos. 362, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, and 575, and finds that, with the exception of the redactions proposed in NYSCEF Doc. No. 575, they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, insofar as those documents contain confidential business and personal financial information. As to those documents, Defendant has proposed and justified targeted redactions in those documents that satisfy the requirements of 22 NYCRR § 216.1 (a).

However, as to NYSCEF Doc. No. 575, Defendant’s broad and categorical assertions of good cause do not establish a compelling justification for the additional proposed redactions to Plaintiff’s memorandum of law in support of its receivership motion (NYSCEF Doc. No. 361), beyond those already reflected in NYSCEF Doc. No. 362. The Court previously denied Defendant’s motion to entirely seal that document for failure to demonstrate good cause, while

granting leave to renew upon a proposal of targeted redactions (NYSCEF 484). In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), the branch of Defendant’s motion seeking additional redactions to the receivership memorandum is therefore denied.

Accordingly, it is

ORDERED that Defendant’s Motion is **GRANTED IN PART**; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 362, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, and 576 in their current, redacted form; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 361, 368, 370, 372, 374, 376, 378, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, and 575 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Defendant 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 as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

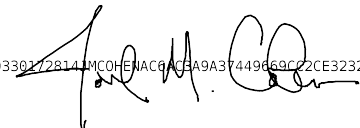
ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

3/30/2026

DATE

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JOEL M. COHEN, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: