

**Earthlink, LLC v Charter Communications
Operating, LLC**

2024 NY Slip Op 34014(U)

November 9, 2024

Supreme Court, New York County

Docket Number: Index No. 654332/2020

Judge: Andrea Masley

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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

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EARTHLINK, LLC,		INDEX NO. <u>654332/2020</u>
Plaintiff,		MOTION DATE <u>--</u>
- v -		MOTION SEQ. NO. <u>027</u>
CHARTER COMMUNICATIONS OPERATING, LLC,		
Defendant.		DECISION + ORDER ON MOTION

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 027) 800, 801, 802, 803, 804, 805, 806, 807, 808

were read on this motion to/for SEAL.

In motion sequence number 027, defendant Charter Communications Operating, LLC (Charter) moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to seal NYSCEF Doc. No. [NYSCEF] 785¹ (Charter's annotation to King & Spalding's billing records), 788² (sixteen pages excerpt from Greta Kim deposition) and redact 799³ (Charter's Memo of Law in Support of the Opposition.) The motion is unopposed. There is no indication that the press or public have an interest in this matter.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept 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

¹ NYSCEF 785 has been refiled at NYSCEF 803.

² NYSCE 788 has been refiled at NYSCEF 804

³ NYSCEF 799 has been refiled at NYSCEF 802.

grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

“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 “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* 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 quotations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D’Amour v Ohrenstein & Brown*, 17 Misc 3d 1130 [A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].) “Sealing is also appropriate where the records contain an accounting and financial information concerning the employees and clients of a law firm.” (*BDO USA, LLP v Morris*, 2023 WL 5225361, *1 [Sup Ct, New York County 2023], *citing Dawson*, 184 AD2d at 257.)

Here, Charter has shown good cause to seal NYSCEF 785 because the spreadsheet contains sensitive client-related information and business information.

Charter has also shown good cause to seal NYSCEF 788 because the proposed sealing protects confidential information, disclosure of which may threaten Charter's competitive advantage. Additionally, the court has previously permitted sealing of excerpts of Kim's deposition transcript. (See NYSCEF 761, Decision and Order [mot. seq. nos. 017, 021, 022, 024] [sealing NYSCEF 651].)

Charter has also shown good cause to redact 799 because it contains sensitive client-related information and business information.⁴

Accordingly, it is

ORDERED that motion sequence number 027 is granted, and the County Clerk, upon service of this order, shall seal NYSCEF 785, 803, 788, 804, 799, and 802; and it is further

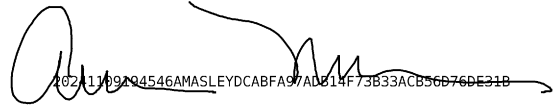
ORDERED the New York County Clerk shall restrict access to the sealed document with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the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

ORDERED that movant shall serve a copy of this order upon the Clerk of the Court and the Clerk of the General Clerk's Office 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 at the address www.nycourts.gov/supctmanh); and it is further

⁴ A publicly available redacted copy is filed at NYSCEF 798.
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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 purposes of trial.



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11/9/2024
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE