

Tekiner v Bremen House Inc.

2024 NY Slip Op 34019(U)

November 9, 2024

Supreme Court, New York County

Docket Number: Index No. 657193/2020

Judge: Joel M. Cohen

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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 03M

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YASEMIN TEKINER,	INDEX NO. <u>657193/2020</u>
Plaintiff,	MOTION DATE <u>09/05/2024</u>
- v -	MOTION SEQ. NO. <u>071</u>
BREMEN HOUSE INC., GERMAN NEWS COMPANY, INC., BERRIN TEKINER, GONCA TEKINER, BILLUR AKIPEK, ZEYNEP TEKINER,	DECISION + ORDER ON MOTION
Defendants.	
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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 071) 2078, 2079, 2083, 2084, 2086, 2087, 2114, 2116, 2121, 2126, 2130, 2212, 2241, 2242, 2243, 2244, 2245 were read on this motion to SEAL.

Defendants Bremen House Inc., German News, Inc., Berrin Tekiner, Gonca Tekiner, and Billur Akipek (collectively, “Defendants”) move for an order sealing and/or redacting certain documents (NYSCEF Doc Nos. 2078, 2079, 2083, 2084, 2086, 2087, 2114, 2116, 2121, 2126, 2130, and 2212) filed in connection with Defendants’ motion for summary judgment and motions to exclude certain testimony. No parties oppose this motion. For the following reasons, Defendants’ 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]).

The Court has reviewed Expert Psychiatric Report of Dr. Howard L. Forman (NYSCEF 2086), Transcript of January 11, 2024, Deposition of Dr. Howard Forman (NYSCEF 2087), and the Affidavit of Billur Akipek in Opposition to Plaintiffs' Motion for Appointment of Temporary Receive (NYSCEF 2212) and finds good cause exists to seal these documents as they contain they contains sensitive and confidential health information that the Court has previously found appropriate to seal (*see* NYSCEF 680 [Order and Decision dated August 17, 2022 on Mot. Seq. 022]; NYSCEF 1745 [Order and Decision dated July 6, 2023 on Mot. Seq. 060]).

However, as the Court has stated many times, there is no basis for sealing in their entirety Defendants' Memorandum of Law in Support (NYSCEF 2078), Affirmation of Meghan E. Hill in Support (NYSCEF 2079), Transcript of October 17, 2022, Deposition of Zeynep Tekiner (NYSCEF 2114), Transcript of October 13, 2022, Deposition of Yasemin Tekiner (NYSCEF 2116), Transcript of October 14, 2022, Deposition of Berrin Tekiner (NYSCEF 2121), Transcript of February 15, 2023, Deposition of Gonca Chelsea Tekiner (NYSCEF 2126), the Affirmation of Bryan T. Mohler dated January 31, 2023 (NYSCEF 2083), Affirmation of Stephen P. Younger

dated December 22, 2022 (NYSCEF 2084), and Affirmation of Lawrence Shepp (NYSCEF 2130) as there has not been a sufficient showing that any specific sensitive health information could not be protected through targeted redaction.

[Indeed, the Court previously denied Defendants' request to seal in its entirety the Affirmation of Bryan T. Mohler dated January 31, 2023, originally filed at NYSCEF 1208, in Mot. Seq. 049 (Decision and Order, NYSCEF 1493), and Defendants were directed to file a redacted version, which they did at NYSCEF 1569. Likewise, the Court previously directed Defendants to file a redacted version of the Affirmation of Stephen P. Younger dated December 22, 2022, originally filed at NYSCEF 966, in its Decision and Order on Mot. Seq. 041 (NYSCEF 1491). Defendants subsequently filed a redacted version at NYSCEF 1525. Again, the Court directed Defendants to file a redacted version of the Affirmation of Lawrence Shepp, originally filed at 1468, in its decision and Order on Mot. Seq. 060 (Decision and Order, NYSCEF 1745), and Defendants filed a redacted version at NYSCEF 1750.

Defendants' baseless motion to seal these three documents in their entirety ignores the Court's prior orders and has wasted the Court's time and resources. The Court also believes that the deposition transcripts of Zeynep, Yasemin, Berrin, and Gonca have previously been filed, but Defendants do not mention whether these transcripts have previously been sealed or redacted and the Court will not spend any more time conducting a scavenger hunt on the docket. Unless Defendants put forth a non-frivolous explanation for this conduct by letter within ten (10) days, the Court will consider imposing sanctions pursuant to Section 130-1.1 (c) of the Rules of the Chief Administrator.

Accordingly, it is:

ORDERED that Defendants' motion is **GRANTED IN PART**; and the County Clerk shall maintain NYSCEF 2086, 2087, 2212 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the request to seal NYSCEF 2078, 2079, 2114, 2116, 2121, 2126, 2083, 2084, and 2130 is **DENIED**, and the motion with respect to NYSCEF 2078, 2079, 2114, 2116, 2121, 2126 is **denied 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

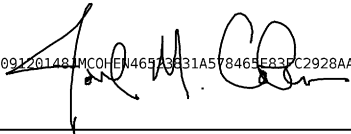
ORDERED that Defendants shall upload the redacted versions of NYSCEF 2083, 2084, and 2130, consistent with the versions filed at NYSCEF 1569, 1525, 1750 within three (3) days of the date of this Order; it is further

ORDERED that the documents filed as NYSCEF 2078, 2079, 2114, 2116, 2121, 2126, and shall remain provisionally sealed for 21 days from the date of the Court's entry of this Decision and Order on NYSCEF. If Defendants 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 to file unredacted/unsealed copies of the documents on NYSCEF; and 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; it is further

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

11/9/2024

DATE

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