

Ozerets v Vestberg

2024 NY Slip Op 34220(U)

November 23, 2024

Supreme Court, New York County

Docket Number: Index No. 655544/2024

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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ILYA OZERETS,

Plaintiff,

- v -

HANS VESTBERG, MATTHEW ELLIS, CLARENCE OTIS,
SHELLYE ARCHAMBEAU, ROXANNE AUSTIN, MARK
BERTOLINI, VITTORIO COLAO, MELANI HEALY,
LAXNAN NARASIMHAN, DANIEL SCHULMAN, RODNEY
SLATER, CAROL TOME, GREGORY WEAVER,
KATHRYN A TESIJA, M. FRANCES KEETH, KYLE
MALADY, JAMES GOWEN, and VERIZON
COMMUNICATION, INC.,

Defendants.

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INDEX NO. 655544/2024

MOTION DATE -

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 10, 11, 12, 13
were read on this motion to/for SEAL.

In motion sequence number 001, plaintiff Ilya Ozerets moves to redact the complaint (NYSCEF 2) and to seal the affirmation of Ozerets’s counsel Gregory M. Egleston, Esq. in support of the application for a sealing order (NYSCEF 3), the proposed sealing order (NYSCEF 4), the unredacted copy of the complaint with proposed redactions (NYSCEF 5), and a Confidentiality and Non-Disclosure Agreement (NYSCEF 6) on the grounds that disclosure would harm nominal defendant Verizon Communications Inc. (Verizon) as the documents contain sensitive information concerning Verizon’s internal deliberative processes that were produced under the Confidentiality and Non-Disclosure Agreement.

In response, Verizon submitted an affirmation of its counsel Brendan M. Walsh, Esq. in support of the motion to the extent the Ozerets seeks to redact the complaint

(NYSCEF 13).¹ In addition to Ozerets's proposed redaction to the complaint, Verizon requests that the second sentence of paragraph 274 and the first sentence of paragraph 281 be redacted; Walsh avers that Ozerets agreed to these additional redactions.

(NYSCEF 13, Walsh aff ¶ 5.) Walsh avers that the proposed redactions pertain to non-public board materials, meeting minutes, and other confidential, commercially sensitive information.

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 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.”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court's protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U], *2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute. (*See Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000].)

The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents.

¹ Verizon does not seek to seal the remaining documents that are at issue on this motion. (NYSCEF 13, Walsh aff ¶ 6.)

(*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) The movant must demonstrate good cause to seal records under Rule § 216.1 by submitting “an affidavit from a person with knowledge explaining why the file or certain documents should be sealed.” (*Grande Prairie Energy LLC v Alstom Power, Inc.*, 2004 NY Slip Op 51156 [U], *2 [Sup Ct, NY County 2004].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 8.)

Courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Further, materials “involve[ing] closely guarded information about current or future business plans or strategies, the disclosure of which likely would provide an advantage to a competitor.” (*Cortlandt St. Recovery Corp. v Bonderman*, 71 Misc 3d 908, 910 [Sup Ct, NY County 2021] [citation omitted].)

Here, Ozerets and Verizon have demonstrated good cause to redact the complaint as proposed by both parties. Disclosure of the confidential and sensitive business information that the parties seek to redact would harm Verizon’s competitive advantage. However, as to the affirmation of Egleston (NYSCEF 3), the proposed sealing order (NYSCEF 4), and a Confidentiality and Non-Disclosure Agreement (NYSCEF 6), no good cause to seal these documents has been shown.

Accordingly, it is

ORDERED that motion sequence number 001 is granted in part and the County Clerk, upon service of this order, shall seal NYSCEF 2 (unredacted complaint) and

NYSCEF 5 (unredacted complaint with proposed highlighted redactions); and it is further

ORDERED that the County Clerk shall unseal NYSCEF 3, 4, and 6; and it is further

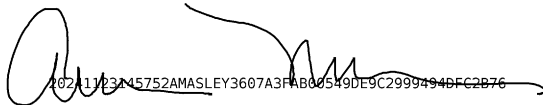
ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the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

ORDERED that within five days of this decision, Ilya Ozerets (i) file a publicly available copy of the complaint with its proposed redactions, as well as redactions to second sentence of paragraph 274 and the first sentence of paragraph 281 and (ii) notify the court via email once filed (sfc-part48@nycourts.gov); and it is further

ORDERED that Ilya Ozerets 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

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 or other court proceedings on the record e.g. arguments on motions.



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11/23/2024

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