

LATHAM & WATKINS LLP

February 10, 2021

VIA ECF

The Honorable Paul A. Crotty
 United States District Judge
 United States Courthouse
 500 Pearl Street
 New York, NY 10007

53rd at Third
 885 Third Avenue
 New York, New York 10022-4834
 Tel: +1.212.906.1200 Fax: +1.212.751.4864
 www.lw.com

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

Re: *Wandel v. Gao, et al.*, No. 20-cv-3259-PAC

Dear Judge Crotty:

We represent Defendant Phoenix Tree Holdings Limited (“Phoenix Tree”) in the above-captioned action. Pursuant to Your Honor’s Individual Practices, we write to request permission to file certain documents in support of Latham & Watkins LLP’s (“Latham”) Motion for Leave to Withdraw (“Motion”) *ex parte* and under seal. Specifically, we seek to file unredacted copies of the Memorandum of Law and the Declaration of Jason C. Hegt, dated February 10, 2021, both in support of the Motion, *ex parte* and under seal for the reasons below.

While there is a presumption of public access to judicial documents, courts have “considerable discretion in determining whether good cause exists to overcome the presumption of open access to documents.” *Geller v. Branich Int’l Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000); *see also Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006) (“[T]he weight to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts. . . . [A]fter determining the weight of the

LATHAM & WATKINS^{LLP}

presumption of access, the court must balance competing considerations against it . . . [including] the privacy interests of those resisting disclosure.”) (citations and internal quotation marks omitted).

Courts in this district routinely allow documents in support of motions to withdraw as counsel to be filed *ex parte* and under seal where necessary to preserve the confidentiality of the attorney–client relationship between a party and its counsel. *See C.D.S. Inc. v. Zetler*, 16-CV-3199 (VM) (JLC), 2017 WL 1103004, at *4 n.2 (S.D.N.Y. Mar. 23, 2017) (noting that it is “typical” for counsel seeking to withdraw “to submit its memorandum and any supporting materials *ex parte* given that the attorney-client relationship is implicated in the nature of its application”); *Team Obsolete Ltd. v. AHRMA Ltd.*, 464 F. Supp. 2d 164, 165–66 (E.D.N.Y. 2006) (concluding after a review of relevant case law that “this method is viewed favorably by the courts”); *Weinberger v. Provident Life & Cas. Ins. Co.*, No. 97-cv-9262, 1998 WL 898309, at *1 (S.D.N.Y. Dec. 23, 1998) (“[I]t is appropriate for a Court considering a counsel’s motion to withdraw to consider *in camera* submissions in order to prevent a party from being prejudiced by the application of counsel to withdraw.”).

For the foregoing reasons, Latham respectfully requests that unredacted copies of the Memorandum of Law and Declaration be filed *ex parte* and under seal in order to protect the confidentiality interests of Phoenix Tree. In accordance with your Individual Practices, we will publicly file redacted versions of the Memorandum of Law and Declaration, which will be served on all counsel of record. Along with the Motion, Latham will also serve a complete and unredacted version of the Memorandum of Law and Declaration on Phoenix Tree.

LATHAM & WATKINS^{LLP}

Respectfully submitted,

/s/ Eric F. Leon

Eric F. Leon

of LATHAM & WATKINS LLP

*Attorneys for Defendant Phoenix Tree
Holdings Limited*

cc: All counsel of record (via ECF)

2/23/2021

The motion is granted. Unredacted copies of the memo of law and declaration of support may be filed ex-parte and under seal. Redacted copies of the memo of law and declaration of support may be publicly filed and served on counsel of record. The moving party is directed to deliver to Phoenix Tree Holdings Limited by mail a copy order, together with notice that corporations could only appear by an attorney. SO ORDERED.

