

# L I C H T E N & L I S S - R I O R D A N , P . C .

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October 28, 2021

**VIA CM/ECF**

Hon. Colleen McMahon  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St., Room 2550  
New York, NY 10007-1312

*11/1/2021 file full  
under seal. You MUST  
file a redacted  
brief/w/obj. so  
I don't  
get into  
trouble*

**RE: Tavener v. International Business Machines Corp., C.A. No. 1:21-cv-06345**

Dear Chief Judge McMahon:

MEMO ENDORSED

I represent Plaintiff in the above-referenced matter. Pursuant to Section 6 of the Southern District of New York's Electronic Case Filing Rules & Instructions, Plaintiff seeks permission to file her Motion for Summary Judgment under seal, along with the accompanying Declaration of Shannon Liss-Riordan and exhibits. Plaintiff will also publicly file a redacted version of these documents, with all information that the parties agree is non-confidential unredacted.

The reason for this request is that Defendant IBM contends that these documents contain information that falls under the scope of the confidentiality agreement contained within IBM's arbitration agreement (see Exhibit 2 to Liss-Riordan Decl.), which is the subject of Plaintiff's Motion for Summary Judgment. As explained extensively in the Motion for Summary Judgment, Plaintiff does not believe that IBM's confidentiality provision in its arbitration agreement should be enforced. Plaintiff further believes that these documents should be publicly filed. In particular, Plaintiff notes Section VI of Your Honor's Individual Practices and Procedures requires parties to include the following in proposed Stipulation and Confidentiality Orders:

*not contain  
"confidential"  
information  
are  
publicly  
available*

It has been this Court's consistent experience that confidentiality stipulations are abused by parties and that much material that is not truly confidential is designated as such. The Court does not intend to be a party to such practices. The Court operates under a presumption that the entire record should be publicly available.

*✓*

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Nevertheless, until IBM has had the opportunity to respond, Plaintiff requests that, at least preliminarily, these documents be permitted to be filed under seal, with redacted versions filed publicly (for which the portions of the papers that IBM concedes are not confidential will not be redacted).

Plaintiff requests further that Your Honor order IBM to submit a letter explaining its position on why the redacted information should remain out of public view while the Court considers Plaintiff's underlying Motion for Summary Judgment. Other judges in this District require such a filing within three (3) business days, and Plaintiff requests that IBM be ordered to file such a letter here as well within three (3) business days.

Sincerely,

/s/ Shannon Liss-Riordan  
Shannon Liss-Riordan

*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2021, a true and accurate copy of the foregoing document was filed via this Court's CM/ECF system.

/s/ Shannon Liss-Riordan  
Shannon Liss-Riordan