

Spearin v Linmar, L.P.
2015 NY Slip Op 31796(U)
September 16, 2015
Supreme Court, New York County
Docket Number: 155561/12
Judge: Cynthia S. Kern
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various state and local government websites. These include the New York State Unified Court System's E-Courts Service, and the Bronx County Clerk's office.
This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 55

-----X
SAMUEL ALAN SPEARIN,

Plaintiff,

Index No. 155561/12

-against-

DECISION/ORDER

LINMAR, L.P. and UNITED WOODTANK
CORPORATION,

Defendants.

-----X
HON. CYNTHIA S. KERN, J.S.C.

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion for : _____

Papers

Numbered

Order to Show Cause and Affidavits Annexed.....	<u>1</u>
Affirmations in Opposition	<u>2</u>
Replying Affidavits.....	<u>3</u>
Exhibits.....	<u>4</u>

Plaintiff commenced the instant action to recover damages stemming from personal injuries he allegedly sustained when he was struck by a falling piece of wood. Plaintiff now moves for an Order pursuant to 22 NYCRR 216.1 to seal several documents in this matter, including the instant application, that detail and discuss plaintiff's injuries and documents containing plaintiff's social security number. Plaintiff's motion is granted and denied to the extent described below.

The relevant facts and procedural history are as follows. On or about July 12, 2012, plaintiff was walking down the sidewalk when he was allegedly struck by a piece of wood that

had fallen from the roof of the building located at 50 Prince Street, New York, New York (the "Building"). As a result of the incident, plaintiff alleges that he has sustained a traumatic brain injury.

On a about February 18, 2015, plaintiff moved by Order to Show Cause to seal plaintiff's medical records and those portions of his deposition transcript which refer to his medical treatment that appeared on the court's public server, which was granted without opposition by decision/order dated March 11, 2015. After receipt of the decision/order, plaintiff was apparently informed by the Clerk that the order must reference the specific document numbers that were to be sealed. Thus, plaintiff filed another motion to seal. In that motion, however, plaintiff did not seek to just seal plaintiff's medical records. Rather, plaintiff sought to seal the entire court file in this matter. By decision/order dated June 8, 2015, this court denied plaintiff's request to seal the entire court file. However, the court granted the motion to the extent it sought to seal plaintiff's medical records, which was consistent with this court's prior order. Thus, this court directed the Clerk to seal docket numbers 142, 144, 171, 177 and 190.

Plaintiff now moves to seal additional court records. Specifically, plaintiff argues that upon further review of the court file, there are further documents that relate and/or refer to his injuries, conditions or social security number, which should be sealed. Plaintiff goes on to list over fifty documents that he wants sealed. These documents include plaintiff's bill of particulars, his deposition transcript and the police report. Defendants, for the first time, oppose plaintiff's motion on the ground that no good cause exists to seal dozens of routine litigation documents that are customarily subject to public access. However, defendants do not oppose the redacting of plaintiff's social security number and the sealing of medical records.

“Under New York law, there is a broad presumption that the public is entitled to access to judicial proceedings.” *Mosalleem v. Berenson*, 76 A.D.3d 345, 348 (1st Dept 2010). The State has “long recognized that civil actions and proceedings should be open to the public in order to ensure that they are conducted efficiently, honestly, and fairly.” *Id.* (internal citation omitted). However, the court is empowered to seal court records pursuant to Section 216.1 of the Uniform Rules for Trial Courts, which states:

Except where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, where 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 of the parties.

“Although the term ‘good cause’ is not defined, ‘a sealing order should clearly be predicated upon a sound basis or legitimate need to take judicial action.’” *Id.* (quoting *Gryphon Dom. VI, LLC v. APP Intl. Fin. Co., B.V.*, 28 A.D.3d 322, 325 (1st Dept 2006). “[N]either the potential for embarrassment or damage to reputation, nor the general desire for privacy, constitutes good cause to seal court records.” *Id.* at 351. “Confidentiality is clearly the exception, not the rule and the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access.” *Id.* (internal quotations and citations omitted).

In the present case, plaintiff has failed to demonstrate compelling circumstances to justify sealing any further documents in this matter. Plaintiff contends that there is good cause to seal any records relating to his medical condition or injuries as the possibility that the public may learn about his condition is exacerbating his emotional difficulties and causing him distress. However, the case law is clear that potential embarrassment or privacy concerns does not

constitute good cause to seal court records. *See id.* Indeed, if this court found to the contrary, virtually every plaintiff in a personal injury action would be entitled to have their court records sealed. This clearly flies in the face of the strong presumption that court proceedings should be open to the public. Accordingly, plaintiff's motion to seal any records relating to his medical condition or treatment is denied.

However, this court's prior order sealing plaintiff's medical records still stands and those records should remain sealed. Additionally, the Clerk is directed to redact plaintiff's social security number that appears on the court's public server/website under docket numbers 29, 46, 55, 56, 60, 61, 65 and 66.

Based on the foregoing, plaintiff's motion is granted only to the extent that the Clerk is directed to redact plaintiff's social security number from the above identified documents but is otherwise denied. This constitutes the decision and order of the court.

Dated:

9/16/15

Enter:


J.S.C.

CYNTHIA S. KERN
J.S.C.