

Darabont v AMC Network Entertainment LLC

2020 NY Slip Op 32196(U)

July 7, 2020

Supreme Court, New York County

Docket Number: 650251/2018

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 IAS MOTION 3EFM

FRANK DARABONT, FERENC, INC., DARKWOODS
PRODUCTIONS, INC., CREATIVE ARTISTS AGENCY,
LLC,

Plaintiffs,

- v -

AMC NETWORK ENTERTAINMENT LLC, AMC FILM
HOLDINGS LLC, AMC NETWORKS INC., STU SEGALL
PRODUCTIONS, INC., DOES 1 THROUGH 10,

Defendants.

INDEX NO. 650251/2018

MOTION DATE 06/23/2020

MOTION SEQ. NO. 009

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 009) 394, 395, 396, 397, 398

were read on this motion to SEAL.

Plaintiffs and Defendants jointly move for an order sealing certain documents filed in connection with Defendants’ Motion for Summary Judgment and Defendants’ Motion to Strike and Preclude Plaintiffs from Offering the Expert Report and Testimony of Laurie Younger. For the following reasons, the parties’ motion to seal is Denied, without prejudice to filing a new motion proposing targeted redactions of the documents.

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]).

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 fact that the parties have stipulated to sealing documents, or that they have designated the documents during discovery as “Confidential” or “Highly Confidential,” does not, by itself, move the needle toward granting the motion. (*See, e.g., Maxim*, 145 AD3d at 518; *Gryphon*, 28 AD3d at 324).

In this case, the parties’ broad and categorical assertions of good cause do not establish a compelling justification to seal the dozens of documents at issue in this motion. (*See Stipulation in Support of Joint Motion to Seal*, NYSCEF Doc. No. 395). While *portions* of certain documents may include protectable trade secrets, confidential business information, or proprietary information of parties or non-parties, the record on this motion does not establish that is the case. In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), the parties will need to propose and

justify targeted redactions that satisfy the requirements of 22 NYCRR § 216 (a) and applicable case law.¹

The documents will remain provisionally under seal to permit the prompt filing of a follow-up motion proposing and explaining the need for specific redactions.

Accordingly, it is:

ORDERED that Motion 009 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 law; it is further

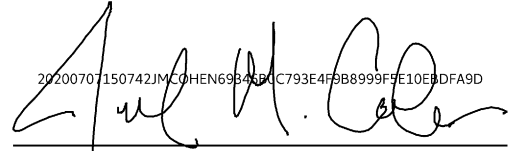
ORDERED that the documents filed as NYSCEF 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 371, 372, 373, 374, 375, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, and 393 **shall remain provisionally sealed** for 21 days from the date of the Court’s entry of this Decision and Order on NYSCEF. If the parties 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 file unredacted/unsealed copies of the documents on NYSCEF; and it is further

¹ See *Aktiv Assets LLC v Centerbridge Partners, L.P.*, 2020 WL 2520019 [NY Sup Ct, NY County 2020] [“Defendants’ assertions of good cause consist mainly of generic statements that do not explain in particular why targeted redactions will not be sufficient.”]; *Park Ins. Co. v Dadex, Inc.*, 2019 WL 7212653 [NY Sup Ct, NY County 2019] [“While it is plausible that . . . clauses in the operating agreements indeed contain confidential and/or proprietary information, that does not embody the entirety of both agreements.”)].

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.

7/7/2020

DATE

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JOEL M. COHEN, 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