

Edwards v Arrowgrass Capital Partners LLP

2022 NY Slip Op 33402(U)

October 6, 2022

Supreme Court, New York County

Docket Number: Index No. 654375/2019

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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MICHAEL EDWARDS and OLD POST COMPANY, INC.,

INDEX NO. 654375/2019

Plaintiffs,

MOTION DATE _____

- v -

MOTION SEQ. NO. 006

ARROWGRASS CAPITAL PARTNERS LLP,
ARROWGRASS CAPITAL PARTNERS (US) LP,
ARROWGRASS CAPITAL SERVICES (US) INC.,
ARROWGRASS CAPITAL SERVICES UK LTD., and
ARROWGRASS INVESTMENT MANAGEMENT LTD.,

**DECISION + ORDER ON
MOTION**

Defendants.

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 221, 222, 223, 224, 225, 226, 227

were read on this motion to/for _____ SEAL _____.

In motion sequence number 006¹, defendants Arrowgrass Capital Partners LLP, Arrowgrass Capital Partners (US) LP, Arrowgrass Capital Services (US) Inc., Arrowgrass Capital Services UK Ltd., and Arrowgrass Investment Management Ltd. (collectively, Arrowgrass) move, by order to show cause, pursuant to Section 216.1 of the Uniform Rules for the New York State Trial Courts, to redact portions of NYSCEF Doc Nos. (NYSCEF) 112, 116, 178, 179, 192, 193, 194, 195, 196, 197, 198, 199, and

¹ On June 30, 2022, the court ordered defendants to move for permission to redact or seal any documents that were not already approved for filing in redacted form in motion sequence number 004, including NYSCEF 112, 178, 179, 189, 190, 191, 192, 193, 194, 196, 197, 198, 199, and 201. (NYSCEF 218, Decision and Order [case management].) Defendants did not include NYSCEF 189 or 190 in motion sequence number 006, and have filed public, unredacted copies of those documents. Therefore, NYSCEF 189 and 190 will be unsealed.

201.² The motion is unopposed. There is no indication that the press or public have any interest in this action.

The information contained in NYSCEF 112, 116, 178, 195, 196, 197, and 199, is the same as or similar to the information in defendants' prior motion to seal, which the court granted.³ (NYSCEF 216, Decision and Order [mot. seq. no. 004].) Thus, defendants' motion is granted as to those documents. While defendants have not filed a publicly redacted copy of NYSCEF 179, according to their chart, this document contains the same or similar information that was the subject of motion sequence number 004. To the extent defendants wish to redact that same type of information, they are permitted to do so. Defendants' motion is denied as to any other information in NYSCEF 179. Defendants also assert that NYSCEF 198 contains the confidential information that was the subject of motion sequence number 004 but have filed a public

² Defendants failed to submit copies of the documents with all proposed redactions highlighted yellow in accordance with this court's sealing procedures. The court, however, relies on the unredacted copies of the documents, which defendants' have submitted under seal, copies of those documents that have been publicly filed with redactions, and defendants' sealing chart, in rendering this decision.

³ Plaintiffs filed a transcript on August 29, 2022 from the June 27, 2022 argument on motion sequence number 005 (NYSCEF 228), which includes redactions over a portion of testimony from Edwards' deposition that plaintiffs' counsel quoted during the argument. Counsel for defendants emailed the court inquiring as to the procedure for sealing an unredacted version of this transcript. All proceedings before this court, even virtual ones, are presumptively open to the public. (Judiciary Law § 4; see also *Matter of James Q.*, 32 NY3d 671, 676 [2019] [citations and quotations omitted] ["Underpinning [the Judiciary Law § 4] mandate is our state's long-standing, sound public policy that all judicial proceedings, both civil and criminal, are presumptively open to the public."]) To the extent defendants' counsel had any objection to plaintiff's counsel's use of confidential information during that public argument, they failed to raise one at that time to prevent the public disclosure of any confidential information. A record of a public proceeding will not be sealed.

copy of NYSCEF 198 without any redactions. Therefore, defendants' motion is denied as to NYSCEF 198.

NYSCEF 192, 193, 194, and 201 contain information that was not the subject of motion sequence number 004. NYSCEF 192 is an email chain between Adele Jennings-Day and Michael Edwards (Edwards). NYSCEF 193 is a document summarizing Edwards' compensation for 2018. NYSCEF 194 is a document summarizing Edwards' compensation for 2016 and 2017. NYSCEF 201 is defendants' reply memorandum of law in support of their motion for summary judgment. Each of these documents contains information about Edwards' compensation. NYSCEF 192 also contains performance information regarding defendants' funds.

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) Except 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 of the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.”

“Under New York law, 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] [citations omitted].) The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business's competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D'Amour v Ohrenstein & Brown*, 17 Misc 3d 1130[A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].)

Defendants have demonstrated good cause to redact Edwards' compensation information in NYSCEF 192, 193, 194, and 201. Defendants have an interest in keeping the financial arrangement with Edwards private and there has been no showing of a legitimate public interest in this information. However, defendants have not demonstrated good cause to redact the information regarding Arrowgrass funds' performance in NYSCEF 192. Defendants have not stated any reason that this information is confidential or competitively sensitive or cited to any case to support redacting this information. Moreover, defendants have provided no basis to redact the names they propose to redact in NYSCEF 192.

Accordingly, it is

ORDERED that motion sequence number 006 is granted in part and the New York County Clerk, upon service to him of this order, shall permanently seal NYSCEF 112, 116, 178, 193, 194, 195, 196, 197, 199, and 201; and it is further

ORDERED that the County Clerk is directed to unseal NYSCEF 198; and it is further

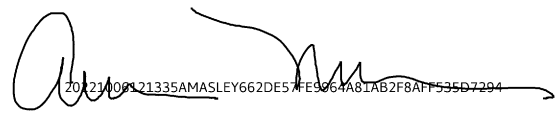
ORDERED that this court will direct the County Clerk to unseal NYSCEF 179 unless defendants file, within 10 days of this order, a redacted copy of NYSCEF 179 in accordance with this decision; and it is further

ORDERED that, within 10 days of this order, defendants shall either file a new OSC setting forth the basis for the redactions in NYSCEF 192 which have not been granted in this order, or file a new copy of NYSCEF 192 without those redactions; and it its further

ORDERED that, within 10 days of this order, defendants shall file an unredacted copy of the transcript from the argument held on June 27, 2022 (NYSCEF 228); and it is further

ORDERED that the County Clerk shall unseal NYSCEF 189 and 190; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



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10/6/2022
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input checked="" type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE