

**Employees Retirement Sys. for the City of Providence
v Rohner**

2024 NY Slip Op 31399(U)

April 12, 2024

Supreme Court, New York County

Docket Number: Index No. 651657/2022

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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EMPLOYEES RETIREMENT SYSTEM FOR THE CITY
OF PROVIDENCE, DERIVATIVELY AS A
SHAREHOLDER OF CREDIT SUISSE GROUP AG ON
BEHALF OF CREDIT SUISSE GROUP AG,

INDEX NO. 651657/2022

MOTION DATE _____

Plaintiffs,

MOTION SEQ. NO. 009

- v -

**DECISION + ORDER ON
MOTION**

URS ROHNER, IRIS BOHNET, CHRISTIAN
GELLERSTAD, ANDREAS GOTTSCHLING, MICHAEL
KLEIN, SHAN LI, SERAINA MACIA, RICHARD
MEDDINGS, KAI S. NARGOLWALA, ANA PAULA
PESSOA, JOAQUIN J. RIBEIRO, SEVERIN SCHWAN,
JOHN TINER, ERIC VARVEL, THOMAS P. GOTTSTEIN,
LARA J. WARNER, BRIAN CHIN, DAVID MILLER,
PARSHU SHAH, RADHIKA VENKATRAMAN, CREDIT
SUISSE GROUP AG, NOMINAL DEFENDANT

Defendants.

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 009) 159, 160, 161, 162,
163, 164, 165, 166, 167, 168, 169, 174, 175

were read on this motion to/for _____ SEAL _____

Upon the foregoing documents, it is

In motion seq. no. 009, "Moving Defendants"¹ seek to redact NYSCEF Doc. Nos.
132 (Deposition of Sean Nicoll), 134 (Summary of Charter of IB Counterparty Oversight
Committee), and 135 (Credit Suisse Investment Banking Division Scenario CCR Report
July 2012).²

¹ The Moving Defendants are not defined anywhere in the papers. In the future,
movants shall be specifically listed and all terms shall be defined.

² Copies of these documents are also e-file under seal at NYSCEF 166-168. Publicly
redacted copies are e-filed at NYSCEF 163-165.

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) [e]xcept 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 the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court’s protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U], *2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute. (See *Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000].)

The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents. (*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) The movant must demonstrate good cause to seal records under Rule § 216.1 by submitting “an affidavit from a person with knowledge explaining why the file or certain documents should be sealed.” (*Grande Prairie Energy LLC v Alstom Power, Inc.*, 2004 NY Slip Op 51156 [U], *2 [Sup Ct, NY County 2004].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 8.)

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].)

Here, the Moving Defendants have shown good cause to redact the names of nonparties not relevant to this action, personnel determinations regarding nonparties to this litigation, and confidential financial information regarding Credit Suisse’s nonparty customers.

Accordingly, it is

ORDERED that motion sequence 009 is granted; and it is further

ORDERED that the County Clerk, upon service on him of this order, shall seal NYSCEF 132, 134, 135, 166, 167, and 168; and it is further

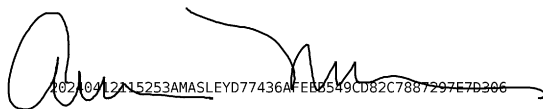
ORDERED the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that movant shall serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse County Clerk Procedures for Electronically Filed Cases; and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed

sealing order to the court (via SFC-Part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

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



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4/12/2024

DATE

ANDREA MASLEY, 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