

Hafeez v American Express Co.

2024 NY Slip Op 31506(U)

April 25, 2024

Supreme Court, New York County

Docket Number: Index No. 656656/2022

Judge: Margaret A. Chan

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. MARGARET A. CHAN PART 49M

Justice

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TARIQ HAFEEZ INDEX NO. 656656/2022
MOTION DATE 01/31/2024
MOTION SEQ. NO. MS 004
Plaintiff,

- v -

AMERICAN EXPRESS COMPANY, DECISION + ORDER ON MOTION
Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 004) 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 94
were read on this motion to/for SEAL.

In this action arising out of plaintiff Tariq Hafeez’s request to inspect the books and records of defendant American Express Company (AmEx), plaintiff moves by order to show cause to seal its Rule 14 letter (NYSCEF # 74, Pl Rule 14 Letter) and Exhibits A-F (NYSCEF #s 75-80, Exhibits to Rule 14 Letter [Unredacted]) to that letter pursuant to the parties’ out-of-court confidentiality agreement (*see* NYSCEF # 83, Confidentiality Agreement). AmEx supports the motion, but suggests that plaintiff file public, redacted versions of the letter and Exhibits B, C, E, and F. AmEx does not suggest any redactions to Exhibits A or D and does not specify whether it supports or opposes sealing those two documents.

Regarding the documents in question, plaintiff’s Rule 14 letter quotes or cites to certain documents that the parties consider to be internal and private to AmEx (*see* NYSCEF # 74; NYSCEF # 90, Redacted Rule 14 Letter). AmEx proposes redacting two of these quotes.

Exhibits A and D, respectively, are plaintiff’s May 3, 2021 demand letter to AmEx requesting inspection of books and records, and one of AmEx’s many responses to that demand letter, this one dated September 18, 2021 (NYSCEF # 78, Exh D; # 75, Exh A, respectively). Neither party explains what information is confidential in Exhibits A or D, nor do they offer any redactions to help elucidate the matter.

Exhibit B is another of AmEx’s responses to plaintiff’s demand letter, this time dated July 9, 2021 (NYSCEF # 76; *see also* NYSCEF # 91, Proposed Redacted Exh B). Plaintiff previously filed an identical, redacted version of this document as an exhibit to the Complaint (*see* NYSCEF # 56, Complaint Exh B [Redacted], at 4),

and the court approved those redactions at the time (NYSCEF # 54, Order Sealing Complaint and Exhs [MS 002]). AmEx proposes the exact same redactions here (*compare* NYSCEF # 91 at 4, *with* NYSCEF # 56 at 4).

Exhibit C is an August 19, 2021 response letter from plaintiff to AmEx (*see* NYSCEF # 77, Exh C). Like Exhibit B, Exhibit C was also previously filed in redacted form as an exhibit to the Complaint (*compare* NYSCEF # 77, Exh C, *with* NYSCEF # 57, Complaint Exh C [Redacted]). AmEx suggests redactions to the current exhibit that it claims are “identical” to the previously filed version (NYSCEF # 88, Def. Br., at 3). But in fact, AmEx left un-redacted several lines that were redacted in the previously-filed version (*compare* NYSCEF # 92, Proposed Redacted Exh C, at 3-4, *with* NYSCEF # 57 at 3-4). Notably, these un-redacted lines reveal information that AmEx wants to redact from plaintiff’s Rule 14 letter (*compare* NYSCEF # 74 at 2-3, *and* NYSCEF # 90 at 2-3, *with* NYSCEF # 92 at 3-4), which suggests that AmEx’s failure to redact those lines in the current Exhibit C was inadvertent.

Exhibit E is a short PowerPoint slide deck titled “Audit and Compliance Committee: Compliance Update” with one substantive slide (*see* NYSCEF # 78, Exh E; NYSCEF # 93, Proposed Redacted Exh E). AmEx suggests redacting the substantive slide in its entirety (*see* NYSCEF # 93 at 3).

Finally, Exhibit F consists of the minutes of a March 23, 2015 meeting of AmEx’s Board of Directors (*see* NYSCEF # 80, Exh F; NYSCEF # 94, Proposed Redacted Exh F). Plaintiff’s filed version already contains some redactions (*see e.g.* NYSCEF # 80 at *3), but plaintiff appears to be moving to seal even that redacted version. AmEx suggests several more redactions relating to AmEx’s financial plans and a specific sales program (*see* NYSCEF # 94 at *4-5).

Upon review of the documents sought to be sealed and the proposed redactions, which pertain to proprietary business information and are of minimal public interest, the court finds that good cause exists for sealing and redacting the Rule 14 letter, Exhibits B, E, and F under 216.1 of the Uniform Rules of Trial Courts (*see Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992] [sealing is warranted in the absence of “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest [a business’] partners and clients have in keeping their financial arrangements private”]; *D’Amour v Ohrenstein & Brown, LLP*, 17 Misc 3d 1130[A], *20 [Sup Ct, NY County 2007] [“Sealing a court file may be appropriate to preserve the confidentiality of materials which involve the internal finances of a party and are of minimal public interest”]).

The court further finds that good cause exists to seal Exhibit C and to redact in conformity with NYSCEF # 57, not with AmEx’s newly proposed redactions. Additionally, given that AmEx’s proposed redacted version of Exhibit C reveals information AmEx tried to redact from the Rule 14 letter and which was previously

redacted from Exhibit C to the Complaint, the court also finds good cause to seal AmEx's proposed redacted version of Exhibit C (*see* NYSCEF # 92).

However, the parties did not offer good cause to seal or redact Exhibits A or D. Plaintiff's only basis for sealing is to protect AmEx's confidential information pursuant to the confidentiality agreement, and AmEx does not appear to find anything confidential enough to seal or redact in those documents.

Accordingly, it is

ORDERED that plaintiff's motion to seal and redact plaintiff's Rule 14 letter and exhibits is granted in part as to the Rule 14 letter (NYSCEF # 74) and Exhibits B, C, E, and F (NYSCEF #s 76, 77, 79, and 80) to that letter, and denied as to Exhibits A and D (NYSCEF #s 75 & 78); and it is further

ORDERED that the Clerk of the Court is directed, upon service upon the clerk of a copy of this Decision and Order with notice of entry, to seal plaintiff's Rule 14 letter and Exhibits B, C, E, and F (NYSCEF #s 74, 76, 77, 79, and 80), and to additionally seal AmEx's proposed redacted version of Exhibit C (NYSCEF # 92); and it is further

ORDERED that the Clerk of the Court is also directed, upon service upon the clerk of a copy of this Decision and Order with notice of entry, to unseal Exhibits A and D to plaintiff's Rule 14 letter (NYSCEF #s 75, 78); and it is further

ORDERED that until further order of the court, the Clerk of the Court shall deny access to Rule 14 letter and Exhibits B, C, E, and F, as well as to AmEx's proposed redacted version of Exhibit C (NYSCEF #s 74, 76, 77, 79, 80, and 92), to anyone (other than the staff of the Clerk or the court) except for counsel of record for any party to this action, any party, and any representative of the counsel of record for a party upon presentation to the County Clerk of written authorization from said counsel and appropriate identification; and it is further

ORDERED that the parties shall file public versions of Rule 14 letter and Exhibits B, E, and F on the docket, with redactions comporting with AmEx's proposed redactions (*see* NYSCEF #s 90, 91, 93, & 94); and it is further

ORDERED that the parties shall additionally file a public version Exhibit C on the docket, with redactions comporting with NYSCEF # 57; and it is further

ORDERED that service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nvcourts.gov/supctmanh).

4/25/2024
DATE


MARGARET A. CHAN, 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