

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Special Set Law and Motion Calendar

Judge: HONORABLE SUSAN GREENBERG

Department 3

400 County Center, Redwood City

Courtroom 2B

Wednesday, September 11, 2024 AT 9:30 AM

IF YOU **INTEND TO APPEAR** ON ANY CASE ON THIS CALENDAR YOU MUST DO THE FOLLOWING:

1. EMAIL Dept3@Sanmateocourt.org BEFORE 4:00 P.M. CONTEMPORANEOUSLY COPIED TO ALL PARTIES OR THEIR COUNSEL OF RECORD. IF BY EMAIL, IT MUST INCLUDE THE NAME OF THE CASE, THE CASE NUMBER, AND THE NAME OF THE PARTY CONTESTING THE TENTATIVE RULING, OR
2. YOU MUST CALL (650) 261-5103 BEFORE 4:00 P.M. AND FOLLOW THE INSTRUCTIONS ON THE MESSAGE.

AND

3. You must give notice before 4:00 P.M. to all parties of your intent to appear pursuant to California Rules of Court 3.1308(a)(1).

Failure to do item 1, or both 2 and 3 will result in no oral presentation.

At this time, personal appearances are allowed but not required. Parties may appear by Zoom, advance authorization is not required for remote appearances

Zoom Video/Computer Audio Information COURTROOM 2B:

<https://sanmateocourt.zoomgov.com/>

Meeting ID: 161 828 3335

Password: 711017

Zoom Phone-Only Information Please note: You must join by dialing in from a telephone; credentials will not work from a tablet or PC

Dial in: +1 (669)-254-5252

(Meeting ID and passwords are the same as above)

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) use a dedicated land line if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any case cites; and (8) spell all names, even common names.

Case	Title / Nature of Case
10:00 LINE: 3 21-CIV-02675	CHERYLE L. MCDOW -TILLMAN VS. JAMAL'S ENTERPRISES, INC.

CHERYLE MCDOW TILLMAN
AMAL SHAMIEH

BRIAN M. AFFRUNTI
MARK S. PERELMAN

MOTION TO SEAL PORTIONS OF DEFENDANTS CHARLES Y. SHAMIEH, ET.AL.'S MOTION FOR SUMMARY ADJUDICATION RE: STANDING BY DEFENDANT JAMAL'S ENTERPRISES, INC.

TENTATIVE RULING:

Defendants' Motion to Seal is GRANTED in part and DENIED in part.

Defendants Charles Y. Shamieh, Nabil Y. Shamieh, Shawki Y. Shamieh, Jamal Y. Shamieh, Rada Shamieh, Sawsan Shamieh, Ghada Shamieh, Amal Shamieh, Paul Shamieh, Rami Shamieh, Betty Ibrahim, David Shamieh, Justin Shamieh, Yousef Shamieh, Elizabeth Jarjour, Lana Khoury, Rachelle Shamieh, Joseph Shamieh, Shamco Management Co., Inc., Shamco Properties LLC, Shamco Investments, Shamco A, LLC, Shamco B, LLC, Shamco C, LLC, Shamco D, LLC, Zita, LLC, Sito, Inc., Artistic Development, Inc., The Semitic Root LLC, Alebrex Investments LLC, Peter Zaru, Ann Zaru, Basil Zaru, Donna Zaru, Darlene McDow, A.L. Travis McDow, Kayla McDow-Schaefer, and Jamal's Enterprises, Inc. (collectively, "Defendants") move this Court for an order sealing the following documents:

- Exhibit M: The entirety of the excerpts of the transcript of Deposition of Deanna L. Westad taken on February 16, 2024 (relevant pages, excerpts, and exhibits only)
 - Exhibit M1: Exhibit 1 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Verified Complaint
 - Exhibit M2: Exhibit 2 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Fourth Amended Complaint
 - Exhibit M3: Exhibit 3 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Alex McDow's Stock Certificate
 - Exhibit M4: Exhibit 4 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Declaration of Cheryle McDow-Tillman
 - Exhibit M5: Exhibit 5 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Deanna Westad's Objections to Defendants Charles Y. Shamieh's Deposition Subpoena
 - Exhibit M12A: Exhibit 12A to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2014 1040 Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M12B: Exhibit 12B to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2015 Form 8582 for Kevin Westad and Deanna Westad
 - Exhibit M12C: Exhibit 12C to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2016 1040 Tax Form for Kevin Westad and Deanna Westad
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- Exhibit M12D: Exhibit 12D to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2017 1040 Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M12E: Exhibit 12E to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2018 1040 Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M12F: Exhibit 12F to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2019 8453-OL Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M12G: Exhibit 12G to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2020 8879 Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M12H: Exhibit 12H to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., 2021 1040 Tax Form for Kevin Westad and Deanna Westad
 - Exhibit M16: Exhibit 16 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Letter from Matthew Lucas to Jacqueline Mittelstadt Dated April 29, 2020 with Attached K-1 Breakdowns and K-1 forms
 - Exhibit M17: Exhibit 17 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Letter from Matthew Lucas to Cheryle McDow-Tillman, Brenda Musleh, and Deanna Westad dated October 7, 2020
 - Exhibit M19: Exhibit 19 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Email correspondence between Deanna Westad and Travis McDow
 - Exhibit N: The entirety of the excerpts from the transcript of Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024 (relevant pages, excerpts, and exhibits only)
 - Exhibit N2: Exhibit 2 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Stock Certificates of Jamal's Enterprises, Inc.
 - Exhibit N3: Exhibit 3 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Declaration of Cheryle McDow-Tillman
 - Exhibit N3A: Exhibit 3A to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Verified Complaint
 - Exhibit N8: Exhibit 8 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Letter from Matthew Lucas to Jacqueline Mittelstadt dated April 29, 2020 with Attached K-1 Breakdowns and K-1 forms
 - Exhibit N9: Exhibit 9 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., May 2023 email chain between Travis McDow, Deanna Westad, Brenda Musleh, and Plaintiff Cheryle McDow-Tillman
 - Exhibit N12: Exhibit 12 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2015 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
 - Exhibit N13: Exhibit 13 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2016 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
 - Exhibit N14: Exhibit 14 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2017 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
 - Exhibit N15: Exhibit 15 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2018 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
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- Exhibit N16: Exhibit 16 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2019 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
 - Exhibit N17: Exhibit 17 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., 2020 1040 Tax Form for Plaintiff Cheryle McDow-Tillman and Sidney Wayne Tillman
 - Exhibit N18: Exhibit 18 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Plaintiff's Supplemental Responses to Defendant Shawki Shamieh's Demand for Production of Documents
 - Exhibit N19: Exhibit 19 to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Plaintiff's Supplemental Responses to Defendant Shawki Shamieh's Special Interrogatories, Set No. 2
 - Exhibit O: Transcript of Deposition of Brenda Musleh taken on March 15, 2024 (relevant pages, excerpts, and exhibits only)
 - Exhibit O1: Exhibit 1 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Verified Complaint
 - Exhibit O2: Exhibit 2 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Second Amended Complaint
 - Exhibit O3: Exhibit 3 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Fourth Amended Complaint
 - Exhibit O4: Exhibit 4 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Stock Certificates of Jamal's Enterprises, Inc.
 - Exhibit O5: Exhibit 5 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Declaration re: Receivership and Preliminary Injunction
 - Exhibit O9: Exhibit 9 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Letter from Matthew Lucas to Cheryle McDow-Tillman, Brenda Musleh, and Deanna Westad dated October 7, 2020
 - Exhibit O10: Exhibit 10 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., May 2023 email chain between Travis McDow, Deanna Westad, Brenda Musleh, and Plaintiff Cheryle McDow-Tillman
 - Exhibit O11: Exhibit 11 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., April 24, 2023 letter from Matthew Lucas to Deanna Westad, Brenda Musleh, and Plaintiff Cheryle McDow-Tillman
 - Exhibit O12: Exhibit 12 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Alex K. McDow's Schedule K-1s from Jamal's Enterprises, Inc.
 - Exhibit O16: Exhibit 16 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., May 2023 email chain between Deanna Westad, Brenda Musleh, and Travis McDow and K-1 enclosures for Alex McDow; McDow Trust; and copies of checks and related enclosures
 - Exhibit O18: Exhibit 18 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Stock Certificate of Jamal's Enterprises, Inc.
 - Exhibit AA: Schedule K-1's issued by Jamal's Enterprises, Inc. from 2014–2022 tax years
 - Exhibit DD: Declination of Trusteeship by Darlene M. McDow and Acceptance of Successor Trustee of the Amended and Restated Trust Agreement for Jamal's
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- Exhibit EE: Unanimous Action by Written Consent of the Shareholders and Board of Directors of Jamal's Enterprises, Inc.
- Exhibit FF: Jamal's Enterprises, Inc.'s 2022 and 2023 Annual Shareholder and Board Meeting Minutes
- Exhibit GG: Distribution Checks from Jamal's Enterprises, Inc dated 12.27.22 and 2023 issued to A.L. Travis McDow, as trustee of the McDow Trust
- Exhibit HH: Alex McDow and A.L. Travis McDow's Schedule K-1's for 2022 tax year
- Exhibit II: Edward Jones Statements, May 27–June 30, 2023, July 1–28, 2023, January 27–February 23, 2024
- Exhibit JJ: Letter to Cheryle McDow-Tillman, Deanna Westad, and Brenda Musleh dated April 24, 2023 enclosing Trust Distribution Checks to Cheryle McDow-Tillman, Deanna Westad, and Brenda Musleh
- Exhibit MM: Examples of correspondence enclosing the spreadsheets and financial records

Defendants contend that the aforementioned exhibits contain confidential, private, and sensitive financial, tax, and personal information (including home addresses, bank account information, and social security numbers) of parties and non-parties Brenda Musleh and Deanna Westad (and their spouses and dependents) that would create a substantial risk of serious financial or other injury if disclosed and must be sealed in the court's record pursuant to the Rules of Court, Rules 2.550 and 2.551. Some of these documents were also filed as exhibits to the depositions of Plaintiff, Brenda Musleh, and Deanna Westad, and thus designated as "Attorneys Eyes Only" or "Highly Confidential" in conjunction with the deposition testimony and transcripts. The financial documents are not publicly available, and they contain sensitive financial and business information, such as tax returns, K-1s, and bank statements. The personal financial and tax information of the parties, Plaintiff's sisters and their spouses and dependents are inherently confidential documents whose privacy and confidentiality should be maintained through sealing.

California applies a presumption to the right of public access to the records that parties propose to have sealed, based upon the public's First Amendment rights. *Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 486. This presumption in favor of public access applies to "all discovery materials submitted to a court in support of and in opposition to a pending motion," with the caveat that "irrelevant discovery materials as to which evidentiary objections are sustained," are not considered within the ambit of the aforementioned definition. *Id.* at 492.

In ordering a record to be sealed, the Court must expressly find facts that establish: (1) an overriding interest exceeds the right of public access; (2) the overriding interest supports sealing the record; (3) there is a substantial probability of prejudice absent sealing; (4) the proposed sealing is narrowly tailored; and (5) no less restrictive means exist to achieve the overriding interest. R. Ct. 2.550(d); *Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 487.

Most of these documents indeed do contain sensitive financial information. However, there are some exhibits, all of which were tendered as exhibits to the deposition of various

individuals, that are merely copies of the different complaints filed in this action. None of Plaintiff's six complaints have been filed under seal, and there does not appear to be information, whether confidential or not, contained within these complaints that is not already filed unsealed in the record elsewhere. Accordingly, this Court DECLINES to grant the motion to seal for the following exhibits:

- Exhibit M1: Exhibit 1 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Verified Complaint
- Exhibit M2: Exhibit 2 to the Deposition of Deanna L. Westad taken on February 16, 2024, i.e., Fourth Amended Complaint
- Exhibit N3A: Exhibit 3A to the Deposition of Cheryle L. McDow-Tillman taken on February 28, 2024, i.e., Verified Complaint
- Exhibit O1: Exhibit 1 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Verified Complaint
- Exhibit O2: Exhibit 2 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Second Amended Complaint
- Exhibit O3: Exhibit 3 to the Deposition of Brenda Musleh taken on March 15, 2024, i.e., Plaintiff's Fourth Amended Complaint

All other exhibits appear to contain sensitive financial information that would unduly impinge on the parties' right to privacy should they be filed unsealed, and accordingly this Court GRANTS the Defendants' motion to seal for the exhibits not listed above.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court. The Court alerts the parties to revised Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders.

10:00

LINE: 4

21-CIV-02675 CHERYLE L. MCDOW -TILLMAN VS. JAMAL'S ENTERPRISES, INC.

CHERYLE MCDOW TILLMAN
AMAL SHAMIEH

BRIAN M. AFFRONTI
MARK S. PERELMAN

MOTION FOR SUMMARY ADJUDICATION RE: STANDING BY DEFENDANT JAMAL'S
ENTERPRISES, INC.

TENTATIVE RULING:

Parties are ordered to appear.

