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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

**IN RE BANK OF AMERICA
CALIFORNIA UNEMPLOYMENT
BENEFITS LITIGATION**

Case No. 3:21-md-02992-LAB-MSB
**STIPULATED PROTECTIVE
ORDER**

This Document Relates to All Actions

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79.2 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c).

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including,

1 among other things, testimony, transcripts, and tangible things), that are produced
2 or generated in disclosures or responses to discovery in this matter.

3 2.6 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as
5 an expert witness or as a consultant in this action.

6 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
7 Information or Items: non-public, extremely sensitive “Confidential Information or
8 Items” that are highly proprietary or highly sensitive, disclosure of which to another
9 Party or Non-Party would create a substantial risk of significant competitive or
10 commercial disadvantage, or a substantial risk of harm resulting from misuse of the
11 disclosed information (including but not limited to use for fraudulent, criminal, or
12 otherwise unlawful purposes), that could not be avoided by less restrictive means,
13 including but not limited to highly sensitive competitive, financial, or personal
14 information.

15 2.8 House Counsel: attorneys who are employees of a party to this action.
16 House Counsel does not include Outside Counsel of Record or any other outside
17 counsel.

18 2.9 Non-Party: any natural person, partnership, corporation, association,
19 or other legal entity not named as a Party to this action.

20 2.10 Outside Counsel of Record: attorneys who are not employees of a
21 party to this action but are retained to represent or advise a party to this action and
22 have appeared in this action on behalf of that party or are affiliated with a law firm
23 which has appeared on behalf of that party, and includes law interns and support
24 staff.

25 2.11 Party: any party to this action, including all of its officers, directors,
26 employees, consultants, retained experts, and Outside Counsel of Record (and their
27 support staffs).

28 2.12 Producing Party: a Party or Non-Party that produces Disclosure or

1 Discovery Material in this action.

2 2.13 Professional Vendors: persons or entities that provide litigation
3 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
4 demonstrations, and organizing, storing, or retrieving data in any form or medium)
5 and their employees and subcontractors.

6 2.14 Protected Material: any Disclosure or Discovery Material, including
7 drafts and notes reflecting Disclosure or Discovery Material, that is designated as
8 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
9 ONLY.”

10 2.15 Receiving Party: a Party that receives Disclosure or Discovery
11 Material from a Producing Party.

12 3. SCOPE

13 The protections conferred by this Stipulation and Order cover not only
14 Protected Material (as defined above), but also (1) any information copied or
15 extracted from Protected Material; (2) all copies, excerpts, summaries, or
16 compilations of Protected Material; and (3) any testimony, conversations, or
17 presentations by Parties or their Counsel that might reveal Protected Material.
18 However, the protections conferred by this Stipulation and Order do not cover the
19 following information: (a) any information that is in the public domain at the time
20 of disclosure to a Receiving Party or becomes part of the public domain after its
21 disclosure to a Receiving Party as a result of publication not involving a violation
22 of this Order, including becoming part of the public record through trial or
23 otherwise; and (b) any information known to the Receiving Party prior to the
24 disclosure or obtained by the Receiving Party after the disclosure from a source
25 who obtained the information lawfully and under no obligation of confidentiality to
26 the Designating Party. Any use of Protected Material at trial shall be governed by a
27 separate agreement or order.

28 4. DURATION

1 Even after final disposition of this litigation, the confidentiality obligations
2 imposed by this Order shall remain in effect until a Designating Party agrees
3 otherwise in writing or a court order otherwise directs. Final disposition shall be
4 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
5 or without prejudice; and (2) final judgment herein after the completion and
6 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
7 including the time limits for filing any motions or applications for extension of time
8 pursuant to applicable law.

9 5. DESIGNATING PROTECTED MATERIAL

10 5.1 Exercise of Restraint and Care in Designating Material for Protection.

11 Each Party or Non-Party that designates information or items for protection under
12 this Order must take care to limit any such designation to specific material that
13 qualifies under the appropriate standards. The Designating Party must designate for
14 protection only those parts of material, documents, items, or oral or written
15 communications that qualify – so that other portions of the material, documents,
16 items, or communications for which protection is not warranted are not swept
17 unjustifiably within the ambit of this Order.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations
19 that are shown to be clearly unjustified or that have been made for an improper
20 purpose (e.g., to unnecessarily encumber or retard the case development process or
21 to impose unnecessary expenses and burdens on other parties) expose the
22 Designating Party to sanctions.

23 If it comes to a Designating Party's attention that information or items that it
24 designated for protection do not qualify for protection, that Designating Party must
25 promptly notify all other Parties that it is withdrawing the mistaken designation.

26 5.2 Manner and Timing of Designations. Except as otherwise provided in
27 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
28 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection

1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic
5 documents, but excluding transcripts of depositions or other pretrial or trial
6 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
8 contains protected material.

9 (b) for testimony given in deposition or in other pretrial or trial proceedings,
10 a Party shall designate either on the record at the deposition, hearing, or other
11 proceeding, or by written notice from counsel within twenty-one (21) calendar days
12 of receipt of the transcript. Unless otherwise designated at the deposition, the entire
13 transcript (including exhibits) shall be treated as HIGHLY CONFIDENTIAL –
14 ATTORNEYS’ EYES ONLY under this Protective Order until the expiration of the
15 above referenced 21-day period for designation, except that the deponent may
16 review the transcript of his or her own deposition during this period. The Parties
17 may also agree to extend the time period for providing such designations. Any
18 exhibit that was marked with a confidentiality designation at the time of production,
19 and which still bears that mark at the time of its use in a deposition, shall be
20 presumed to fall within the provisions of this Order without further designation.
21 Transcripts containing Protected Material shall have an obvious legend on the title
22 page that the transcript contains Protected Material. The Designating Party shall
23 inform the court reporter of these requirements.

24 (c) for information produced in some form other than documentary and for
25 any other tangible items, that the Producing Party affix in a prominent place on the
26 exterior of the container or containers in which the information or item is stored the
27 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
28 EYES ONLY.” If only a portion or portions of the information or item warrant

1 protection, the Producing Party, to the extent practicable, shall identify the
2 protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected upon learning of
4 a failure to designate, an inadvertent failure to designate qualified information or
5 items does not, standing alone, waive the Designating Party's right to secure
6 protection under this Order for such material. Upon timely correction of a
7 designation, the Receiving Party must make reasonable efforts to assure that the
8 material is treated in accordance with the provisions of this Order.

9 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
11 designation of confidentiality at any time. Unless a prompt challenge to a
12 Designating Party's confidentiality designation is necessary to avoid foreseeable,
13 substantial unfairness, unnecessary economic burdens, or a significant disruption or
14 delay of the litigation, a Party does not waive its right to challenge a confidentiality
15 designation by electing not to mount a challenge promptly after the original
16 designation is disclosed.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
18 resolution process under Civil Local Rule 26.1 by providing written notice of each
19 designation it is challenging and describing the basis for each challenge. To avoid
20 ambiguity as to whether a challenge has been made, the written notice must recite
21 that the challenge to confidentiality is being made in accordance with this specific
22 paragraph of the Protective Order. The parties shall attempt to resolve each
23 challenge in good faith and must begin the process by conferring directly (in voice
24 to voice dialogue; other forms of communication are not sufficient) within 14 days
25 of the date of service of notice. In conferring, the Challenging Party must explain
26 the basis for its belief that the confidentiality designation was not proper and must
27 give the Designating Party an opportunity to review the designated material, to
28 reconsider the circumstances, and, if no change in designation is offered, to explain

1 the basis for the chosen designation. A Challenging Party may proceed to the next
2 stage of the challenge process under Civil Local Rule 26.1 only if it has engaged in
3 this meet and confer process first or establishes that the Designating Party is
4 unwilling to participate in the meet and confer process in a timely manner.

5 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
6 court intervention, the Designating Party shall file and serve a motion to retain
7 confidentiality under Civil Local Rule 7.1 (and in compliance with Civil Local Rule
8 79.2, if applicable) within 21 days of the initial notice of challenge or within 14
9 days of the parties agreeing that the meet and confer process will not resolve their
10 dispute, whichever is earlier. Each such motion must be accompanied by a
11 competent declaration affirming that the movant has complied with the meet and
12 confer requirements imposed in the preceding paragraph. Failure by the
13 Designating Party to make such a motion including the required declaration within
14 21 days (or 14 days, if applicable) shall automatically waive the confidentiality
15 designation for each challenged designation. In addition, the Challenging Party may
16 file a motion challenging a confidentiality designation at any time if there is good
17 cause for doing so, including a challenge to the designation of a deposition
18 transcript or any portions thereof. Any motion brought pursuant to this provision
19 must be accompanied by a competent declaration affirming that the movant has
20 complied with the meet and confer requirements imposed by the preceding
21 paragraph.

22 The burden of persuasion in any such challenge proceeding shall be on the
23 Designating Party. Frivolous challenges, and those made for an improper purpose
24 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
25 expose the Challenging Party to sanctions. Unless the Designating Party has waived
26 the confidentiality designation by failing to file a motion to retain confidentiality as
27 described above, all parties shall continue to afford the material in question the
28 level of protection to which it is entitled under the Producing Party's designation

1 until the court rules on the challenge.

2 7. ACCESS TO AND USE OF PROTECTED MATERIAL

3 7.1 Basic Principles. A Receiving Party may use Protected Material that is
4 disclosed or produced by another Party or by a Non-Party in connection with this
5 case only for prosecuting, defending, or attempting to settle this litigation. Such
6 Protected Material may be disclosed only to the categories of persons and under the
7 conditions described in this Order. When the litigation has been terminated, a
8 Receiving Party must comply with the provisions of section 13 below (FINAL
9 DISPOSITION).

10 Protected Material must be stored and maintained by a Receiving Party at a
11 location and in a secure manner that ensures that access is limited to the persons
12 authorized under this Order.

13 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
14 otherwise ordered by the court or permitted in writing by the Designating Party, a
15 Receiving Party may disclose any information or item designated
16 "CONFIDENTIAL" only to:

17 (a) the Receiving Party's Outside Counsel of Record in this action, as well
18 as employees of said Outside Counsel of Record to whom it is reasonably necessary
19 to disclose the information for this litigation;

20 (b) the officers, directors, and employees (including House Counsel) of the
21 Receiving Party to whom disclosure is reasonably necessary for this litigation and
22 who have signed the "Acknowledgment and Agreement to Be Bound" that is
23 attached hereto as Exhibit A;

24 (c) Experts (as defined in this Order) of the Receiving Party to whom
25 disclosure is reasonably necessary for this litigation and who have signed the
26 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit
27 A;

28 (d) the court and its personnel;

1 (e) court reporters and their staff, professional jury or trial consultants, mock
2 jurors, and Professional Vendors to whom disclosure is reasonably necessary for
3 this litigation and who have signed the “Acknowledgment and Agreement to Be
4 Bound” (Exhibit A);

5 (f) during their depositions, witnesses in the action to whom disclosure is
6 reasonably necessary and who have signed the “Acknowledgment and Agreement
7 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
8 ordered by the court. Pages of transcribed deposition testimony or exhibits to
9 depositions that reveal Protected Material must be separately bound by the court
10 reporter and may not be disclosed to anyone except as permitted under this
11 Stipulated Protective Order;

12 (g) the author or recipient of a document containing the information or a
13 custodian or other person who otherwise possessed or knew the information;

14 (h) any special master, referee, mediator, or arbitrator appointed by the court
15 or selected by the parties to assist in the resolution of this action.

16 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY” Information or Items: Unless otherwise ordered by the court or permitted
18 in writing by the Designating Party, a Receiving Party may disclose any
19 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
20 EYES ONLY” only to:

21 (a) the Receiving Party’s Outside Counsel of Record in this action, as well
22 as employees of said Outside Counsel of Record to whom it is reasonably necessary
23 to disclose the information for this litigation and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably
26 necessary for this litigation, (2) who have signed the “Acknowledgment and
27 Agreement to Be Bound” (Exhibit A), and (3) who have followed the procedures
28 set forth in paragraph 7.4 below;

1 (c) the court and its personnel;

2 (d) court reporters and their staff, professional jury or trial consultants, and
3 Professional Vendors to whom disclosure is reasonably necessary for this litigation
4 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
5 A);

6 (e) the author or recipient of a document containing the information or a
7 custodian or other person who otherwise possessed or knew the information; and

8 (f) any special master, referee, mediator or arbitrator appointed by the court
9 or selected by the parties to assist in the resolution of this action.

10 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Certain
12 Experts:

13 (a) Unless otherwise ordered by the court or agreed to in writing by the
14 Designating Party, a Party that seeks to disclose to an Expert any information or
15 item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
16 EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the
17 Designating Party that (1) identifies the general categories of “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information that the Receiving
19 Party seeks permission to disclose to the Expert, (2) sets forth the full name of the
20 Expert and the city and state of his or her primary residence, and (3) attaches a copy
21 of the Expert’s current curriculum vitae.

22 (b) A Party that makes a request and provides the information specified in the
23 preceding paragraph may disclose the subject Protected Material to the identified
24 Expert unless, within ten (10) days of delivering the request, the Party receives a
25 written objection from the Designating Party. Any such objection must set forth in
26 detail the grounds on which it is based.

27 (c) A Party that receives a timely written objection must meet and confer
28 with the Designating Party to try to resolve the matter by agreement within five (5)

1 days of receipt of the written objection. If no agreement is reached, the Designating
2 Party seeking to prevent the disclosure to the Expert may file a motion pursuant to
3 the Local Rules seeking an order from the court to prevent disclosure. Any such
4 motion must describe the circumstances with specificity, set forth in detail the
5 reasons why disclosure to the Expert would be harmful, assess the risk of harm that
6 the disclosure would entail, and suggest any additional means that could be used to
7 reduce that risk. In addition, any such motion must be accompanied by a competent
8 declaration describing the Parties' efforts to resolve the matter by agreement (i.e.,
9 the extent and content of the meet-and-confer discussions) and setting forth the
10 reasons advanced by the Receiving Party for why disclosure to the Expert is
11 reasonably necessary. In any such proceeding, the Party opposing disclosure to the
12 Expert shall bear the burden of proving that the risk of harm that the disclosure
13 would entail (under the safeguards proposed) outweighs the Receiving Party's need
14 to disclose the Protected Material to its Expert.

15 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
16 IN OTHER LITIGATION

17 If a Party is served with a subpoena or a court order issued in other litigation
18 that compels disclosure of any information or items designated in this action as
19 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
20 ONLY," that Party must:

21 (a) promptly notify in writing the Designating Party. Such notification shall
22 include a copy of the subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena or order to
24 issue in the other litigation that some or all of the material covered by the subpoena
25 or order is subject to this Protective Order. Such notification shall include a copy of
26 this Stipulated Protective Order; and

27 (c) cooperate with respect to all reasonable procedures sought to be pursued
28 by the Designating Party whose Protected Material may be affected.

1 If the Designating Party timely seeks a protective order or other such order
2 seeking to limit disclosure of any Protected Material, the Party served with the
3 subpoena or court order shall not produce any information designated in this action
4 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
5 ONLY” before a determination by the court from which the subpoena or order
6 issued, unless the Party has obtained the Designating Party’s permission. The
7 Designating Party shall bear the burden and expense of seeking protection in that
8 court of its confidential material – and nothing in these provisions should be
9 construed as authorizing or encouraging a Receiving Party in this action to disobey
10 a lawful directive from this court or another court.

11 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
12 PRODUCED IN THIS LITIGATION

13 (a) The terms of this Order are applicable to information produced by a Non-
14 Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced
16 by Non-Parties in connection with this litigation is protected by the remedies and
17 relief provided by this Order. Nothing in these provisions should be construed as
18 prohibiting a Non-Party from seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery request, to
20 produce a Non-Party’s confidential information in its possession, and the Party is
21 subject to an agreement with the Non-Party not to produce the Non-Party’s
22 confidential information, then the Party shall:

23 (1) promptly notify in writing the Requesting Party and the Non-Party
24 that some or all of the information requested is subject to a confidentiality
25 agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated
27 Protective Order in this litigation, the relevant discovery request(s), and a
28 reasonably specific description of the information requested; and

1 (3) make the information requested available for inspection by the
2 Non-Party.

3 (c) If the Non-Party fails to object or seek a protective order from this court
4 within 14 days of receiving the notice and accompanying information, the
5 Receiving Party may produce the Non-Party's confidential information responsive
6 to the discovery request. If the Non-Party timely seeks a protective order or other
7 such order seeking to limit disclosure of any Protected Material, the Receiving
8 Party shall not produce any information in its possession or control that is subject to
9 the confidentiality agreement with the Non-Party before a determination by the
10 court. Absent a court order to the contrary, the Non-Party shall bear the burden and
11 expense of seeking protection in this court of its Protected Material.

12 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

13 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
14 Protected Material to any person or in any circumstance not authorized under this
15 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
16 writing the Designating Party of the unauthorized disclosures, (b) use its best
17 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
18 person or persons to whom unauthorized disclosures were made of all the terms of
19 this Order, and (d) request such person or persons to execute the "Acknowledgment
20 and Agreement to Be Bound" that is attached hereto as Exhibit A.

21 11. NO WAIVER OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 (a) When a Producing Party gives notice to Receiving Parties that certain
24 produced material is subject to a claim of privilege or other protection, the
25 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
26 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
27 procedure may be established in an e-discovery order that provides for production
28 without prior privilege review.

(b) Pursuant to Federal Rule of Evidence 502(d), the production by any of the undersigned Parties or non-Parties to the Action of any Disclosure or Discovery Material during the discovery in this Action that is protected by the attorney-client privilege, work-product doctrine, or any other privilege or protection, whether inadvertent or not, shall be without prejudice to any subsequent claim by the Producing Party that such Discovery Material is privileged or attorney work product, and shall not constitute a waiver of any such privilege or protection in the litigation pending before the Court, or any other federal or state proceeding. In the event that any Disclosure or Discovery Material that is subject to a privilege or protection is produced, the producing Party or Non-Party shall give written notice of such production within 20 days of discovery of the production (the "Privilege or Protection Notice"). If a Receiving Party disputes the asserted privilege or protection, within 20 days of receipt of the Privilege or Protection Notice, the Receiving Party shall initiate the dispute resolution process under Civil Local Rule 26.1.

12. MISCELLANEOUS

12.1 In the event that additional parties join or are joined in this Litigation, they shall not have access to Discovery Material until the newly joined Party, by its counsel, has executed and filed with the Court its agreement to be fully bound by this Stipulated Protective Order.

12.2 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.3 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

1 12.4. When any Receiving Party ships any Discovery Material to others
2 designated in this Order as authorized to receive Protected Material, the Receiving
3 Party will encrypt any electronic data (if the Protected Material is in that format)
4 and supply the password in separate correspondence to the recipient. If the
5 Protected Material is in hard copy/paper form, the Receiving Party will ship the
6 Protected Material using secure packaging tape via Federal Express or UPS and
7 retain a tracking number for the materials. If the Receiving Party learns at any time
8 that Discovery Material may have been retrieved or viewed by unauthorized parties,
9 it will immediately notify the Producing Party and take all reasonable measures to
10 retrieve the improperly disclosed Discovery Material.

11 12.5 Filing Protected Material. Without written permission from the
12 Designating Party or a court order secured after appropriate notice to all interested
13 persons, a Party may not file in the public record in this action any Protected
14 Material. No document may be filed under seal, except pursuant to a court order
15 that authorizes the sealing of the particular document, or portion of the document. A
16 sealing order may issue only upon a showing that the information is privileged or
17 protectable under the law. The request must be narrowly tailored to seek sealing
18 only of the confidential or privileged material. To file a document under seal, the
19 parties must comply with the procedures explained in Section 2.j of the Electronic
20 Case Filing Administrative Policies and Procedures Manual for the United States
21 District Court for the Southern District of California and Civil Local Rule 79.2. In
22 addition, a party must file a redacted version of any document that it seeks to file
23 under seal. The document must be titled to show that it corresponds to an item filed
24 under seal, *e.g.*, ‘Redacted Copy of Sealed Declaration of John Smith in Support of
25 Motion for Summary Judgment.’ The party should file the redacted document(s)
26 simultaneously with a joint motion or ex parte application requesting that the
27 confidential portions of the document(s) be filed under seal and setting forth good
28 cause for the request.

13. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must undertake commercially reasonable efforts to return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. As to those materials that contain, reflect, incorporate, attach, or reference attorney work product, Counsel for Defendant and Interim Co-Lead Counsel for the Parties shall be entitled, without violating this Order, to retain such work product in their files, so long the terms of this Order will continue to govern any such retained materials. In addition, Counsel for Defendant and Interim Co-Lead Counsel shall be entitled, without violating this Order, to retain pleadings, affidavits, motions, briefs, expert reports (and exhibits thereto), correspondence (including internal correspondence and e-mail), any other papers filed with the Court (including exhibits), deposition transcripts, and the trial record (including exhibits) even if such materials contain or describe “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information or items, so long as this Order will continue to govern any such retained materials. The Receiving Party’s commercially reasonable efforts shall not require the return or destruction of materials that (a) are stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes; (b) are located in the email archive system or archived electronic files of departed

1 employees; or (c) are subject to legal hold obligations. Backup storage media need
2 not be restored for purpose of returning or certifying destruction of materials, but
3 any such materials retained in backup storage media shall continue to be treated in
4 accordance with this Order. If any “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” data on a back-up tape is
6 restored through the employment of “undelete” software and other similar computer
7 forensic techniques, the Parties and their respective representatives are obligated, to
8 the extent commercially reasonable, to delete such restored information. If
9 destruction is not commercially reasonable, the Parties and their respective
10 representatives must treat any “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
11 – ATTORNEYS’ EYES ONLY” information or items in accordance with this
12 Order. Nothing in this Paragraph shall obligate any Party to destroy its own
13 “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
14 ONLY” information or items at the close of this action or at any other time.

15
16 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

17 Dated: September 24, 2021 By: /s/ Brian Danitz

18 **COTCHETT, PITRE & MCCARTHY, LLP**
19 JOSEPH W. COTCHETT
20 BRIAN DANITZ
21 KARIN SWOPE
22 ANDREW F. KIRTLEY

23 *Co-Lead Counsel for Plaintiffs and the Class*

24 Dated: September 24, 2021 By: /s/ Michael Rubin

25 **ALTSHULER BERZON LLP**
26 MICHAEL RUBIN
27 STACEY M. LEYTON
28 MATTHEW MURRAY
CONNIE K. CHAN

Co-Lead Counsel for Plaintiffs and the Class

1 Dated: September 24, 2021 By: /s/ Yvonne W. Chan

2 **GOODWIN PROCTER LLP**

3 LAURA A. STOLL

4 DAVID R. CALLAWAY

5 JAMES W. MCGARRY

6 YVONNE W. CHAN

7 THOMAS M. HEFFERON

8 *Counsel for Defendant Bank of America, N.A.*

9 Dated: September 24, 2021 By: /s/ Arlene R. Yang

10 **MEYERS NAVE, A PROFESSIONAL**

11 **CORPORATION**

12 JANICE P. BROWN

13 ARLENE R. YANG

14 *Counsel for Defendant Bank of America, N.A.*

15 Dated: September 24, 2021 By: /s/ Barry W. Lee

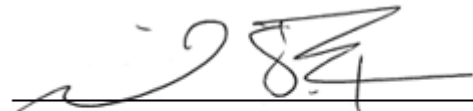
16 **MANATT PHELPS & PHILLIPS LLP**

17 BARRY W. LEE

18 *Counsel for Defendant Bank of America, N.A.*

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2
3 Dated: September 24, 2021

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5 Honorable Michael S. Berg
6 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address],
declare under penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States District Court for
the Southern District of California on [date] in the case of In re Bank of America
California Unemployment Benefits Litigation, Case No. 3:21-md-02992-LAB-
MSB. I agree to comply with and to be bound by all the terms of this Stipulated
Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Southern District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

ATTESTATION OF E-FILED SIGNATURE

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Brian Danitz, hereby certify that the content of this document is acceptable to all the signatories herein and that I have obtained counsel's authorization to affix their electronic signatures to this document.

/s/ Brian Danitz
BRIAN DANITZ