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Co-Lead Counsel for Plaintiffs and the Proposed Class

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

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

Case No. 3:21-md-02992-GPC-MSB

**MOTION TO FILE DOCUMENTS
UNDER SEAL RE: EXHIBITS 1, 2, 14,
16, 18, 19, 20 TO CORRECTED
DECLARATION OF CONNIE CHAN
IN SUPPORT OF MOTION FOR
CLASS CERTIFICATION**

This Document Relates to All Actions

Judge: Hon. Gonzalo P. Curiel
Ctrm: 2D (2nd Floor)

MOTION TO FILE DOCUMENTS UNDER SEAL

On November 15, 2024, the Court issued an order granting in part and denying in part the motion to seal materials relating to Plaintiffs' Motion for Class Certification (ECF 365; the "Order"). Pursuant to the Order, the Parties met and conferred and, on December 2, 2024, Plaintiffs moved to file documents with modified redactions under seal (ECF 384). On December 5, 2024, the Court issued its order granting the motion to seal as to Plaintiffs' Memorandum of Points and Authorities ("P&As") and the following exhibits ("Ex.") attached to the Corrected Declaration of Connie K. Chan (ECF 336-2; the "Declaration"):

Ex. 3 (Expert Report of Jay Minnucci);

Ex. 4 (Expert Report of Greg J. Regan);

Ex. 15 (Chestnut Deposition excerpts);

Ex. 17 (Letson Deposition excerpts);

Ex. 157 (Trial Plan).

See ECF 391.

This motion addresses the remaining exhibits referenced in the Court's November 15, 2024 Order. After meeting and conferring and applying the guidance provided in the Order, the Parties determined that the original redactions applied to the following exhibits to the Declaration were appropriate and required no further modification:

Ex. 1 (Expert Report of J. Daniel Kreis) [public version at ECF 324-4];

Ex. 2 (Expert Report of Jane Cloninger) [public version at ECF 324-5];

Ex. 14 (Daniels Deposition excerpts) [public version at ECF 324-17];

Ex. 16 (Martin Deposition excerpts) [public version at ECF 324-19];

Ex. 18 (Golden Deposition excerpts) [public version at ECF 324-21];

Ex. 20 (Johnson Deposition excerpts) [public version at ECF 324-23].

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1 The Parties further determined that the redactions applied to **Ex. 19** (Lennon
2 Deposition excerpts) should be revised in accordance with the guidance provided in the
3 Order. A copy of Ex. 19 with modified redactions accompanies this motion. Materials
4 designated Confidential are highlighted yellow and materials designated Highly
5 Confidential are highlighted green.

6 **I. LEGAL STANDARD**

7 There is a strong presumption in favor of public access to court records. *Nixon v.*
8 *Warner Commc 'ns, Inc.*, 435 U.S. 589, 597 (1978) (“[T]he courts of this country recognize
9 a general right to inspect and copy public records and documents, including judicial records
10 and documents.” (cleaned up)); *see also Kamakana v. City & Cnty. of Honolulu*, 447 F.3d
11 1172, 1178 (9th Cir. 2006) (“Unless a particular court record is one ‘traditionally kept
12 secret,’ a ‘strong presumption in favor of access’ is the starting point.”). This presumption
13 in favor of access is at its strongest when the documents sought to be sealed are “more than
14 tangentially related to the merits of a case,” such as a class certification motion. *Nia v. Bank*
15 *of Am., N.A.*, No. 21-cv-1799-BAS-BGS, 2024 WL 171659, at *2 (S.D. Cal. Jan. 12, 2024).
16 The party seeking to seal a court record has the burden of “articulat[ing] compelling reasons
17 [to seal a document] supported by specific factual findings . . . that outweigh the general
18 history of access and the public policies favoring disclosure, such as the public interest in
19 understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79 (cleaned up).

20 **II. DISCUSSION**

21 As noted above, this motion addresses the remaining exhibits referenced in the
22 Court’s November 15, 2024 Order which were filed in support of Plaintiffs’ Motion for
23 Class Certification. After meeting and conferring and applying the guidance provided in
24 the Order, the Parties determined that the original redactions applied to the following
25 exhibits to the Declaration were appropriate and required no modification:

26 **Ex. 1** (Expert Report of J. Daniel Kreis) [public version at ECF 324-4];

27 **Ex. 2** (Expert Report of Jane Cloninger) [public version at ECF 324-5];

28 **Ex. 14** (Daniels Deposition excerpts) [public version at ECF 324-17];

1 **Ex. 16** (Martin Deposition excerpts) [public version at ECF 324-19];

2 **Ex. 18** (Golden Deposition excerpts) [public version at ECF 324-21];

3 **Ex. 20** (Johnson Deposition excerpts) [public version at ECF 324-23].

4 The Parties further determined that the redactions applied to the following document
5 should be revised in accordance with the guidance provided in the Court's Order:

6 **Ex. 19** (Lennon Deposition excerpts).

7 The redacted materials contain information the Bank designated as Confidential
8 and/or Highly Confidential, including material that reflect or analyze the risk of future
9 fraud to the Bank, pertain to internal analyses of fraud detection strategies, risk competitor
10 disadvantage to the Bank, refer to testimony by Rule 30(b)(6) witnesses that the Bank has
11 designated Confidential or Highly Confidential, and refer to materials designated "Highly
12 Confidential-Attorneys' Eyes Only" by the Consumer Finance Protection Board ("CFPB")
13 and Office of the Comptroller of Currency ("OCC").

14 Accordingly, Plaintiffs request that the Court maintain portions of the following
15 materials under seal: **Exhibits 1, 2, 14, 16, 18, 19 and 20** attached to the Corrected
16 Declaration of Connie Chan in support of Motion for Class Certification.

17 Respectfully submitted,

18 Dated: December 6, 2024

COTCHETT, PITRE & McCARTHY, LLP

19 By: /s/ Brian Danitz
20 JOSEPH W. COTCHETT
21 BRIAN DANITZ
22 KARIN B. SWOPE
23 DAVID G. HOLLENBERG
24 BLAIR V. KITTLE
25 VASTI S. MONTIEL

26 *Co-Lead Counsel for Plaintiffs and the*
27 *Proposed Class*
28

1 Dated: December 6, 2024

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2 By: /s/ Michael Rubin
3 MICHAEL RUBIN
4 STACEY M. LEYTON
5 CONNIE K. CHAN
6 JAMES BALTZER
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*Co-Lead Counsel for Plaintiffs and the
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SIGNATURE ATTESTATION

Pursuant to section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Brian Danitz, attest that the other signatories listed, and on whose behalf this filing is submitted, concur in the filing content and have authorized this filing.

Dated: December 6, 2024

/s/ Brian Danitz

Brian Danitz