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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

**PLAINTIFFS' MOTION TO FILE
DOCUMENTS UNDER SEAL IN
SUPPORT OF OPPOSITION TO
DEFENDANT'S MOTION FOR A
PROTECTIVE ORDER**

This Document Relates to All Actions

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

1 Pursuant to Local Rule 79.2 and Section 12.5 of the Stipulated Protective Order
2 (ECF 82) in this case and the Court’s Civil Pretrial & Trial Procedures, Plaintiffs move to
3 file documents under seal in connection with Plaintiffs’ Opposition (the “Opposition”) to
4 Defendant’s Motion for a Protective Order (the “Motion”). In particular, Plaintiffs seek to
5 seal portions of the Opposition brief, portions of Exhibits **40-41, 49-54** attached to the
6 Declaration of Brian Danitz in support of the Opposition (“Declaration”), and the entirety
7 of Declaration Exhibits **1-39, 42-48, and 55-65**. Plaintiffs tailored this motion pursuant to
8 the prior Court’s Orders on the parties’ motions to seal in this case. Portions of documents
9 lodged provisionally under seal are highlighted yellow.

10 Although there is a strong presumption in favor of public access to court records,
11 *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978), the public has a reduced
12 interest in accessing non-dispositive motions that are “unrelated, or only tangentially
13 related, to the underlying cause of action,” *Kamakana v. City & Cnty. of Honolulu*, 447
14 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
15 1122, 1135 (9th Cir. 2003)). Because a motion for a protective order is a non-dispositive
16 motion that is only tangentially related to the merits of the case, parties must show only
17 “good cause” to justify sealing. *See, e.g., BAE Sys. San Diego Ship Repair Inc. v. United*
18 *States*, 670 F. Supp. 3d 1064, 1069 (S.D. Cal. 2023) (good cause found to seal exhibits
19 containing confidential information filed in connection with apex discovery dispute).

20 The following documents were designated by Defendant Bank of America as
21 Confidential or Highly Confidential under the Stipulated Protective Order in the case:
22 Exhibits **1-39, 42-48, and 55-65**. These exhibits reference confidential business
23 information, including Bank fraud detection and prevention strategies, analyses of Bank
24 programming, and the confidential account or personal information of EDD cardholders
25 that contacted the Bank regarding their personal hardship. *See E.W. Bank v. Shanker*, 2021
26 WL 3112452, at *18–19 (N.D. Cal. July 22, 2021) (finding compelling reasons to seal
27 fraud prevention measures); *Stiner v. Brookdale Senior Living, Inc.*, 2022 WL 1180216, at
28

1 *2 (N.D. Cal. Mar. 30, 2022). The Court has previously granted motions to seal documents
2 containing such information. ECF 266, 293, 365, 381, 390, 391, 397, 421.

3 Plaintiffs also seek to seal portions of Exhibits **40-41, 49-54** which are excerpts of
4 Bank employees' deposition testimony which Defendant has designated as Confidential or
5 Highly Confidential under the Stipulated Protective Order. The materials reference
6 confidential business information, including Bank fraud detection and prevention strategies
7 and other confidential business information and is consistent with the information which
8 the Court has previously ordered to be sealed. *See* ECF 365, 381; *Lundstrom v. Young*,
9 2022 WL 15524624, at *17 (S.D. Cal. Oct. 27, 2022) (J. Curiel) (prior sealed documents
10 considered when evaluating new motion to seal).

11 Plaintiffs also seek to seal portions of their Memorandum of Points and Authorities
12 in Opposition to Defendant's Motion for Protective Order ("Plaintiffs' MPA") that quote
13 or reference the above exhibits that they seek to seal, including the deposition testimony of
14 Bank employees that Defendant has designated Confidential or Highly Confidential.

15 Accordingly, Plaintiffs request that the Court seal portions of the Opposition brief,
16 portions of Exhibits **40-41, 49-54** attached to the Declaration in support of the Opposition,
17 and the entirety of Declaration Exhibits **1-39, 42-48, and 55-65**.

18 Respectfully submitted,

19 Dated: April 25, 2025

COTCHETT, PITRE & McCARTHY, LLP

20
21 By: /s/ Brian Danitz
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1 Dated: April 25, 2025

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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: April 25, 2025

/s/ Brian Danitz

Brian Danitz