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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
PROPOSED SURREPLY UNDER
SEAL IN OPPOSITION TO
DEFENDANT'S MOTION FOR A
PROTECTIVE ORDER**

This Document Relates to All Actions

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

Pursuant to Local Rule 79.2 and Section 12.5 of the Stipulated Protective Order (ECF 82) in this case and the Court's Civil Pretrial & Trial Procedures, Plaintiffs move to file under seal in connection with Plaintiffs' *Ex Parte* Motion for Leave to File Surreply to Defendant's (the "Bank") Motion for a Protective Order, and Proposed Surreply. Plaintiffs tailored this motion pursuant to the prior Court's Orders on the parties' motions to seal in this case. Portions of the document lodged provisionally under seal are highlighted yellow.

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

Plaintiffs seek to seal portions of their surreply brief that quote or reference exhibits this Court has previously ordered to be sealed in connection with the Bank's Motion for a Protective Order, ECF 452, Plaintiffs' Opposition to the Bank's Motion for a Protective Order, ECF 464, and have been provisionally filed under seal in connection with the Bank's Reply, ECF 471. *See* ECF 466, ECF 467 (granting motions to seal documents in support of the Bank's Motion for a Protective Order and Plaintiffs' Opposition to the Bank's Motion for a Protective Order); *see also* ECF 266 (granting motion to seal documents in support of Plaintiffs' Motion to Compel Additional ESI Custodians (ECF 210, ECF 211, ECF 212)); *Lundstrom v. Young*, 2022 WL 15524624, at *17 (S.D. Cal. Oct. 27, 2022) (J. Curiel) (prior sealed documents considered when evaluating new motion to seal).

Accordingly, Plaintiffs respectfully request that the Court seal portions of the surreply brief that quote or reference previously sealed documents.

Respectfully submitted,

Dated: May 7, 2025

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Brian Danitz
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SIGNATURE ATTESTATION

Pursuant to section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Michael Rubin, 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: May 7, 2025

/s/ Michael Rubin

Michael Rubin