

1 JOSEPH W. COTCHETT (SBN 36324)

2 jcotchett@cpmlegal.com

3 BRIAN DANITZ (SBN 247403)

4 bdanitz@cpmlegal.com

5 KARIN B. SWOPE (Pro Hac Vice)

6 kswope@cpmlegal.com

7 VASTI S. MONTIEL (SBN 346409)

8 vmontiel@cpmlegal.com

9 CAROLINE A. YUEN (SBN 354388)

10 cyuen@cpmlegal.com

11 **COTCHETT, PITRE & McCARTHY, LLP**

12 840 Malcolm Road, Suite 200

13 Burlingame, CA 94010

14 Telephone: (650) 697-6000

15 Fax: (650) 697-0577

MICHAEL RUBIN (SBN 80618)

mrubin@altber.com

STACEY M. LEYTON (SBN 203827)

sleyton@altber.com

CONNIE K. CHAN (SBN 284230)

cchan@altber.com

JAMES BALTZER (SBN 332232)

jbaltzer@altber.com

KATHERINE BASS (SBN 344748)

kbass@altber.com

ALTSHULER BERZON LLP

177 Post Street, Suite 300

San Francisco, CA 94108

Telephone: (415) 421-7151

Fax: (415) 362-8064

Co-Lead Counsel for Plaintiffs and the 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: PLAINTIFFS'
OPPOSITION TO DEFENDANT'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

This Document Relates to All Actions

Date: April 17, 2026

Time: 1:30 p.m.

Judge: Hon. Gonzalo P. Curiel

Ctrm: 2D (2nd Floor)

MOTION TO FILE DOCUMENTS UNDER SEAL

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 (1) portions of Plaintiffs’ Opposition to Defendant’s Motion for Partial Summary Judgment (“MPSJ Opposition”); (2) portions of the Index of PX Exhibits attached to the Declaration of Connie K. Chan in support of the MPSJ Opposition (“Chan Declaration”); (3) portions of Plaintiffs’ Response to Defendant Bank of America, N.A. (the “Bank”) Separate Statement; (4) portions of Plaintiffs’ Additional Statement of Facts in Opposition to MPSJ; (5) Plaintiffs’ Objections to Defendant’s Evidence in Support of MPSJ in full; and (6) portions of **PX 1-5, 8-32, 41, 230, 232, and 298** attached to the Chan Declaration; and (7) **PX 33, 35, 39, 42-55, 57-116, 118-125, 127-142, 144-154, 156-160, 162-208, 213-223, 227-229, 233-257, 259-278, 280-287, 289, and 290-292, 297** attached to the Chan Declaration in full.

Plaintiffs tailored this motion pursuant to the guidance provided by the Court’s Order granting in part and denying in part Motions to Seal materials relating to Plaintiffs’ Motion for Class Certification (ECF 365), and in compliance with the Stipulated Protective Order in this case. Portions of documents lodged provisionally under seal designated Confidential are highlighted yellow and those designated Highly Confidential are highlighted green.

I. LEGAL STANDARD

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) (“[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” (cleaned up)); *see also Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (“Unless a particular court record is one ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the starting point.”). The party seeking to seal a court record has the burden of “articulat[ing] compelling reasons [to seal a document] supported by specific factual findings . . . that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in

1 understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79 (cleaned up). “In
2 general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and
3 justify sealing court records exist when such ‘court files might have become a vehicle for
4 improper purposes,’ such as the use of records to gratify private spite, promote public
5 scandal, circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at
6 1178-79, citing *Nixon*, 435 U.S. at 598. “[T]he strong presumption of access to judicial
7 records applies fully to dispositive pleadings, including motions for summary judgment
8 and related attachments.” *Kamakana*, 447 F.3d at 1179.

9 **II. PLAINTIFFS’ IDENTIFYING INFORMATION**

10 The public filing of “sensitive identifying information” could expose individuals to
11 harm or identity theft, and courts will seal such information. *Kamakana*, 447 F.3d at 1184;
12 *see also Stiner v. Brookdale Senior Living, Inc.*, 2022 WL 1180216, at *2 (N.D. Cal. Mar.
13 30, 2022) (sealing documents with personally identifying information such as names,
14 emails, and phone numbers). Courts have also found compelling reasons to seal documents
15 relating to individuals’ private financial information. *See Nia v. Bank of Am., N.A.*, No. 21-
16 cv-1799-BAS-BGS, 2024 WL 171659, at *6 (S.D. Cal. Jan. 12, 2024) (finding compelling
17 reason to seal document “contain[ing] personal financial information and other sensitive
18 personal information”).

19 Plaintiffs thus seek to seal the following exhibits attached to the Chan Declaration,
20 containing supplemental Plaintiff interrogatory responses which Plaintiffs designated
21 Confidential, that contain critical details about their financial status, including account
22 balances and other sensitive information:

- 23 • **PX 250** Plaintiff Oosthuizen’s Supplemental Objections and Responses to
24 Bank of America, N.A.’s First Set of Interrogatories;
- 25 • **PX 251** Plaintiff Koole’s Supplemental Objections and Responses to Bank of
26 America, N.A.’s First Set of Interrogatories;
- 27 • **PX 252** Plaintiff Moon’s Supplemental Objections and Responses to Bank of
28 America, N.A.’s First Set of Interrogatories;

- **PX 255** Plaintiff Kuang Ting Chong’s Supplemental Objections and Responses to Bank of America, N.A.’s First Set of Interrogatories;
- **PX 256** Plaintiff Stephanie Moore’s Supplemental Objections and Responses to Bank of America, N.A.’s First Set of Interrogatories;
- **PX 257** Plaintiff Alex Yuan’s Supplemental Objections and Responses to Bank of America, N.A.’s First Set of Interrogatories;
- **PX 259** Plaintiff Lindsay McClure’s Supplemental Objections and Responses to Bank of America, N.A.’s First Set of Interrogatories;
- **PX 260** Plaintiff Vanessa Rivera’s Supplemental Objections and Responses to Bank of America, N.A.’s First Set of Interrogatories.

Plaintiffs also seek to partially seal the following exhibits attached to the Chan Declaration, containing excerpts from the transcripts of Class Plaintiffs, which Plaintiffs designated Confidential pursuant to the stipulated protective order, that contain sensitive personally identifying information and other sensitive information:

- **PX 41** Excerpts from the transcript of Defendant’s deposition of Lindsey McClure, taken on March 12, 2024 (“McClure Dep”);
- **PX 230** Excerpts from the transcript of Defendant’s deposition of Azuri Moon, taken on February 27, 2024 (“Moon Dep”).

III. SENSITIVE BANK INFORMATION

Plaintiffs seek to seal portions of their MPSJ Opposition, portions of the Index of PX Exhibits, portions of Plaintiffs’ Response to the Bank’s Separate Statement, portions of Plaintiffs’ Additional Statement of Facts in Opposition to MPSJ, Plaintiffs’ Objections to Defendant’s Evidence in Support of MPSJ in full and the following expert reports, deposition transcripts, and documents produced in this litigation attached to the Chan Declaration. These materials contain information the Bank designated as Confidential and/or Highly Confidential, including material that reflect or analyze the risk of future fraud to the Bank, pertain to internal analyses of fraud detection strategies, risk competitor disadvantage to the Bank, refer to testimony by Rule 30(b)(6) witnesses that the Bank has

1 designated Confidential or Highly Confidential, contain deposition testimony that the Bank
2 has designated as “Confidential” pursuant to the Protective Order, and refer to materials
3 designated “Highly Confidential-Attorneys’ Eyes Only” by the Consumer Finance
4 Protection Board (“CFPB”) and Office of the Comptroller of Currency (“OCC”). This
5 Court has previously found compelling reasons to limit public access to such documents
6 because their disclosure could lead to the use of this information for an improper purpose,
7 such as future fraud, that poses harm not only to the Bank but also to the public. See ECF
8 365, 381; *See, also., Xifin, Inc. v. Sunshine Pathways, LLC*, 2016 WL 5930313, at *3 (S.D.
9 Cal. Oct. 12, 2016) (J. Curiel) (finding compelling reasons to seal services agreement that
10 contained detailed information about pricing structure, nature of services, system security
11 requirements, and how to use the cloud-based billing system “that could expose Plaintiff
12 to a competitive disadvantage if revealed”); *Brady v. Grendene USA, Inc.*, 2015 WL
13 6828400, at *3 (S.D. Cal. Nov. 6, 2015) (J. Curiel) (sealing confidential business
14 information that might harm the litigants’ competitive standing including profit and loss
15 data and contractual agreements).

16 **Expert Reports**

17 Plaintiffs seek to seal the following exhibits attached to the Chan Declaration, which
18 contain information designated by the Bank as Confidential and/or Highly Confidential
19 under the stipulated protective order:

- 20 • **PX 1** Expert Report of J. Daniel Kreis and appendices thereto;
- 21 • **PX2** Expert Report of Jane Cloninger and appendices thereto;
- 22 • **PX 3** Expert Report of Jay Minnucci and appendices thereto;
- 23 • **PX 4** Expert Report of William J. Abernathy, Jr. and appendices thereto;
- 24 • **PX 5** Expert Report of Greg J. Regan, CPA/CFF, CFE and appendices thereto
- 25 • **PX 6** Expert Report of David I. Levine and appendices thereto;
- 26 • **PX 7** Expert Report of Chloe N. East and appendices thereto;
- 27 • **PX 8** Expert Rebuttal Report of J. Daniel Kreis and appendices thereto;
- 28

- **PX 9** Expert Rebuttal Report of William J. Abernathy, Jr. and appendices thereto;
- **PX 10** Expert Rebuttal Report of Natalie Loebner and appendices thereto;
- **PX 11** Expert Rebuttal Report of Jane Cloninger and appendices thereto;
- **PX 263** Expert Report of Greg J. Regan in Support of Plaintiffs' Motion for Class Certification, and appendices thereto dated August 29, 2024.

Excerpts from 30(b)(6) Deposition Transcripts

Plaintiffs also seek to seal the following exhibits attached to the Chan Declaration, which contain excerpts the Bank designated as Confidential and/or Highly Confidential under the stipulated protective order:

- **PX 12** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, Shane Daniels, taken on February 6, 2024 ("Daniels Dep");
- **PX 13** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, Robert Chestnut, taken on February 8, 2024 ("Chestnut Dep");
- **PX 14** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, William ("Matt") Martin, taken on February 14, 2024 ("Martin Dep");
- **PX 15** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, Michael Letson, taken on February 16, 2024 ("Letson Dep");
- **PX 16** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, William Golden, taken on February 22, 2024 ("Golden Dep");
- **PX 17** Excerpts from the transcript of Plaintiffs' deposition of the Bank's Rule 30(b)(6) designee, Jennifer Lennon, taken on February 23, 2024 ("Lennon Dep").

Excerpts from the Deposition Transcripts of the Bank's witnesses

Plaintiffs also seek to seal the following exhibits attached to the Chan Declaration, which contain excerpts the Bank has designated as Confidential and/or Highly Confidential under the stipulated protective order: **PX 18-28.**

Excerpts from the Deposition Transcripts of the Plaintiffs' Experts

Plaintiffs also seek to seal the following exhibits attached to the Chan Declaration, which contain excerpts the Bank has designated as Confidential and/or Highly Confidential under the stipulated protective order: **PX 232.**

Excerpts from the Deposition Transcripts of the Bank's Experts

Plaintiffs seek to seal the following exhibits attached to the Chan Declaration, which contain excerpts the Bank has designated as Confidential and/or Highly Confidential under the stipulated protective order: **PX 30-32.**

The Bank Responses and Objections to Plaintiff Yick's Discovery Requests

Plaintiffs also seek to seal the following exhibits, which include the Bank's Responses and Objections to Plaintiff Yick's discovery requests and excerpts of exhibits attached thereto to the Chan Declaration, designated by the Bank as Confidential and/or Highly Confidential under the stipulated protective order: **PX 72, 93, 139, 145, 204, 205, 261, 284, 290.**

Documents Produced by the Bank

Plaintiffs further seek to seal the following exhibits, which were designated by the Bank as Confidential and/or Highly Confidential under the stipulated protective order: **PX 34, 35, 39, 42-55, 57, 58, 59-71, 73-92, 94-116, 118-125, 127-138, 140-142, 144, 146-154, 156-160, 162-203, 206-208, 213-223, 227-229, 233-249, 253-254, 262, 264-278, 280-283, 285-287, 289, 292, 297.**

Additional Sensitive Bank Documents and Information

Plaintiffs further seek to seal the following exhibits, which contain material designated by the Bank as Confidential and/or Highly Confidential under the stipulated protective order: **PX 29, 33, 298.**

Respectfully submitted,

Dated: January 9, 2026

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Brian Danitz
JOSEPH W. COTCHETT
BRIAN DANITZ
KARIN B. SWOPE
BLAIR V. KITTLE
VASTI S. MONTIEL
CAROLINE A. YUEN
REGINA WANG

Dated: January 9, 2026

ALTSHULER BERZON LLP

By: /s/ Michael Rubin
MICHAEL RUBIN
STACEY M. LEYTON
CONNIE K. CHAN
JAMES BALTZER
KATHERINE BASS

*Co-Lead Counsel for Plaintiffs and
the Class*

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: January 9, 2026

/s/ Brian Danitz

BRIAN DANITZ