

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

BLUE FLAME MEDICAL LLC,

Plaintiff,

v.

CHAIN BRIDGE BANK, N.A., JOHN J.
BROUGH, and DAVID M. EVINGER,

Defendants.

Civil Action No. 1:20-cv-00658

CHAIN BRIDGE BANK, N.A.,

Third-Party Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Third-Party Defendant.

**THIRD-PARTY PLAINTIFF CHAIN BRIDGE BANK, N.A.'S
RESPONSE TO THE COURT'S ORDER DATED DECEMBER 1, 2021**

Third-Party Plaintiff Chain Bridge Bank, N.A. (Chain Bridge) respectfully submits this response to the Court's Order dated December 1, 2021 (Dkt. No. 210). The December 1 Order vacated the Court's earlier order (Dkt. No. 197) granting Chain Bridge's motion (Dkt. Nos. 187 & 188) to seal invoices that Chain Bridge had paid to counsel and experts in connection with this action, and which Chain Bridge had submitted in support of its motion to establish its indemnified fees and expenses (Dkt. No. 194).

1. The Court appears to have understood Chain Bridge to have moved to seal all its invoices in their entirety. Order at 2. The Court rejected such wholesale sealing, and directed Chain Bridge to file the invoices publicly. *Id.* at 2-3.

It was not Chain Bridge's intent, however, to file the entirety of its invoices under seal. Although Chain Bridge moved to seal the full versions of these invoices, it simultaneously filed redacted versions of them on the public docket, at Dkt Nos. 196-1, -2, -3, & -4.¹ The public versions include many time entries in their entirety, and disclose the hours, timekeeper, hourly rate, and total fee associated with every entry for which Chain Bridge seeks reimbursement. The content redacted from the public versions (but not redacted from the sealed versions) consists of portions of time entries that specifically describe attorneys' and experts' research, strategy, and other work. Chain Bridge submitted that those redacted descriptions—if disclosed to *Plaintiff Blue Flame Medical LLC*—might prejudice both Chain Bridge and Third-Party Defendant JPMorgan Chase in Blue Flame's appeal from the Court's judgment.²

Chain Bridge understands, however, that the Court concluded in its December 1 Order that no entry in the invoices' sealed versions is sufficiently sensitive and confidential that Chain Bridge can redact it from the public versions available to Blue Flame. Accordingly, Chain Bridge is today re-filing its invoices on the public docket, consistent with the Court's Order.

2. The invoices in the version of Exhibit 1 that Chain Bridge is filing publicly today contain a small number of remaining redactions from the descriptions of indemnified fees.³ The Court's

¹ Chain Bridge provided courtesy copies to Chambers of the sealed versions of these exhibits. But because the Court promptly granted the motion to seal, Chain Bridge did not then provide the Court courtesy copies of the redacted, public versions. It regrets if this caused the Court to conclude that there were no publicly filed versions of these exhibits.

² In *Chaudhry v. Gallerizzo*, 174 F.3d 394, 402 (1999), the Fourth Circuit held that attorney time records disclosing “the specific nature of the services provided, such as researching particular areas of law” need not be produced even to the party from which fee reimbursement is sought, let alone disclosed publicly during fee litigation. *See also* Mot. to Seal (Dkt. No. 188) at 3 (citing cases). Here, the party from which reimbursement is being sought, JPMC, *did* receive the sealed exhibits.

³ Exhibit 2 reflects time entries that are redacted because they are *not included* in Chain Bridge's calculation of its indemnified fees and expenses. Those entries were not related to this action and did not result from the wire cancellation. The exhibits also reflect customary redactions of account numbers and taxpayer identification numbers.

December 1 Order (at 2-3) observed that these and other entries had been redacted from even the previously *sealed* versions of these exhibits. The remaining redactions fall into two categories. First, five redacted time entries, totaling \$2,002.50, reflect information the disclosure of which is strictly prohibited by federal banking laws.⁴ Second, another 15 redacted time entries, totaling \$27,293, reflect information that if disclosed *to JPMC* could prejudice Chain Bridge in JPMC's appeal from the Court's judgment. That is because those entries reveal potential legal theories, causes of action, or defendants that Chain Bridge did *not* pursue in this case (and so, did not reveal to JPMC as part of the litigation of this action).⁵ As Chain Bridge explained in its motion to seal (*see* Dkt. No. 188, at 2 n.1), JPMC has never identified concerns with these limited redactions, and JPMC has not argued that they render the corresponding entries insufficient evidence of Chain Bridge's incurred fees. Should the Court deem it appropriate, Chain Bridge would be pleased to submit a fully unredacted version of Exhibit 1, within one business day, for *in camera* review.⁶

⁴ Exhibit 1 pp.19 (two entries), 57 (two entries), 85.

⁵ Exhibit 1 pp.16, 17, 18, 20, 21 (two entries), 22, 42, 44, 45, 47 (four entries), 48.

⁶ Chain Bridge makes this request for *in camera* review because it was not clear to it that the December 1 Order authorized the submission of this limited material to the Court without service on JPMC. If *in camera* review is not permitted, then Chain Bridge respectfully submits that its obligations under federal banking laws, and its interest in withholding a limited amount of privileged information during JPMC's appeal, constrains Chain Bridge from filing *and serving on JPMC* fully unredacted versions of these invoices.

Dated: December 6, 2021

Respectfully submitted,

/s/ Donald Burke

Gary A. Orseck (*pro hac vice*)

Matthew M. Madden (*pro hac vice*)

Donald Burke (VA Bar No. 76550)

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CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2021, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

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