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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

**MOTION TO FILE DOCUMENTS
UNDER SEAL**

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

This Document Relates to All Actions

MOTION TO FILE DOCUMENTS UNDER SEAL

Pursuant to the Court’s Order granting in part and denying in part Motions to Seal materials relating to Plaintiffs’ Motion for Class Certification (ECF 365; the “Order”), 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 portions of (1) Plaintiffs’ Memorandum of Points and Authorities (“P&As”) in support of Plaintiffs’ Motion for Class Certification (“Motion”); (2) Exhibits 3, 4, 15, 17 and 157 attached to the Corrected Declaration of Connie K. Chan (ECF 336-2) in support of the Motion.

After meeting and conferring with Defendant pursuant to the Court’s Order, Plaintiffs hereby submit these documents previously filed in support of Plaintiffs’ Motion with amended redactions. Those materials 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.”). This presumption in favor of access is at its strongest when the documents sought to be sealed are “more than tangentially related to the merits of a case,” such as a class certification motion. *Nia v. Bank of Am., N.A.*, No. 21-cv-1799-BAS-BGS, 2024 WL 171659, at *2 (S.D. Cal. Jan. 12, 2024). 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 understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79 (cleaned up).

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II. DISCUSSION

In the Order, the Court directed the parties to meet and confer about the redaction of the P&As, expert reports (Exs. 1-4), trial plan (Ex. 157), and deposition excerpts (Exs. 14-20). ECF 365 at 18. Pursuant to the Order, the parties met and conferred, and agreed to remove redactions in pleadings and exhibits that referred to or quoted material the Court has unsealed (Decl. of Brian Danitz at ¶ 3-4). Accordingly, Plaintiffs are filing versions of the P&As, the trial plan, the expert reports of Jay Minnucci and Greg J. Regan, and the deposition excerpts of Michael Letson and Robert Chestnut that reflect the removed redactions and hereby seek to seal the remaining confidential portions of those documents.

The 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 designated Confidential or Highly Confidential, and refer to materials designated “Highly Confidential-Attorneys’ Eyes Only” by the Consumer Finance Protection Board (“CFPB”) and Office of the Comptroller of Currency (“OCC”).

Respectfully submitted,

Dated: December 2, 2024

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Brian Danitz
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1 Dated: December 2, 2024

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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 2, 2024

/s/ Brian Danitz

Brian Danitz