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20 [ADDITIONAL COUNSEL LISTED IN
21 SIGNATURE BLOCK]

22 **UNITED STATES DISTRICT COURT**
23 **SOUTHERN DISTRICT OF CALIFORNIA**
24 **SAN DIEGO DIVISION**

25 IN RE: BANK OF AMERICA

26 CALIFORNIA UNEMPLOYMENT
27 BENEFITS LITIGATION

Case No. 21-MD-02992-GPC-MSB

**DEFENDANT'S UNOPPOSED
MOTION TO SEAL PORTIONS OF
CLASS CERTIFICATION ORDER**

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

1 PLEASE TAKE NOTICE that, pursuant to Local Civil Rule 79.2(c),
2 Defendant Bank of America, N.A. (“Defendant” or “BANA”) hereby submits this
3 Unopposed Motion to Seal Portions of the Class Certification Order as set forth in
4 the concurrently lodged under seal Exhibit A to this Motion. In particular, BANA
5 seeks to seal, and Plaintiffs do not oppose the sealing of, portions of the Order
6 Granting Plaintiffs’ Motion for Class Certification; Appointing Class
7 Representatives; and Appointing Co-Lead Counsel dated June 16, 2025 (the “Order”)
8 because compelling reasons support sealing of those portions of the Order.

9 Pursuant to the Court’s direction, the Parties met and conferred regarding
10 which portions of the Order are confidential and warrant sealing, and the Parties have
11 agreed on the portions of the Order that are confidential and should remain sealed.
12 Those portions that the Parties propose sealing are highlighted in the concurrently
13 lodged Exhibit A.

14 As previously stated in BANA’s motions to seal submitted in connection with
15 class certification briefing, the public’s right to inspect and copy judicial records is
16 not absolute, and a party faced with the disclosure of confidential or proprietary
17 information may seek to file the documents under seal to avoid disclosure of business
18 information that might result in competitive harm or be used for improper purposes.
19 *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (denying disclosure);
20 Local Civ. R. 79.2(c). Accordingly, the Parties filed various motions to seal (the
21 “Motions to Seal,” ECF Nos. 328, 337, 344, 347, 376, 383, 384, 394) certain
22 documents (or portions thereof) in connection with briefing on Plaintiffs’ Motion for
23 Class Certification (ECF Nos. 324, 349, 378). The Court largely granted those
24 Motions to Seal, finding compelling reasons to seal documents concerning BANA’s
25 fraud detection and prevention policies and strategies, BANA’s analyses of claims
26 fraud and potential strategies to combat that fraud, and BANA’s Remediation Plans
27 with the regulators and documents showing BANA’s implementation of those Plans,
28 among other categories of confidential information. *See* ECF Nos. 365, 381, 390,

1 391, 397 (the “Sealing Orders”).

2 Consistent with the Court’s Sealing Orders, there are compelling reasons to
3 seal portions of the Order at issue here, which reflect topics that are likely to cause
4 particularized competitive harm to BANA and which could potentially enable future
5 fraud, and thus pose a danger to BANA’s business and the public. *See, e.g., East*
6 *West Bank v. Shanker*, 2021 WL 3112452, at *18-19 (N.D. Cal. July 22, 2021)
7 (finding compelling reasons to seal where public disclosure of EWB’s confidential
8 onboarding processes, verification of customer identities and fraud prevention
9 measures would “harm [the bank’s] competitive standing”); *Soria v. U.S. Bank N.A.*,
10 2019 WL 8167925, at *4 (C.D. Cal. Apr. 25, 2019) (finding compelling reasons to
11 seal bank’s internal procedures for investigating fraud because there was a
12 “significant danger that someone could improperly use this information to commit
13 fraud and avoid detection”).

14 The portions of the Order that BANA seeks to seal reflect information derived
15 from previously sealed documents (or portions thereof), that pertain to: confidential
16 BANA fraud prevention strategies and policies; BANA’s fraud and claims analyses;
17 BANA’s call center operations and strategies; BANA’s confidential discussions or
18 analyses of its state prepaid unemployment program operations, including but not
19 limited to, fraud volume, claims and call center operations, operational risks and
20 losses, and approval of fraud strategies; BANA’s Remediation Plans with the
21 regulators and its implementation of those Plans; and BANA’s interrogatory
22 responses and data reflecting certain populations of cardholders subject to BANA’s
23 remediation efforts. Each of those documents was designated Confidential or Highly
24 Confidential – Attorneys’ Eyes Only by BANA, and in the case of the Remediation
25 Plans, by the regulators as well. And each of those documents or portions thereof
26 have already been sealed by the Court based on a finding of compelling reasons. *See*
27 ECF 365, 381, 390, 391, 397; *see also* ECF Nos. 344-1, 344-2, 344-3, 347-1, 347-2.

28 For the foregoing reasons and for the reasons set forth in the Court’s Sealing

1 Orders in connection with class certification briefing (ECF Nos. 365, 381, 390, 391,
2 397), Plaintiffs' Motions to Seal (ECF Nos. 376, 384, 394), BANA's prior Motions
3 to Seal (ECF Nos. 328, 337, 344, 347, 383) and accompanying declarations submitted
4 in support (ECF Nos. 344-1, 344-2, 344-3, 347-1, 347-2), and the argument presented
5 at the hearing on Plaintiffs' Motion for Class Certification, all of which are
6 incorporated herein by reference, BANA respectfully requests that the Court grant
7 Defendant's Unopposed Motion to Seal Portions of the Class Certification Order
8 because compelling reasons support sealing thereof.

9
10 Respectfully submitted,

11 Dated: June 20, 2025

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the clerk of the court for the United States District Court for the Southern District of California by using the CM/ECF system on February 12, 2025. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. I certify under penalty of perjury that the foregoing is true and correct.

Executed: January 20, 2025

s/ James W. McGarry