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19 [ADDITIONAL COUNSEL LISTED IN SIGNATURE BLOCK]

20 **UNITED STATES DISTRICT COURT**
21 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
22 **SAN DIEGO DIVISION**

23 IN RE: BANK OF AMERICA
24 CALIFORNIA UNEMPLOYMENT
25 BENEFITS LITIGATION

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

**DEFENDANT BANK OF AMERICA,
N.A.'S NOTICE AND MOTION TO
SEAL EXHIBIT 10.B TO THE
DECLARATION OF LAURA G. BRYN
IN SUPPORT OF ITS MOTION FOR
PARTIAL SUMMARY JUDGMENT
(ECF 591)**

Ctrm: 12A – 12th 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 Notice
3 and Motion to Seal (Motion to Seal) Exhibit 10.B (DX 10.B), which was
4 inadvertently not attached to the Declaration of Laura G. Brys (Brys Decl.) (ECF
5 591) in Support of Defendant Bank of America, N.A.’s Motion for Partial Summary
6 Judgment (Summary Judgment Motion) (ECF 589). In particular, BANA seeks to
7 seal portions of DX 10.B because compelling reasons support sealing of the identified
8 document.

9 The Brys Declaration was filed in support of the Summary Judgment Motion
10 on October 17, 2025 and included the Declaration of Russell Cronan (Cronan
11 Declaration) (ECF 591-15). In the Cronan Declaration, Mr. Cronan identified and
12 attested to the opinions in his March 4, 2025 Expert Report and in his April 4, 2025
13 Expert Rebuttal Report (Rebuttal Report), attached to the Brys Decl. “as DX 10-A
14 and 10-B respectively.” ECF 591-15 ¶ 3. The Rebuttal Report was inadvertently
15 omitted from the Brys Decl. and is submitted herewith as promptly as possible after
16 the omission has come to BANA’s attention.

17 As previously stated in BANA’s motions to seal submitted in connection with
18 class certification briefing and argument (ECF 328, 337, 344, 347, 383, 418, 451)
19 and BANA’s motions to seal submitted in connection with summary judgment
20 briefing (ECF 577, 579, 581, 583, 585, 587), the public’s right to inspect and copy
21 judicial records is not absolute, and a party faced with the disclosure of confidential
22 or proprietary information may seek to file the documents under seal to avoid
23 disclosure of business information that might result in competitive harm or be used
24 for improper purposes. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598
25 (1978) (denying disclosure); Local Civ. R. 79.2(c).

26 It is acknowledged by courts, including many courts in this district, that a party
27 seeking to seal documents filed in connection with a motion for summary judgment,
28 a dispositive motion, must show “compelling reasons” to seal. *Kamakana v. City*

1 *and Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006); *see Pintos v. Pacific*
2 *Creditors Ass’n*, 605 F.3d 665, 678-79 (9th Cir. 2010) (determining “compelling
3 reasons” standard applies to motion to seal documents attached to cross-motion for
4 summary judgment); *see also EpicentRx, Inc. v. Carter*, 2023 WL 4336695, at 1 (S.D.
5 Cal. May 16, 2023) (applying “compelling reasons” standard to request to seal certain
6 exhibits associated with motions for summary judgment).

7 In applying the “compelling reasons” standard, courts, including this Court,
8 consistently seal documents where—as here—disclosure of the confidential business
9 information risks competitive harm to the litigant or improper use of the information
10 such as to commit fraud. *See* ECF 603; *see e.g., E.W. Bank v. Shanker*, 2021 WL
11 3112452, at *18–19 (N.D. Cal. July 22, 2021) (finding compelling reasons to seal
12 confidential onboarding processes, verification of customer identities, and fraud
13 prevention measures); *Soria v. U.S. Bank N.A.*, 2019 WL 8167925, at *4 (C.D. Cal.
14 Apr. 25, 2019) (finding compelling reasons to seal internal fraud investigation
15 procedures because there was a “significant danger that someone could improperly
16 use this information to commit fraud and avoid detection”); *see also* ECF 266, 293,
17 365, 381, 390, 391, 397, 421, 466, 467, 548, 598, 599, 600, 601, 602, 603 (Sealing
18 Orders). Indeed, this Court largely granted the Parties’ prior motions to seal, finding
19 good cause or compelling reasons to seal documents concerning the same topics that
20 BANA now seeks to seal, including: BANA’s fraud detection and prevention policies
21 and strategies (including the fraud filter), discussions of BANA’s Remediation Plan
22 and Addenda, and individual cardholder account information, among other topics.
23 *See* Sealing Orders. Those prior rulings are sufficient grounds alone to grant sealing
24 here. *See Lundstrom v. Young*, 2022 WL 15524624, *17 (S.D. Cal. Oct. 27, 2022)
25 (J. Curiel) (considering prior sealing of exhibits when granting motion to seal);
26 *Workplace Techs. Rsch., Inc. v. Project Mgmt. Inst., Inc.*, 2021 WL 6091272, *3
27 (S.D. Cal. Oct. 20, 2021) (sealing references to document that court already granted
28 sealing of).

1 Consistent with this Court’s Sealing Orders, there are compelling reasons to
2 seal portions of the confidential expert report at issue here because DX 10.B reflects
3 topics that are likely to cause particularized competitive harm to BANA and which
4 could potentially enable future fraud, and thus pose a danger to BANA’s business
5 and the public. *See, e.g., EWB*, 2021 WL 3112452, *18–19 (finding compelling
6 reasons to seal where public disclosure of EWB’s confidential onboarding processes,
7 verification of customer identities and fraud prevention measures would “harm [the
8 bank’s] competitive standing”); *Soria*, 2019 WL 8167925, *4 (finding compelling
9 reasons to seal bank’s internal procedures for investigating fraud because there was
10 a “significant danger that someone could improperly use this information to commit
11 fraud and avoid detection”).

12 DX 10.B was also properly designated, in part, as both “Confidential” or
13 “Highly Confidential – Attorneys’ Eyes Only” under the Protective Order entered by
14 this Court. *See BAE Systems*, 670 F. Supp. 3d at 1069 (finding good cause to seal
15 certain exhibits filed in connection with an apex discovery dispute because
16 “information in the exhibits fits within ‘confidential information’ in the protective
17 order”).

18 BANA has provisionally redacted and sealed the portions of DX 10.B that
19 quote, describe or reflect descriptions of the confidential documents, testimony and
20 topics previously submitted or described in the Parties’ prior briefing and motions to
21 seal submitted in connection with the Summary Judgment Motion. Those
22 confidential topics include BANA’s fraud detection and prevention policies and
23 strategies (including the fraud filter), discussions of BANA’s Remediation Plan and
24 Addenda, and individual cardholder account information, among other topics. This
25 is consistent with the terms of the Stipulated Protective Order (ECF 82, § 3), with
26 this Court’s prior Sealing Orders, and with rulings in this Circuit. *See, e.g., Darisse*
27 *v. Nest Labs, Inc.*, 2016 WL 11474174, *2 (N.D. Cal. June 2, 2016) (sealing class
28 certification motion and declarations that quote or reference confidential exhibits).

1 For the reasons discussed above, there are compelling reasons to seal discussions of
2 those topics, testimony and documents discussed in the Parties' briefing. *See supra*
3 at 3-4.

4 * * *

5 For the foregoing reasons and for the reasons set forth in the Court's Sealing
6 Orders in connection with class certification briefing and argument (ECF 365, 381,
7 390, 391, 397, 421, 466, 467, 548) and BANA's Summary Judgment Motion,
8 Plaintiffs' prior Motions to Seal (ECF 376, 384, 394, 463, 475, 524, 527, 569, 572,
9 609, 615, 618, 630, 650), BANA's prior Motions to Seal (ECF 328, 337, 344, 347,
10 383, 418, 451, 577, 579, 581, 583, 585, 587) and accompanying declarations
11 submitted in support thereof (ECF Nos. 344-1, 344-2, 344-3, 347-1, 347-2), all of
12 which are incorporated herein by reference, BANA respectfully requests that the
13 Court grant BANA's Motion to Seal DX 10.B because compelling reasons support
14 sealing thereof.

15
16
17 Dated: February 17, 2026

Respectfully submitted,

18 By: /s/ Laura G. Brys
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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 17, 2026**. 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.

Dated: February 17, 2026

/s/ Laura G. Brys

LAURA G. BRYs