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7
 8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

9 Sean Bondocan,

Case No. 2:23-cv-01334-JCM-MDC

10 Plaintiff,

11 v.

ORDER DENYING
STIPULATED PROTECTIVE
ORDER WITHOUT
PREJUDICE

12 Trans Union, LLC; Equifax Information
 13 Services, LLC; Experian Information
 14 Solutions, Inc.; JP Morgan Chase Bank, N.A.;
 Synchrony Financial; American Express, Inc.;
 15 Capital One Bank, N.A.; and Silver State
 Schools Credit Union,

16 Defendants.

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19 1. **A. PURPOSES AND LIMITATIONS**

20 Discovery in this action is likely to involve production of confidential, proprietary, or
 21 private information for which special protection from public disclosure and from use for any
 22 purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby
 23 stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties
 24 acknowledge that this Order does not confer blanket protections on all disclosures or responses to
 25 discovery and that the protection it affords from public disclosure and use extends only to the
 26 limited information or items that are entitled to confidential treatment under the applicable legal
 27 principles.

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1 **B. GOOD CAUSE STATEMENT**

2 This action is likely to involve confidential financial and proprietary information relating to
3 the confidential information and business practices and policies of Defendants and confidential
4 information relating to Plaintiff Sean Bondocan for which special protection from public disclosure
5 and from use for any purpose other than the litigation of this action is warranted. Such confidential
6 and proprietary materials and information consist of, among other things, confidential financial
7 information, information regarding confidential business practices, or other confidential research,
8 development, or commercial information, information otherwise generally unavailable to the
9 public, or which may be privileged or otherwise protected from disclosure under state or federal
10 statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of
11 information, to facilitate the prompt resolution of disputes over confidentiality of discovery
12 materials, to adequately protect information the parties are entitled to keep confidential, to ensure
13 that the parties are permitted reasonable necessary uses of such material in preparation for and in
14 the conduct of trial, to address their handling at the end of the litigation, and serve the ends of
15 justice, a protective order for such information is justified in this matter. It is the intent of the
16 parties that information will not be designated as confidential for tactical reasons and that nothing
17 be so designated without a good faith belief that it has been maintained in a confidential, non-public
18 manner, and there is good cause why it should not be part of the public record of this case.

19 **2. DEFINITIONS**

- 20 2.1 Action: the present lawsuit, entitled *Sean Bondocan v. TransUnion, LLC, et al.*, Case
21 No. 2:23-cv-01334.
- 22 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
23 information or items under this Order.
- 24 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
25 generated, stored or maintained) or tangible things that qualify for protection under
26 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
27 Statement.
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- 2.4 Counsel: Outside counsel and in-house counsel for the parties (as well as their support staff).
- 2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”
- 2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.
- 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.
- 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.
- 2.9 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).
- 2.10 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.
- 2.11 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.
- 2.12 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”
- 2.13 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

1 3. **SCOPE**

2 The protections conferred by this Stipulation and Order cover not only Protected Material
3 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
4 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
5 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

6 Any use of Protected Material at trial shall be governed by the orders of the Court. This
7 Order does not govern the use of Protected Material at trial.

8 4. **DURATION**

9 Even after final disposition of this litigation, the confidentiality obligations imposed by this
10 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
11 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
12 and defenses in this Action, with or without prejudice; and (2) final judgment or award herein after
13 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
14 including the time limits for filing any motions or applications for extension of time pursuant to
15 applicable law.

16 5. **DESIGNATING PROTECTED MATERIAL**

17 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
18 or Non-Party that designates information or items for protection under this Order must take care to
19 limit any such designation to specific material that qualifies under the appropriate standards. The
20 Designating Party must designate for protection only those parts of material, documents, items, or
21 oral or written communications that qualify so that other portions of the material, documents, items,
22 or communications for which protection is not warranted are not swept unjustifiably within the
23 ambit of this Order.

24 If it comes to a Designating Party's attention that information or items that it designated for
25 protection do not qualify for protection, that Designating Party must promptly notify all other
26 Parties that it is withdrawing the inapplicable designation.

27 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
28 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,

1 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
2 designated before the material is disclosed or produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents, but
5 excluding transcripts of depositions or other pretrial or trial proceedings), that the
6 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
7 “CONFIDENTIAL legend”), to each page that contains protected material. If only
8 a portion or portions of the material on a page qualifies for protection, the Producing
9 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
10 markings in the margins).

11 A Party or Non-Party that makes original documents available for inspection need not
12 designate them for protection until after the inspecting Party has indicated which documents it
13 would like copied and produced. During the inspection and before the designation, all of the
14 material made available for inspection shall be deemed confidential. After the inspecting Party has
15 identified the documents it wants copied and produced, the Producing Party must determine which
16 documents, or portions thereof, qualify for protection under this Order. Then, before producing the
17 specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page
18 that contains Protected Material. If only a portion or portions of the material on a page qualifies for
19 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
20 appropriate markings in the margins).

21 (b) for testimony given in depositions that the Designating Party identify the Disclosure
22 or Discovery Material on the record, before the close of the deposition all protected
23 testimony.

24 (c) for information produced in some form other than documentary and for any other
25 tangible items, that the Producing Party affix in a prominent place on the exterior of
26 the container or containers in which the information is stored the legend
27 “CONFIDENTIAL.” If only a portion or portions of the information warrants
28

1 protection, the Producing Party, to the extent practicable, shall identify the protected
2 portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
4 designate qualified information or items does not, standing alone, waive the Designating Party's
5 right to secure protection under this Order for such material. Upon timely correction of a
6 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
7 in accordance with the provisions of this Order.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
10 confidentiality at any time that is consistent with the Court's Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall meet and confer with the other party
12 prior to challenging a designation of confidentiality.

13 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint
14 stipulation.

15 6.4 The burden of persuasion in any such challenge proceeding shall be on the
16 Designating Party. Unless the Designating Party has waived or withdrawn the confidentiality
17 designation, all parties shall continue to afford the material in question the level of protection to
18 which it is entitled under the Producing Party's designation until the Court rules on the challenge.

19 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

20 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
21 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
22 defending, or attempting to settle this Action. Such Protected Material may be disclosed only to
23 the categories of persons and under the conditions described in this Order. When the Action has
24 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
25 DISPOSITION).

26 Protected Material must be stored and maintained by a Receiving Party at a location and in
27 a secure manner that ensures that access is limited to the persons authorized under this Order.
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1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any
3 information or item designated “CONFIDENTIAL” only to:

- 4 (a) the Receiving Party’s counsel, as well as employees of said counsel to whom it is
5 reasonably necessary to disclose the information for this Action;
- 6 (b) the officers, directors, and employees of the Receiving Party to whom disclosure is
7 reasonably necessary for this Action;
- 8 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
9 reasonably necessary for this Action and who have signed the “Acknowledgment
10 and Consent” (**Exhibit A**);
- 11 (d) the Court and its staff;
- 12 (e) court reporters and their staff;
- 13 (f) professional jury or trial consultants, mock jurors, and Professional Vendors to
14 whom disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Consent” (**Exhibit A**);
- 16 (g) the author or recipient of a document containing the information or a custodian or
17 other person who otherwise possessed or knew the information;
- 18 (h) during their depositions, witnesses, and attorneys for witnesses, in the Action to
19 whom disclosure is reasonably necessary provided: (1) the deposing party requests
20 that the witness sign the form attached as **Exhibit A** hereto; and (2) they will not be
21 permitted to keep any confidential information unless they sign the
22 “Acknowledgment and Consent” (**Exhibit A**), unless otherwise agreed by the
23 Designating Party or ordered by the Court. Pages of transcribed deposition
24 testimony or exhibits to depositions that reveal Protected Material may be separately
25 bound by the court reporter and may not be disclosed to anyone except as permitted
26 under this Stipulated Protective Order; and
- 27 (i) any mediator or settlement officer, and their supporting personnel, mutually agreed
28 upon by any of the parties engaged in settlement discussions.

1 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
2 **OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party
5 must:

- 6 (a) promptly notify in writing the Designating Party. Such notification shall include a
7 copy of the subpoena or court order;
- 8 (b) promptly notify in writing the party who caused the subpoena or order to issue in
9 the other litigation that some or all of the material covered by the subpoena or order
10 is subject to this Protective Order. Such notification shall include a copy of this
11 Stipulated Protective Order; and
- 12 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
13 Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with the subpoena
15 or court order shall not produce any information designated in this action as “CONFIDENTIAL”
16 before a determination by the court from which the subpoena or order issued, unless the Party has
17 obtained the Designating Party’s permission. The Designating Party shall bear the burden and
18 expense of seeking protection in that court of its confidential material and nothing in these
19 provisions should be construed as authorizing or encouraging a Receiving Party in this Action to
20 disobey a lawful directive from another court.

21 9. **A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
22 **THIS LITIGATION**

- 23 (a) The terms of this Order are applicable to information produced by a Non-Party in
24 this Action and designated as “CONFIDENTIAL.” Such information produced by
25 Non-Parties in connection with this litigation is protected by the remedies and relief
26 provided by this Order. Nothing in these provisions should be construed as
27 prohibiting a Non-Party from seeking additional protections.

- 1 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
2 Party’s confidential information in its possession, and the Party is subject to an
3 agreement with the Non-Party not to produce the Non-Party’s confidential
4 information, then the Party shall:
- 5 (1) promptly notify in writing the Requesting Party and the Non-Party that some
6 or all of the information requested is subject to a confidentiality agreement
7 with a Non-Party;
- 8 (2) promptly provide the Non-Party with a copy of the Stipulated Protective
9 Order in this Action, the relevant discovery request(s), and a reasonably
10 specific description of the information requested; and
- 11 (3) make the information requested available for inspection by the Non-Party, if
12 requested.
- 13 (c) If the Non-Party fails to seek a protective order within 14 days of receiving the
14 notice and accompanying information, the Receiving Party may produce the Non-
15 Party’s confidential information responsive to the discovery request. If the Non-
16 Party timely seeks a protective order, the Receiving Party shall not produce any
17 information in its possession or control that is subject to the confidentiality
18 agreement with the Non-Party before a determination by the court. Absent a court
19 order to the contrary, the Non-Party shall bear the burden and expense of seeking
20 protection of its Protected Material.

21 10. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
23 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
24 the Receiving Party must immediately (a) notify in writing the Designating Party of the
25 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected
26 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
27 terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and
28 Consent” that is attached hereto as **Exhibit A**.

1 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
2 **PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain inadvertently
4 produced material is subject to a claim of privilege or other protection, the obligations of the
5 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
6 is not intended to modify whatever procedure may be established in an e-discovery order that
7 provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
8 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
9 communication or information covered by the attorney-client privilege or work product protection,
10 the parties may incorporate their agreement in the stipulated protective order submitted to the Court.

11 **12. MISCELLANEOUS**

12 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
13 seek its modification by the Court in the future.

14 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
15 no Party waives any right it otherwise would have to object to disclosing or producing any
16 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
17 Party waives any right to object on any ground to use in evidence of any of the material covered by
18 this Protective Order.

19 **13. FINAL DISPOSITION**

20 After the final disposition of this Action, as defined in paragraph 4, within 60 days of a
21 written request by the Designating Party, each Receiving Party must return all Protected Material
22 to the Producing Party or destroy such material. As used in this subdivision, “all Protected
23 Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing
24 or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed,
25 the Receiving Party must submit a written certification to the Producing Party (and, if not the same
26 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
27 where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
28 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format

1 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel
2 are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
3 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
4 work product, and consultant and expert work product, even if such materials contain Protected
5 Material. Any such archival copies that contain or constitute Protected Material remain subject to
6 this Protective Order as set forth in Section 4 (DURATION).

7 **14. VIOLATION**

8 Any violation of this Order may be punished by any and all appropriate measures including,
9 without limitation, contempt proceedings and/or monetary sanctions.

10 **IT IS SO STIPULATED.**

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12
13 DATED: 1/23/24

BY: /s/ Gerardo Avalos
Gerardo Avalos
Counsel for Sean Bondocan

14
15 DATED: 1/23/24

BY: /s/ Brittni A. Tanenbaum
Brittni A. Tanenbaum
Counsel for Synchrony Bank

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18 DATED: 1/23/24

BY: /s/ Karyna A. Armstrong
Karyna M. Armstrong
Counsel for Capital One, N.A.

19
20 **ORDER**

21 **This stipulation is denied without prejudice. The proposed stipulation fails to address**
22 **LR IA 10-5 or *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006)**
23 **and suggests that designating documents as confidential is sufficient to seal such**
24 **documents, which is not sufficient grounds.**
25 **IT IS SO ORDERED.**

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UNITED STATES MAGISTRATE JUDGE

DATED: 1-25-2024

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EXHIBIT A
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Sean Bondocan,

Case No. 2:23-cv-01334

Plaintiff,

vs.

**ACKNOWLEDGMENT AND
CONSENT**

Trans Union, LLC; Equifax Information
Services, LLC; Experian Information
Solutions, Inc.; JP Morgan Chase Bank,
N.A.; Synchrony Financial; American
Express Inc.; Capital One Bank, N.A.; and
Silver State Schools Credit Union,

Defendants.

I, _____, declare under the penalty of perjury that:

My present address is _____.

I have received and read a copy of the Protective Order in the above-captioned litigation. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this litigation any Confidential Discovery Material that is disclosed to me.

I agree to be bound by the Protective Order. I also agree to submit to the jurisdiction of the United States District Court for the District of Nevada for the enforcement of the Protective Order.

Date: _____

Signature: _____