

1 **WO**

2

3

4

IN THE UNITED STATES DISTRICT COURT

5

FOR THE DISTRICT OF ARIZONA

6

7

JAVIER TORRES, ALMA SANTIAGO)
and LIA RIVADENEYRA, on behalf of
themselves and others similarly situated,)

No. CV 06-2482-PHX-SMM

8

ORDER

9

Plaintiffs,)

10

v.)

11

TERRY GODDARD, Attorney General of
the State of Arizona, in his individual and
official capacities, and CAMERON)
("KIP") HOLMES, in his individual
capacity,)

14

Defendants.)

15

Before the Court is Defendants’ Motion to File Under Seal Exhibit D to Defendants’ Response to Plaintiffs’ Filing to Correct Error in Defense Testimony at the February 25, 2009 Class Certification Hearing (Doc. 167). On June 17, 2008, the Court entered the parties’ Stipulation for Entry of Protective Order (Doc. 122). The exhibit proposed to be filed under seal contains sensitive information that is protected from disclosure under this Protective Order.

21

When a party files a non-dispositive motion, the Ninth Circuit has held that the presumption of public right of access is subject to a “good cause” exception for the filing of discovery documents subject to a protective order. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1135 (9th Cir. 2003). In making the decision whether to seal a record, the district court should consider all relevant factors, including “the public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for scandalous or libelous purposes or infringement upon trade secrets.” Hagestad v. Tragesser, 49 F.3d 1430, 1434 (9th Cir. 1995) (quoting

28

1 EEOC v. Erection Co., Inc., 900 F.2d 168, 170 (9th Cir. 1990)). “After taking all relevant
2 factors into consideration, the district court must base its decision on a compelling reason
3 and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.”

4 Id.

5 Defendants have specified the exhibit they desire to file under seal, Exhibit D, as
6 part of their response to Plaintiffs’ Filing to Correct Error in Defense Testimony. Exhibit
7 D consists of electronic spreadsheets containing the contact information of Western
8 Union customers who sent funds by money transfer. According to the Protective Order,

9 “Western Union may designate as ‘Confidential,’ documents or portions of
10 documents which reveal either (a) the names or other personal or contact
11 information regarding Western Union customers or persons to whom they sent
12 or attempted to send funds by money transfer . . .”

13 Any document or pleading containing Confidential Information filed with
14 the Court in this action shall be filed under seal in accordance with the
15 Local Rules of the United States District Court for the District of Arizona
16 governing the filing of documents under seal.

17 (Doc. 122) Exhibit D falls within the category of information protected by the Protective
18 Order and Defendants have complied with the Local Rules governing the filing of
19 documents under seal. Therefore, the Court finds good cause to file this exhibit under
20 seal.

21 Accordingly,

22 **IT IS HEREBY ORDERED** that Defendants’ Motion to File Under Seal Exhibit
23 D to Defendants’ Response to Plaintiffs’ Filing to Correct Error in Defense Testimony at
24 the February 25, 2009 Class Certification Hearing (Doc. 167) is **GRANTED**.

25 **IT IS FURTHER ORDERED** that Exhibit D, lodged with the court as Document
26 168, shall be filed under seal.

27 DATED this 9th day of April, 2009.

28 

Stephen M. McNamee
United States District Judge