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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 **MONICA BRUCE and DONNA**
12 **STUBBS, on behalf of themselves and all**
13 **others similarly situated,**

14 **Plaintiffs,**

15 **v.**

16 **TELEFLORA, L.L.C.,**

17 **Defendants.**

Case No. 2:13-cv-03279-ODW(CWx)

**ORDER DENYING PLAINTIFFS'
APPLICATION TO FILE EXHIBITS
UNDER SEAL IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

18 On October 2, 2013, Plaintiffs filed an Application to File Exhibits Under Seal
19 in Support of Plaintiff's Motion for Class Certification. (ECF No. 43.) Plaintiffs
20 endeavor to seal (1) the declaration of Jordanna G. Thigpen; (2) Plaintiffs'
21 Memorandum of Law in Support of Class Certification; and (3) over twenty exhibits,
22 which consist of printouts from Teleflora's website, rules and regulations governing
23 Teleflora's member florists, a Teleflora floral-selection guide workbook, multiple
24 field-sale executive-summary reports, a message log, and Plaintiffs' expert report.
25 These documents have been designated "Confidential" under the terms of the parties'
26 pending stipulated protective order.

27 The United States Supreme Court has recognized that it is "clear that the courts
28 of this country recognize a general right to inspect and copy public records and

1 documents, including judicial records and documents.” *Nixon v. Warner Commc’ns,*
2 *Inc.*, 435 U.S. 589, 597 (1978) (footnote omitted). Similarly, the Ninth Circuit stated
3 that there is a “strong presumption in favor of access to court records.” *Foltz v. State*
4 *Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). In order to override
5 this weighty presumption, a party must demonstrate “sufficiently compelling reasons”
6 for sealing the documents. *Id.* Any request “must articulate compelling reasons
7 supported by specific factual findings” why each individual exhibit merits filing under
8 seal. *Kamakana v. City & Cnty of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). A
9 court will then balance the public’s interest in accessing these documents with the
10 confidentiality and potential for misuse of the information. *Hagestad v. Tragesser*, 49
11 F.3d 1430, 1434 (9th Cir. 1995).

12 The Court has read each page of the documents Plaintiffs seek to file under seal.
13 Upon review, there seems to be an over designation of confidential information.

14 Exhibit 2 to the Thigpen Declaration contains copies of sample product pages
15 from Teleflora’s website. The sample products displayed can be accessed by the
16 public at Teleflora’s website and do not reflect trade secrets, personal data, or
17 commercially-sensitive data. Neither party in this case has carried its burden of
18 demonstrating sufficiently compelling reasons for denying the public access to this
19 exhibit. Examination of Exhibit 24, Plaintiffs’ expert report, also reveals a complete
20 lack of trade secrets or sensitive data.

21 Similarly, the Thigpen Declaration itself does not contain any trade secrets or
22 commercially sensitive data. The declaration merely identifies the exhibits requested
23 to be filed under seal—but does not discuss them in substantive detail. Thus the Court
24 finds that neither party has demonstrated a compelling reason for filing the declaration
25 under seal.

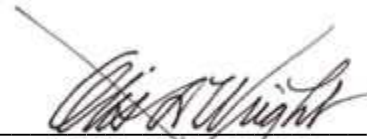
26 Additionally, while Plaintiffs’ Memorandum of Law in Support of Class
27 Certification does reference exhibits that the Court finds are properly filed under seal,
28 this alone is not a compelling reason to file the entire brief under seal. Mere

1 identification of or general reference to the exhibits—without substantive discussion
2 of their confidential content—does not reveal trade secrets or confidential data. For
3 example, page eleven of Plaintiffs’ Memorandum of Law in Support of Class
4 Certification references Exhibits 3–5 but does not discuss their substance. There is no
5 compelling reason for this portion of the brief to be filed under seal. In contrast, pages
6 12–13 quote confidential comments made in the Field Sales Executive Summaries,
7 which is properly filed under seal.

8 Accordingly, the Court **DENIES** Plaintiffs’ application to file under seal.
9 Plaintiffs’ application to file Exhibits 3–23 is **DENIED** without prejudice. Plaintiffs
10 may reapply to file these exhibits under seal. The Court **DENIES** Plaintiffs’
11 Application to file Exhibit 2, Exhibit 24, and the Declaration of Jordanna G. Thigpen
12 under seal with prejudice. The Court **DENIES** Plaintiffs’ Application to file its
13 Memorandum of Law in Support of Class Certification under seal without prejudice.
14 Plaintiffs may reapply to file their unredacted memorandum under seal, but Plaintiffs
15 must also file a redacted version of the memorandum for public viewing. The
16 redacted version of the memorandum should be edited to omit only the material that
17 the parties believe—in light of this order—are truly confidential.

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19 **IT IS SO ORDERED.**

20
21 October 3, 2013

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24 **OTIS D. WRIGHT, II**
25 **UNITED STATES DISTRICT JUDGE**
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