

Note changes made by the Court at §6.2**JAMES HAWKINS APLC**

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Attorneys for Defendant
BANK OF AMERICA, N.A.**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**CINDY R. CASTILLO, individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

BANK OF AMERICA NATIONAL
ASSOCIATION, a North Carolina
Corporation, and DOES 1-10, inclusive,

Defendants.

CASE NO. 8:17-cv-00580-DOC (KESx)

[Discovery Document: Referred to
Magistrate Judge Karen E. Scott]**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

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

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation may be warranted.
5 Accordingly, the parties hereby stipulate to and petition the Court to enter the
6 following Stipulated Protective Order. The parties acknowledge that this Order does
7 not confer blanket protections on all disclosures or responses to discovery and that
8 the protection it affords from public disclosure and use extends only to the limited
9 information or items that are entitled to confidential treatment under the applicable
10 legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
11 that this Stipulated Protective Order does not entitle them to file confidential
12 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
13 followed and the standards that will be applied when a party seeks permission from
14 the court to file material under seal.

15
16 B. **GOOD CAUSE STATEMENT**

17 This action is likely to involve personnel records, proprietary training and education
18 materials, proprietary software and computer processes, trade secrets, valuable research,
19 development, commercial, financial, technical and/or proprietary information for
20 which special protection from public disclosure and from use for any purpose other
21 than prosecution of this action is warranted. Such confidential and proprietary
22 materials and information consist of, among other things, confidential business or
23 financial information, information regarding confidential business practices, or other
24 confidential research, development, or commercial information (including
25 information implicating privacy rights of third parties), information otherwise generally
26 unavailable to the public, or which may be privileged or otherwise protected from
27 disclosure under state or federal statutes, court rules, case decisions, or common law.
28 Accordingly, to expedite the flow of information, to facilitate the prompt resolution of

1 disputes over confidentiality of discovery materials, to adequately protect information
2 the parties are entitled to keep confidential, to ensure that the parties are permitted
3 reasonable necessary uses of such material in preparation for and in the conduct of
4 trial, to address their handling at the end of the litigation, and serve the ends of justice,
5 a protective order for such information is justified in this matter. It is the intent of the
6 parties that information will not be designated as confidential for tactical reasons and
7 that nothing be so designated without a good faith belief that it has been maintained
8 in a confidential, non-public manner, and there is good cause why it should not be part
9 of the public record of this case.

10
11 **2. DEFINITIONS**

12 2.1 Action: this pending federal law suit.

13 2.2 Challenging Party: a Party or Non-Party that challenges the designation
14 of information or items under this Order.

15 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
16 how it is generated, stored or maintained) or tangible things that qualify for protection
17 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
18 Cause Statement.

19 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
20 support staff).

21 2.5 Designating Party: a Party or Non-Party that designates information or
22 items that it produces in disclosures or in responses to discovery as
23 “CONFIDENTIAL.”

24 2.6 Disclosure or Discovery Material: all items or information, regardless of
25 the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 2.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a party
10 to this Action but are retained to represent or advise a party to this Action and have
11 appeared in this Action on behalf of that party or are affiliated with a law firm which
12 has appeared on behalf of that party, and includes support staff.

13 2.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 2.13 Professional Vendors: persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 2.14 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
25 from a Producing Party.

1 **3. SCOPE**

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or extracted
4 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
5 Protected Material; and (3) any testimony, conversations, or presentations by Parties
6 or their Counsel that might reveal Protected Material. Any use of Protected Material
7 at trial shall be governed by the orders of the trial judge. This Order does not govern
8 the use of Protected Material at trial.

9
10 **4. DURATION**

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

19
20 **5. DESIGNATING PROTECTED MATERIAL**

21 5.1 Exercise of Restraint and Care in Designating Material for Protection.

22 Each Party or Non-Party that designates information or items for protection under this
23 Order must take care to limit any such designation to specific material that qualifies
24 under the appropriate standards. The Designating Party must designate for protection
25 only those parts of material, documents, items, or oral or written communications that
26 qualify so that other portions of the material, documents, items, or communications
27

1 for which protection is not warranted are not swept unjustifiably within the ambit of
2 this Order.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations
4 that are shown to be clearly unjustified or that have been made for an improper
5 purpose (e.g., to unnecessarily encumber the case development process or to impose
6 unnecessary expenses and burdens on other parties) may expose the Designating Party
7 to sanctions.

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

11 5.2 Manner and Timing of Designations. Except as otherwise provided in
12 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
13 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
14 under this Order must be clearly so designated before the material is disclosed or
15 produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (e.g., paper or electronic
18 documents, but excluding transcripts of depositions or other pretrial or trial
19 proceedings), that the Producing Party affix, at a minimum, the legend
20 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
21 contains protected material. If only a portion or portions of the material on a page
22 qualifies for protection, the Producing Party also must clearly identify the protected
23 portion(s) (e.g., by making appropriate markings in the margins).

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and before
27 the designation, all of the material made available for inspection shall be deemed
28 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants

1 copied and produced, the Producing Party must determine which documents, or
2 portions thereof, qualify for protection under this Order. Then, before producing the
3 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”
4 to each page that contains Protected Material. If only a portion or portions of the
5 material on a page qualifies for protection, the Producing Party also must clearly
6 identify the protected portion(s) (e.g., by making appropriate markings in the
7 margins).

8 (b) for testimony given in depositions that the Designating Party identify the
9 Disclosure or Discovery Material on the record, before the close of the deposition.

10 (c) for information produced in some form other than documentary and for
11 any other tangible items, that the Producing Party affix in a prominent place on the
12 exterior of the container or containers in which the information is stored the legend
13 “CONFIDENTIAL.” If only a portion or portions of the information warrants
14 protection, the Producing Party, to the extent practicable, shall identify the protected
15 portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive the
18 Designating Party’s right to secure protection under this Order for such material.
19 Upon timely correction of a designation, the Receiving Party must make reasonable
20 efforts to assure that the material is treated in accordance with the provisions of this
21 Order.

22 23 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

24 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
25 designation of confidentiality at any time that is consistent with the Court’s
26 Scheduling Order.

27 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
28 resolution process under Local Rule 37.1, et seq. Any discovery motion must strictly

1 comply with the procedures set forth in Local Rules 37-1 et seq. or follow the
2 procedures for informal telephonic discovery hearings on the Court's website.

3 6.3 Burden. The burden of persuasion in any such challenge proceeding shall
4 be on the Designating Party. Frivolous challenges, and those made for an improper
5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties)
6 may expose the Challenging Party to sanctions. Unless the Designating Party has
7 waived or withdrawn the confidentiality designation, all parties shall continue to
8 afford the material in question the level of protection to which it is entitled under the
9 Producing Party's designation until the Court rules on the challenge.

11 7. ACCESS TO AND USE OF PROTECTED MATERIAL

12 7.1 Basic Principles. A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a Non-Party in connection with this
14 Action only for prosecuting, defending, or attempting to settle this Action. Such
15 Protected Material may be disclosed only to the categories of persons and under the
16 conditions described in this Order. When the Action has been terminated, a Receiving
17 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

18 Protected Material must be stored and maintained by a Receiving Party at a
19 location and in a secure manner that ensures that access is limited to the persons
20 authorized under this Order.

21 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
22 otherwise ordered by the Court or permitted in writing by the Designating Party, a
23 Receiving Party may disclose any information or item designated
24 "CONFIDENTIAL" only to:

25 (a) the Receiving Party's Outside Counsel of Record in this Action,
26 as well as employees of said Outside Counsel of Record to whom it is reasonably
27 necessary to disclose the information for this Action;

1 (b) the officers, directors, and employees (including House Counsel)
2 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

3 (c) Experts (as defined in this Order) of the Receiving Party to whom
4 disclosure is reasonably necessary for this Action and who have signed the
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

6 (d) the Court and its personnel;

7 (e) court reporters and their staff;

8 (f) professional jury or trial consultants, mock jurors, and
9 Professional Vendors to whom disclosure is reasonably necessary for this Action and
10 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (g) the author or recipient of a document containing the information
12 or a custodian or other person who otherwise possessed or knew the information;

13 (h) during their depositions, witnesses, and attorneys for witnesses, in
14 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
15 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
16 will not be permitted to keep any confidential information unless they sign the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
18 agreed by the Designating Party or ordered by the Court. Pages of transcribed
19 deposition testimony or exhibits to depositions that reveal Protected Material may be
20 separately bound by the court reporter and may not be disclosed to anyone except as
21 permitted under this Stipulated Protective Order; and

22 (i) any mediator or settlement officer, and their supporting personnel,
23 mutually agreed upon by any of the parties engaged in settlement discussions.

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

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

6 (a) promptly notify in writing the Designating Party. Such
7 notification shall include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or
9 order to issue in the other litigation that some or all of the material covered by the
10 subpoena or order is subject to this Protective Order. Such notification shall include
11 a copy of this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected.

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

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

25 (a) The terms of this Order are applicable to information produced by
26 a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
27 produced by Non-Parties in connection with this litigation is protected by the
28

1 remedies and relief provided by this Order. Nothing in these provisions should be
2 construed as prohibiting a Non-Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request,
4 to produce a Non- Party's confidential information in its possession, and the Party is
5 subject to an agreement with the Non-Party not to produce the Non-Party's
6 confidential information, then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the
8 Non-Party that some or all of the information requested is subject to a confidentiality
9 agreement with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of the
11 Stipulated Protective Order in this Action, the relevant discovery request(s), and a
12 reasonably specific description of the information requested; and

13 (3) make the information requested available for inspection by
14 the Non-Party, if requested.

15 (c) If the Non-Party fails to seek a protective order from this Court
16 within 14 days of receiving the notice and accompanying information, the Receiving
17 Party may produce the Non- Party's confidential information responsive to the
18 discovery request. If the Non-Party timely seeks a protective order, the Receiving
19 Party shall not produce any information in its possession or control that is subject to
20 the confidentiality agreement with the Non-Party before a determination by the Court.
21 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
22 of seeking protection in this Court of its Protected Material.

23
24 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
26 Protected Material to any person or in any circumstance not authorized under this
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
28 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts

1 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
2 persons to whom unauthorized disclosures were made of all the terms of this Order,
3 and (d) request such person or persons to execute the “Acknowledgment and
4 Agreement to Be Bound” that is attached hereto as Exhibit A.

5
6 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
7 **PROTECTED MATERIAL**

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

18
19 **12. MISCELLANEOUS**

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. By stipulating to the entry of this
23 Protective Order, no Party waives any right it otherwise would have to object to
24 disclosing or producing any information or item on any ground not addressed in this
25 Stipulated Protective Order. Similarly, no Party waives any right to object on any
26 ground to use in evidence of any of the material covered by this Protective Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any
28 Protected Material must comply with Civil Local Rule 79-5. Protected Material may

1 only be filed under seal pursuant to a court order authorizing the sealing of the specific
2 Protected Material at issue. If a Party's request to file Protected Material under seal is
3 denied by the Court, then the Receiving Party may file the information in the public
4 record unless otherwise instructed by the Court.

5
6 **13. FINAL DISPOSITION**

7 After the final disposition of this Action, within 60 days of a written request by
8 the Designating Party, each Receiving Party must return all Protected Material to the
9 Producing Party or destroy such material. As used in this subdivision, "all Protected
10 Material" includes all copies, abstracts, compilations, summaries, and any other
11 format reproducing or capturing any of the Protected Material. Whether the Protected
12 Material is returned or destroyed, the Receiving Party must submit a written
13 certification to the Producing Party (and, if not the same person or entity, to the
14 Designating Party) by the 60 day deadline that (1) identifies (by category, where
15 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
16 that the Receiving Party has not retained any copies, abstracts, compilations,
17 summaries or any other format reproducing or capturing any of the Protected Material.
18 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
19 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
20 correspondence, deposition and trial exhibits, expert reports, attorney work product,
21 and consultant and expert work product, even if such materials contain Protected
22 Material. Any such archival copies that contain or constitute Protected Material
23 remain subject to this Protective Order as set forth in Section 4 (DURATION).

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

4
5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD**

6
7 Dated: July 13, 2018

JAMES HAWKINS APLC

8 By: /s/ Greg Mauro
9 James R. Hawkins
Gregory E. Mauro

10 Attorneys for Plaintiff
11 Cindy R. Castillo

12 DATED: July 13, 2018

MCGUIRE WOODS LLP

13
14 By: /s/ Michael D. Mandel

15 Michael Mandel, Esq.
16 John Van Hook, Esq.
17 Sean M. Sullivan, Esq.

18 Attorneys for Defendant
19 BANK OF AMERICA, N.A.

20 I attest that all signatories listed above, and on whose behalf this document is
21 submitted, have concurred in and authorized the filing of the document.

22 /s/ Michael D. Mandel
MICHAEL D. MANDEL

23
24 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

25 DATED: July 13, 2018

26 Karen E. Scott
27 Karen E. Scott
28 United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE
BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under
penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California on [date] in the case
of *Cindy R. Castillo v. Bank of America National Association*, U.S. District Court, Central District
of California, Case No. 8:17-cv-00580-DOC (KESx). I agree to comply with and to be bound by
all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise
that I will not disclose in any manner any information or item that is subject to this Stipulated
Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central
District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if
such enforcement proceedings occur after termination of this action. I hereby appoint
_____ [print or type full name] of
_____ [print or type full address and telephone
number] as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____