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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KYLE DEI ROSSI and MARK LINTHICUM,
on behalf of themselves and those similarly
situated.

Case No. 2:12-CV-00125-TLN-CKD

**PLAINTIFFS' NOTICE OF REQUEST,
REQUEST TO SEAL DOCUMENTS IN
SUPPORT OF OPPOSITION TO
MOTION TO STRIKE THE REBUTTAL
EXPERT REPORT OF DR. ELIZABETH
HOWLETT, AND ORDER**

v.
WHIRLPOOL CORPORATION

Plaintiffs.

Defendant.

Date: January 15, 2015

Time: 2:00 p.m.

Courtroom: 2

Honorable Troy L. Nunley

PLAINTIFFS' NOTICE OF REQUEST, REQUEST TO SEAL DOCUMENTS IN SUPPORT OF
OPPOSITION TO MOTION TO STRIKE THE REBUTTAL EXPERT REPORT OF DR. ELIZABETH
HOWLETT, AND ORDER
CASE NO. 2:12-CV-00125-TLN-CKD

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 NOTICE IS HEREBY GIVEN THAT Plaintiffs Kyle Dei Rossi and Mark Linthicum
3 (Plaintiffs") file this request pursuant to Local Rule 141 for leave to file certain confidential
4 documents under seal in conjunction with Plaintiffs' Opposition to Whirlpool's Motion to Strike the
5 Rebuttal Expert Report of Dr. Elizabeth Howlett that is noticed for hearing on January 15, 2015.

6 The documents that incorporate confidential information are:

7 • Plaintiffs' Memorandum of Points and Authorities in Opposition to Motion to Strike the
8 Rebuttal Expert Report of Dr. Elizabeth Howlett at 3:14-19, and 3:24-26.
9 • Exhibit 1 to the Declaration of Annick M. Persinger in Support of Plaintiffs' Opposition to
10 Motion to Strike the Rebuttal Expert Report of Dr. Elizabeth Howlett, excerpts from the
11 October 15, 2014 deposition of Dr. Carol Scott at 96:1-25.

12 The above documents contain information designated by Defendant as "Confidential"
13 pursuant to the parties' Agreement for the Discovery of Confidential Information ("Confidentiality
14 Agreement") and in Defendant's 12/1/2014 Letter regarding the October 15, 2014 Deposition of
15 Carol A. Scott. The Confidentiality Agreement is attached hereto as **Exhibit A**. The information is
16 "Confidential Discovery Material" pursuant to Section 1(c) of the Confidentiality Agreement
17 because it is "confidential research, development, or commercial information, within the meaning of
18 Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure." *See* Confidentiality Agreement, Exh. A
19 at 2. Defendant's Letter identifying as confidential portions of Dr. Carol Scott's testimony is
20 attached hereto as **Exhibit B**. For these reason, Plaintiffs request that the above-listed documents
21 and portions thereof be filed under seal. Defendant Whirlpool Corporation shall have access to the
22 confidential documents.

23 Plaintiffs have submitted this Notice of Request, Request to Seal Documents in Support of
24 Plaintiffs' Opposition to Motion to Strike the Rebuttal Expert Report of Dr. Elizabeth Howlett, the
25 [Proposed] Order, and the documents themselves via electronic mail to the Court. The email has
26 been set to Judge Nunley's proposed orders email box, with the email subject line including the case
27 number and the statement: "Request to Seal Documents." Further, this Notice of Request, Request
28 to Seal Documents in Support of Plaintiffs' Opposition to Motion to Strike the Rebuttal Expert

1 Report of Dr. Elizabeth Howlett, and [Proposed] Order have been served on all parties via electronic
2 mail.

3 Dated: January 2, 2015

Respectfully submitted,

5 **BURSOR & FISHER, P.A**

6 By: /s/ L. Timothy Fisher
L. Timothy Fisher

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20 *Attorneys for Plaintiffs*

ORDER

Having considered Plaintiffs' Request to Seal Documents and the documents labeled "Confidential" pursuant to the parties' Agreement for the Discovery of Confidential Information, the Court GRANTS Plaintiffs' Request to Seal Documents and finds and orders as follows:

The Court finds that the following documents at issue should be filed under seal:

- Plaintiffs' Memorandum of Points and Authorities in Opposition to Motion to Strike the Rebuttal Expert Report of Dr. Elizabeth Howlett at 3:14-19, and 3:24-26.
- Exhibit 1 to the Declaration of Annick M. Persinger in Support of Plaintiffs' Opposition to Motion to Strike the Rebuttal Expert Report of Dr. Elizabeth Howlett, excerpts from the October 15, 2014 deposition of Dr. Carol Scott at 96:1-25.

The Clerk of the Court shall file the documents under seal.

IT IS SO ORDERED.

Dated: January 6, 2015

Troy L. Nunley