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11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

14 JUDE DARRIN, individually, and on
15 behalf of the general public,

16 Plaintiff,

17 vs.

18 BANK OF AMERICA, N.A.,
19 EXPERIAN INFORMATION
20 SOLUTIONS, INC., EQUIFAX
21 INFORMATION SERVICES, LLC., &
TRANS UNION LLC,

22 Defendants.
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Case No. 2:12-cv-00228-MCE-KJN

**STIPULATION AND PROTECTIVE
ORDER**

Complaint Filed: January 28, 2012
FAC Filed: July 24, 2012
SAC Filed: November 12, 2012

Trial Date: October 14, 2014

1 IT IS HEREBY STIPULATED by and between Plaintiff Jude Darrin
2 (“Plaintiff” or “Darrin”) and Defendant Bank of America, N.A. (“Defendant” or
3 “BANA”), through their respective attorneys of record, as follows:

4 WHEREAS, documents, testimony and information have been and may be
5 sought, produced or exhibited by and among the parties relating to trade secrets,
6 proprietary systems, confidential commercial information, confidential applicant or
7 employee information, confidential research and development, or other proprietary
8 information belonging to Defendants or third parties and/or credit, personal and
9 other confidential information belonging to Defendants or third parties and/or other
10 confidential information of Plaintiff.

11 THEREFORE, an Order of this Court protecting such confidential
12 information shall be and hereby is made by this Court on the following terms:

13 1. This Order shall govern the use, handling, and disclosure of all
14 documents, testimony or information produced or given in this action that are
15 designated to be subject to this Order in accordance with the terms herein.

16 2. Any documents, testimony or information submitted, either voluntarily
17 or pursuant to any subsequent order, which is asserted in good faith by the
18 producing party or by any other party to contain or constitute information protected
19 by Federal Rule of Civil Procedure 26(c)(1)(G) or other provision of law, shall be so
20 designated in writing, or orally at a deposition, hearing or trial and shall be
21 segregated from other information being submitted. Materials so designated shall be
22 clearly marked on their face with the legend: “CONFIDENTIAL” or
23 “CONFIDENTIAL-ATTORNEY’S EYES ONLY.” Such documents, transcripts, or
24 other materials are referred herein as “CONFIDENTIAL MATERIALS” and
25 “CONFIDENTIAL-AEO MATERIALS,” respectively.

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1 3. A party wishing to designate portions of a deposition transcript
2 CONFIDENTIAL or CONFIDENTIAL-AEO pursuant to this Order must, within
3 five (5) business days from the conclusion of the deposition, order the original or a
4 copy of the transcript of the deposition from the court reporter for regular
5 turnaround. The designating party may designate those portions of the transcript
6 CONFIDENTIAL or CONFIDENTIAL-AEO, in accordance with paragraph 2 of
7 this Order. The designating party shall designate such CONFIDENTIAL
8 MATERIAL or CONFIDENTIAL-AEO MATERIAL either on the record or by
9 serving upon all counsel of record via facsimile or other electronic transmission a
10 Notice setting forth the page, line numbers and designation. The designating party
11 must serve such Notice within ten (10) calendar days after its counsel receives a
12 copy of the deposition transcript. All transcripts for timely ordered depositions will
13 be treated as CONFIDENTIAL-AEO MATERIAL until the expiration of the ten-
14 day period described in this paragraph. Any portions of a transcript designated as
15 CONFIDENTIAL MATERIAL or CONFIDENTIAL-AEO MATERIAL shall
16 thereafter be treated as CONFIDENTIAL MATERIAL or CONFIDENTIAL-AEO
17 MATERIAL in accordance with this Order. The parties shall negotiate in good faith
18 to alter the time frames set forth in this paragraph in situations where a more
19 expedited filing of a designated portion of the deposition transcript is required.

20 4. All CONFIDENTIAL MATERIALS and CONFIDENTIAL-AEO
21 MATERIALS, and all information derived therefrom (including but not limited to
22 all testimony, deposition or otherwise, that refers, reflects or otherwise discusses any
23 such materials), shall not be used, directly or indirectly, by any person for any
24 business, commercial or competitive purposes or for any purpose whatsoever other
25 than solely for the discovery, and/or the preparation and trial of this action in
26 accordance with this Order.

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1 5. The Parties agree that CONFIDENTIAL MATERIALS and
2 CONFIDENTIAL-AEO MATERIALS produced in discovery in this case shall not
3 be used, be required to be produced or admissible, in whole or in part, in any other
4 legal or administrative proceedings absent agreement of counsel or Order of the
5 Court.

6 6. Subject to paragraph 10, in the absence of prior written permission
7 from the designating party or an order by the Court, CONFIDENTIAL
8 MATERIALS shall not be disclosed to any person other than: (i) the parties, their
9 attorneys of record, and those attorneys' support staff employees who perform work
10 tasks related to this case; (ii) qualified persons taking testimony involving such
11 material and necessary stenographic and clerical personnel; (iii) disclosed experts or
12 consulting experts and their staff employed for this litigation; (iv) present or former
13 employees of the producing party in connection with their depositions in this action
14 (provided that no former employees shall be shown documents prepared after the
15 date of his or her departure with the exception of documents that refer to actions
16 taken or not taken by the former employee during his or her employment, that refer
17 to documents or computer file records regarding the handling of Plaintiff's credit
18 file during his or her time of employment, or refer to related policies and procedures
19 of BANA at the time of his or her employment); (v) any governmental agency,
20 governmental office, or other person formally requesting such information or
21 documents by subpoena or civil investigative demand ("CID"), provided that the
22 designating party shall be given notice of the subpoena or demand within three (3)
23 days of the receipt of the subpoena or demand, and that within three (3) days of that
24 notice, the designating party shall inform the receiving party whether it intends to
25 object to or move to quash the subpoena or demand, and in the event an objection or
26 motion is filed with the appropriate court or agency, no such production shall be
27 made by the receiving party until the court or agency has ruled on the objection or
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1 motion; and (vi) the Court, Court personnel, and members of any jury impaneled to
2 hear this case.

3 7. Subject to paragraph 10, CONFIDENTIAL MATERIALS shall not be
4 disclosed to any person designated in paragraph 6(iii) unless he or she has executed
5 a written, dated declaration in the form attached as **Exhibit A**, acknowledging that
6 he or she has first read this Order, agreed to be bound by the terms thereof, agreed
7 not to reveal such CONFIDENTIAL MATERIALS to anyone, and agreed to utilize
8 such CONFIDENTIAL MATERIALS solely for the purposes of this litigation. All
9 persons to whom CONFIDENTIAL MATERIALS are disclosed are hereby
10 enjoined from disclosing same to any other person except as provided in this Order,
11 and are also enjoined from using same except in the preparation for and trial of this
12 case between the named parties thereto.

13 8. No person receiving or reviewing CONFIDENTIAL MATERIALS
14 shall disseminate or disclose them to any person other than those described above in
15 paragraph 6 and for the purposes specified, and in no event shall such person make
16 any other use of such CONFIDENTIAL MATERIALS.

17 9. Subject to paragraph 10, in the absence of prior written permission
18 from designating party or an order by the Court CONFIDENTIAL-AEO
19 MATERIALS shall not be disclosed to any person other than counsel of record in
20 this case or as provided in paragraph 6(v) of this Order until the notice provisions
21 have run for the producing party. All persons to whom CONFIDENTIAL-AEO
22 MATERIALS are disclosed are hereby enjoined from disclosing same to any other
23 person except as provided in this Order, and are also enjoined from using same
24 except in the preparation for and trial of this case between the named parties thereto.
25 No person receiving or reviewing CONFIDENTIAL-AEO MATERIALS shall
26 disseminate or disclose them to any person other than counsel of record in this case
27 or as provided in paragraph 6(v) of this Order until the notice provisions have run
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1 for the producing party and for the purposes specified, and in no event shall such
2 person make any other use of such CONFIDENTIAL-AEO MATERIALS.

3 10. In the event that any party disagrees with any designation made under
4 this Order, the parties shall first try in good faith to resolve the disagreement
5 informally. If the dispute cannot be resolved and the receiving party concludes in
6 good faith that the materials have been improperly classified, the receiving party
7 shall notify the designating party in writing by facsimile or by electronic
8 transmission of its objection, but shall continue to maintain the documents or other
9 information as confidential for fifteen (15) days after such notice. The designating
10 party shall have the right to move the Court for a Protective Order in order to retain
11 the designated status of such materials. If the designating party files such a motion
12 within the fifteen-day period, the receiving party shall continue to retain the
13 materials as CONFIDENTIAL or CONFIDENTIAL-AEO, consistent with the
14 designating party's designation, until the Court has ruled on the designating party's
15 motion.

16 11. Subject to paragraph 10, unless a filing party intends to file the
17 CONFIDENTIAL MATERIALS or CONFIDENTIAL-AEO MATERIALS under
18 seal in accordance with Local Rule 141, any party seeking to file CONFIDENTIAL
19 MATERIALS or CONFIDENTIAL-AEO MATERIALS with the Court must
20 contact the designating party two (2) days prior to such filing to: (i) provide the
21 designating party with notice that it seeks to file CONFIDENTIAL MATERIALS or
22 CONFIDENTIAL-AEO MATERIALS with the Court; and (ii) meet and confer in
23 good faith to determine whether a redacted version of the CONFIDENTIAL
24 MATERIALS or CONFIDENTIAL-AEO MATERIALS can be filed with the Court.
25 In the event no agreement is reached for the filing of a redacted version, the party
26 seeking to file such CONFIDENTIAL MATERIALS or CONFIDENTIAL-AEO
27 MATERIALS shall file such material in accordance with Local Rule 141(a) and (b).

1 The designating party shall file a Motion to File Under Seal simultaneously with the
2 other party's filing and within five (5) days thereafter shall file a supporting
3 memorandum that complies with the requirements of Local Rule 141(b). The
4 parties shall work together in good faith to coordinate the filing of all motions and
5 material covered by this paragraph to permit compliance with the Local Rules and
6 this Order.

7 12. The production or disclosure during discovery of an attorney-client
8 privileged, work product, confidential, or other protected document or information
9 medium ("Protected Material") shall not be deemed a waiver of privilege, work
10 product, confidentiality, or other protection or immunity from discovery by the
11 designating party provided that such production or disclosure would not operate as a
12 waiver according to the principles set forth in Federal Rule of Evidence 502 and the
13 associated case law. Upon notice by the designating party that Protected Material
14 was produced or disclosed, all recipients of the Protected Material shall promptly
15 return, sequester, or destroy the Protected Material and any copies it has and shall
16 not use it (or information in it) in any litigation, not permit it to be copied,
17 distributed or otherwise disclosed to any person until the matter of its production or
18 disclosure is resolved either amicably by the parties, or by Order of the Court. *See*
19 *Fed. R. Civ. P. 26(b)(5)(B)*.

20 13. Subject to paragraph 10, within sixty (60) days after the conclusion of
21 this case, upon written request, the parties shall assemble and return to the
22 designating party all materials containing CONFIDENTIAL MATERIALS and/or
23 CONFIDENTIAL-AEO MATERIALS (with the exception of pleadings, transcripts,
24 and drafts of pleadings filed with the Court, which the receiving party may retain
25 but shall continue to treat as CONFIDENTIAL MATERIALS or CONFIDENTIAL-
26 AEO MATERIALS as provided in this Order). The receiving party may elect to
27 destroy such materials rather than return them, in which case the party shall provide
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1 written verification that the materials, including any summaries, extracts,
2 compilations, notes, or other attorney work product containing CONFIDENTIAL
3 MATERIALS and/or CONFIDENTIAL-AEO MATERIALS (with the exception of
4 pleadings, transcripts, and drafts of pleadings filed with the Court, have been
5 destroyed.

6 14. This Order shall remain binding after the conclusion of this case unless
7 otherwise ordered by the Court, and the Court shall retain jurisdiction over all
8 parties bound hereby for the purposes of enforcing this Order. Each individual
9 signing the acknowledgment attached as **Exhibit A** agrees to be subject to the
10 jurisdiction of this Court for purposes of this Order.

11 15. Neither the entry of this Order, nor the designation of any material as
12 “CONFIDENTIAL” or “CONFIDENTIAL-AEO,” nor the failure to make such
13 designation, shall constitute evidence or an admission on any issue in this case. The
14 designation of any materials as “CONFIDENTIAL” or “CONFIDENTIAL-AEO”
15 does not waive that party’s objection to any discovery on the ground that it seeks
16 information protected by Federal Rule of Civil Procedure 26(c) or other provision of
17 law.

18 16. This Order does not prevent any party from seeking to seal trial
19 transcripts and/or trial exhibits, including documents previously filed under seal.

20 17. Nothing herein shall affect or restrict the rights of any party with
21 respect to its own documents or to the information obtained or developed
22 independently of materials afforded confidential treatment pursuant to this Order.

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1 18. Third parties who are the subject of discovery requests, subpoenas or
2 depositions in this case may take advantage of the provisions of this Order by
3 providing Plaintiff and Defendants with written notice that they intend to comply
4 with and be bound by the terms of this Order.

5 **IT IS SO STIPULATED.**

6 Respectfully submitted,

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8 DATED: September 30, 2013

LAW OFFICE OF LINDA DEOS

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_____/s/ Linda Deos_____

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Linda Deos

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DATED: September 30, 2013

MCGUIREWOODS, LLP

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_____/s/ Laura E. Coombe_____

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Tracy E. Moyer

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Laura E. Coombe

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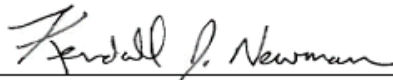
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1 IT IS SO ORDERED, except to the extent that paragraph 11 contains procedural
2 requirements and/or deadlines that conflict with Local Rule 141, in which case the
3 procedures/deadlines of Local Rule 141 shall govern. Additionally, the court will
4 not retain jurisdiction over the enforcement of the stipulated protective order after
5 termination of the action. See E.D. Cal. L.R. 141.1(f). Furthermore, nothing in this
6 order limits the testimony of parties or non-parties, or the use of certain documents,
7 at any court hearing or trial. Such determinations will only be made by the court at
8 the hearing or trial, or upon an appropriate motion.

9 Dated: October 3, 2013

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12 KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT A

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8. I hereby submit to the jurisdiction of the United States District Court,
Eastern District of California for the purpose of enforcement of the Protective Order
in this case.

I declare under the penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Executed _____, at _____.

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2013, I electronically filed the foregoing **STIPULATION AND [PROPOSED] PROTECTIVE ORDER** with the Clerk of the Court using the CM/ECF system and served a copy of same upon all counsel of record via the Court's electronic filing system.

By: /s/ Laura E. Coombe