

1 Gregory H. Guillot
 2 ggmark@radix.net
 3 *Admitted Pro Hac Vice*
 4 GREGORY H. GUILLOT, P.C.
 5 13455 Noel Road, Suite 1000
 6 Dallas, TX 75240
 7 Telephone: (972) 774-4560
 8 Facsimile: (214) 515-0411

9 John L. Krieger, (Nevada Bar No. 6023)
 10 JKrieger@LRLaw.com
 11 LEWIS AND ROCA LLP
 12 3993 Howard Hughes Parkway, Suite 600
 13 Las Vegas, NV 89169
 14 Telephone: (702) 949-8200
 15 Facsimile: (702) 949-8389

16 George L. Paul
 17 GPaul@LRLaw.com
 18 *Admitted Pro Hac Vice*
 19 Robert H. McKirgan,
 20 RMckirgan@LRLaw.com
 21 *Admitted Pro Hac Vice*
 22 LEWIS AND ROCA LLP
 23 40 North Central Avenue, Suite 1900
 24 Phoenix, AZ 85004
 25 Telephone: (602) 262-5326
 26 Facsimile: (602) 734-3857

27 Attorneys for Plaintiff,
 28 DONNA CORBELLO

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

19 DONNA CORBELLO, an individual,
 20 Plaintiff,
 21 vs.
 22 THOMAS GAETANO DEVITO, an
 23 individual, *et al.*,
 24 Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**PLAINTIFF’S MOTION FOR LEAVE
 TO FILE CERTAIN EXHIBITS
 UNDER SEAL FOR HER *REPLY* IN
 SUPPORT OF *MOTION FOR
 RECONSIDERATION (DOC. 347)***

25 Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective*
 26 *Order* (Doc. 94) entered into by the parties, and the Court’s *Protective Order Governing*
 27 *Confidentiality of Documents* entered on January 5, 2009 (“Order Regarding Sealing
 28 Requirements”) (Doc. 95), herewith requests leave to file certain additional documents under

1 seal as exhibits to her *Reply to Defendant's Response to Motion for Reconsideration* and
2 *Supplement* (Docs. 354 & 355), currently scheduled to be filed on or before January 18, 2011.¹

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding*
5 *Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents
6 under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall
7 Brickman, and/or Eric S. Elice, and marked "CONFIDENTIAL" and "HIGHLY
8 CONFIDENTIAL" thereby, which she intends to attach as exhibits to her *Reply*:

- 9
- 10 • JB-0014949–JB-0014950, and JB-0024249–JB-0024250, consisting of documents
11 referenced in *Defendants' Response to Plaintiff's Motion for Reconsideration*, but
12 not filed with the Court; namely, a facsimile cover letter sent to Defendant
13 Gaudio, and the cover page, and first page, of a 116-page draft of "Act I" of
14 *Jersey Boys*.
 - 15 • JB-007860, consisting of an email from Defendant Elice to Peter Bennett
16 concerning the initial filing of this action in Texas, dated December 31, 2007.

16 **I. ARGUMENT**

17 There is an exception to the normal presumption of access to judicial records, for "sealed
18 discovery document[s] [attached] to a non-dispositive motion," such that "the usual presumption
19 of the public's right of access is rebutted." *Kamakana v. City & County of Honolulu*, 447 F.3d
20 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213
21 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-
22 dispositive motions because those documents are often "unrelated, or only tangentially related,
23 to the underlying cause of action." *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,
24 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, "public policies that support the right of
25 access to dispositive motions, and related materials, do not apply with equal force to non-
26 dispositive materials." *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court

27
28 ¹ Pursuant to the Court's *Order* (Doc. 384) of January 13, 2011, and Fed. R. Civ. P. 6(a)(1)(C) and 6(a)(6)(A), the
current deadline for filing Plaintiff's Reply is January 18, 2011.

1 grants a protective order to seal documents during discovery, “it already has determined that
2 ‘good cause’ exists to protect this information from being disclosed to the public by balancing
3 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”
4 exists for the filing of the foregoing documents under seal.

5 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain
6 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY
7 CONFIDENTIAL” by an opposing party, and the documents identified above were so marked by
8 the New Defendants. Accordingly, Plaintiff may not file the documents with the Court without
9 obtaining an Order and/or filing them under seal. Whereas, Plaintiff’s *Reply* is not a dispositive
10 motion, the filing of these documents under seal falls within the exception to the general
11 presumption of public access carved out by the courts of this Circuit for documents attached to
12 non-dispositive motions. Accordingly, leave to file the subject documents under seal should be
13 granted.

14 **II. CONCLUSION**

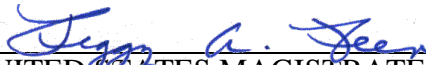
15 IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her present motion be
16 granted.

17 Dated: January 17, 2011

18 RESPECTFULLY SUBMITTED:

19
20 /s/Gregory H. Guillot
21 Gregory H. Guillot
22 George L. Paul
23 John L. Krieger
24 Robert H. McKirgan
25 Attorneys for Plaintiff, Donna Corbello

26 IT IS SO ORDERED:

27 
28 UNITED STATES MAGISTRATE JUDGE
DATED: January 18, 2011

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Fed. R. Civ. P. 5(b), I, Gregory H. Guillot, hereby certify that on January 17,
3 2011, I electronically filed the foregoing document and this *Certificate of Service* with the Clerk
4 of Court using the CM/ECF system which will send notifications of such filing to the following:

5 L. Bradley Hancock
6 Christopher B. Payne
7 Greenberg Traurig, LLP
8 1000 Louisiana
9 Suite 1800
10 Houston, TX 77002

11 Booker T. Evans, Jr.
12 Greenburg Traurig, LLP
13 2375 East Camelback Road
14 Suite 700
15 Phoenix, AZ 85016

16 Alma Chao
17 Greenburg Traurig, LLP
18 3773 Howard Hughes Parkway
19 Suite 500 North
20 Las Vegas, Nevada 89169

Attorneys for Thomas Gaetano DeVito

21 Daniel M. Mayeda
22 LEOPOLD, PETRICH & SMITH, P.C.
23 2049 Century Park East, Suite 3110
24 Los Angeles, California 90067-3274

25 David S. Korzenik
26 MILLER KORZENIK SOMMERS LLP
27 488 Madison Avenue, Suite 1120
28 New York, New York 10022-5702

Samuel S. Lionel
Todd Kennedy
LIONEL, SAWYER & COLLINS
300 So. 4th Street #1700
Las Vegas, Nevada 89101

*Attorneys for Defendants Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice,
Des McAnuff, DSHT, Inc., and Dodger Theatricals, Ltd.*

27 /s/Gregory H. Guillot