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27 Attorneys for Plaintiff,
 28 DONNA CORBELLO

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

19 DONNA CORBELLO, an individual,
 20
 21 Plaintiff,
 22 vs.
 23 THOMAS GAETANO DEVITO, an
 24 individual, *et al.*,
 25
 26 Defendants.

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

**FOR LEAVE
 TO FILE UNDER SEAL CERTAIN
 EXHIBITS TO HER RESPONSE TO
 DEFENDANT JERSEY BOYS
 RECORDS LIMITED
 PARTNERSHIP'S MOTION FOR
 SUMMARY JUDGMENT AND CROSS-
 MOTION TO COMPEL
 JURISDICTIONAL DISCOVERY**

27 Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective*
 28 *Order* (Doc. 94) entered into by the parties, and the Court's *Protective Order Governing*

1 *Confidentiality of Documents* entered on January 5, 2009 (“Order Regarding Sealing
2 Requirements”) (Doc. 95), herewith requests leave to file certain documents under seal as
3 exhibits to Plaintiff’s Response to Jersey Boys Records Limited Partnership’s Motion for
4 Summary Judgment and Cross-Motion to Compel Responses to Jurisdictional Discovery
5 (“*Response: Cross-Motion to Compel*”).

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding*
8 *Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents
9 under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall
10 Brickman, Eric S. Elice, DSHT, Inc., Dodger Theatricals, Inc., and/or JB Viva Vegas, LP (the
11 “New Defendants”), and/or by third party BASE Las Vegas Jersey Boys, and marked
12 “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” thereby, which she intends to attach as
13 exhibits to her *Response: Cross-Motion to Compel*:

- 14 • JB-0025278 through JB-0025282 consisting of financial information produced by
15 New Defendants.
- 16 • BASE 00001 through BASE 00030 consisting of the letter agreement between
17 BASE Las Vegas Jersey Boys (BASE Entertainment) and Jersey Boys Broadway
18 LP.

19 Plaintiff further seeks an order permitting her to file the following court documents under
20 seal which support her *Response: Cross-Motion to Compel* but contain, in part, information
21 marked “Highly Confidential” by third party BASE Entertainment:

- 22 • Selected text on page 5 of *Plaintiff’s Response to Jersey Boys Records Limited*
23 *Partnership’s Motion for Summary Judgment and Plaintiff’s Cross-Motion to*
24 *Compel Responses to Jurisdictional Discovery* which restates information
25 contained in the letter agreement between BASE Entertainment and Jersey Boys
26 Broadway LP.
- 27 • Selected text in Paragraph 11 of *Rule 56(D) Declaration of John L. Krieger in*
28 *Support of Plaintiff’s Response to Defendant Jersey Boys Records Limited*

1 *Partnership’s Motion for Summary Judgment and Plaintiff’s Cross-Motion to*
2 *Compel Jurisdictional Discovery* which restates information contained in the
3 letter agreement between BASE Entertainment and Jersey Boys Broadway LP.

4 **I. ARGUMENT**

5 There is an exception to the normal presumption of access to judicial records, for “sealed
6 discovery document[s] [attached] to a non-dispositive motion,” such that “the usual presumption
7 of the public’s right of access is rebutted.” *Kamakana v. City & County of Honolulu*, 447 F.3d
8 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213
9 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-
10 dispositive motions because those documents are often “unrelated, or only tangentially related,
11 to the underlying cause of action.” *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,
12 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, “public policies that support the right of
13 access to dispositive motions, and related materials, do not apply with equal force to non-
14 dispositive materials.” *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court
15 grants a protective order to seal documents during discovery, “it already has determined that
16 ‘good cause’ exists to protect this information from being disclosed to the public by balancing
17 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”
18 exists for the filing of the foregoing documents under seal.

19 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain
20 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY
21 CONFIDENTIAL” by an opposing party, and the documents identified above were so marked by
22 the New Defendants and by BASE Las Vegas Jersey Boys. Accordingly, Plaintiff may not file
23 the documents with the Court without obtaining an Order and/or filing them under seal.
24 Whereas, Plaintiff’s *Response: Cross-Motion to Compel* is not a dispositive motion, the filing of
25 these documents under seal falls within the exception to the general presumption of public access
26 carved out by the courts of this Circuit for documents attached to non-dispositive motions.
27 Accordingly, leave to file the subject documents under seal should be granted.

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II. CONCLUSION

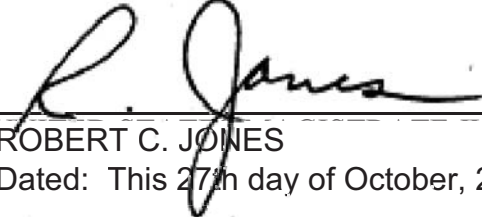
IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her present motion be granted.

Dated: October 11, 2011

RESPECTFULLY SUBMITTED:

/s/ John L. Krieger
Gregory H. Guillot
George L. Paul
John L. Krieger
Robert H. McKirgan
Attorneys for Plaintiff, Donna Corbello

IT IS SO ORDERED:



ROBERT C. JONES
Dated: This 27th day of October, 2011.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Fed. R. Civ. P. 5(b), I certify that on October 11, 2011, I electronically filed
3 the foregoing motion and this certificate of service with the clerk of the Court using the CM/ECF
4 system which will send notification of such filing to the following:

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