

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

In re: Bank of America Home Affordable
Modification Program (HAMP) Contract
Litigation

Civil Action No. 1:10-md-02193-RWZ

DEFENDANT'S ASSENTED-TO MOTION TO IMPOUND

Pursuant to Local Rule 7.2 and the Stipulated Protective Order (the "Protective Order") entered by the Court on May 16, 2011 (Dkt. No. 56), Defendant Bank of America, N.A., for itself and as successor by merger to BAC Home Loans Servicing, L.P., ("BANA") hereby requests leave to file under seal: (a) Defendant's Memorandum in Support of Its Motion for a Protective Order Regarding Confidential Information (the "Memorandum") (a redacted version of which is to be filed electronically); (b) the Declaration of Mark McElroy in support of Defendant's Motion for a Protective Order Regarding Confidential Information (the "McElroy Declaration") (a redacted version of which is to be filed electronically), together with Exhibit A thereto; (c) the Declaration of Carole Richter in support of Defendant's Motion for a Protective Order Regarding Confidential Information (the "Richter Declaration" and, with the McElroy Declaration, the "Declarations") (a redacted version of which is to be filed electronically), together with as Exhibit A thereto; and (d) Exhibits A – C to the Declaration of Seth Goldstein in support of Defendant's Motion for a Protective Order Regarding Confidential Information.

Good cause exists to grant this motion. As grounds for this motion, Bank of America states that:

1. The above-referenced Memorandum, Declarations, and Exhibits make explicit reference to information and subjects that have been designated by BANA as "Confidential Information" pursuant to ¶¶ 1-3 of the Protective Order.

2. The above-referenced Memorandum, Declaration, and Exhibits are filed pursuant to ¶ 15 of the Protective Order, which states that “[p]ending resolution by the parties or by the Court regarding a dispute over a confidentiality designation, the [challenged] Confidential Information will continue to be treated as such.”

3. The Protective Order directs, at ¶ 7, that “[i]n the event that any Confidential Information is included with, or the contents thereof are in any way disclosed, in any pleading, motion or other paper filed with the Clerk of this Court, the filing party shall move to have such pleading, motion, or other paper impounded by the Clerk pursuant to the terms and requirements of Local Rule 7.2.”

4. BANA therefore seeks leave to file the above-referenced Memorandum, Declaration, and Exhibits in a sealed container that indicates that the documents shall be confidential and revealed only to court personnel and parties and individuals bound by the Protective Order.

5. BANA’s request to impound the above-referenced Memorandum, Declaration, and exhibits is reasonable given its obligations under the Protective Order and/or personal, confidential, and proprietary business information contained therein.

6. BANA has conferred with Plaintiffs, and they have assented to this Motion.

For the foregoing reasons, BANA respectfully submits that good cause exists to grant this Motion and requests that this Court grant leave to file under seal the above-referenced Memorandum, Declaration, and Exhibits, and that these documents be made available only to court personnel and no one else, until further order by the Court.

Further, pursuant to Local Rule 7.2, this Order should remain in place during the pendency of this action, as noted in ¶ 12 of the Protective Order. Thereafter, the Confidential

Information should be handled as required by ¶ 12 of the Protective Order.

WHEREFORE, BANA respectfully requests that the Court grant its Assented-to Motion to Impound, permitting the following documents to be filed under seal;

- a. Defendant's Memorandum in Support of Its Motion for a Protective Order Regarding Confidential Information;
- b. The Declaration of Mark McElroy in Support of Defendant's Motion for a Protective Order Regarding Confidential Information, together with Exhibit A thereto;
- c. The Declaration of Carole Richter in Support of Defendant's Motion for a Protective Order Regarding Confidential Information, together with Exhibit A thereto; and,
- d. Exhibits A – C to the Declaration of Seth M. Goldstein in support of Defendant's Motion for a Protective Order Regarding Confidential Information.

Dated: August 23, 2012

Respectfully submitted,

Bank of America, N.A., for itself and as
successor by merger to BAC Home Loan
Servicing, L.P.,

By its attorneys,

/s/ James W. McGarry

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LOCAL RULE 7.1(A)(2) CERTIFICATION
AND CERTIFICATE OF SERVICE

I, James W. McGarry, hereby certify that counsel for Defendant conferred by phone with opposing counsel in an effort to resolve or narrow the issues presented in this motion prior to filing, and opposing counsel assents to the relief sought herein.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on August 23, 2012.

/s/ James W. McGarry