

1 Christopher R. Pitoun (SBN 290235)
christopherp@hbsslw.com
2 HAGENS BERMAN SOBOL SHAPIRO LLP
3 301 North Lake Avenue, Suite 920
Pasadena, CA 91101
4 Telephone: (213) 330-7150

5 Joseph M. Vanek (admitted *Pro Hac Vice*)
jvanek@sperling-law.com
6 John P. Bjork (admitted *Pro Hac Vice*)
7 jbjork@sperling-law.com
SPERLING & SLATER, P.C.
8 55 W. Monroe Street, Suite 3500
Chicago, IL 60603
9 Telephone: (312) 641-3200

10 *Attorneys for Plaintiff Silvina Kroetz and*
11 *the Proposed Class*

12 [Additional Counsel listed on Signature Page]

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 SILVINA KROETZ and others similarly
16 situated,

17 Plaintiffs,

18 v.

19
20 JOHN HANCOCK LIFE INSURANCE
21 COMPANY (U.S.A.) and DOES 1 to 50,
22 inclusive,

23 Defendants.

Case No. 2:20-cv-02117-TJH-RAOx

**PLAINTIFF’S APPLICATION TO
FILE MOTION FOR CLASS
CERTIFICATION AND CERTAIN
SUPPORTING DOCUMENTS
UNDER SEAL**

Honorable Terry J. Hatter, Jr.
Honorable Rozella A. Oliver

Complaint Filed: March 4, 2020

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PLAINTIFFS’ APPLICATION TO FILE UNDER SEAL

1 Pursuant to Local Rule 79-5.2.2(b), Plaintiff hereby respectfully applies to this
2 Court for permission to file under seal portions of certain documents and references
3 therefrom designated as “Confidential” and/or “Highly Confidential” by Defendant in
4 this action, found in the concurrently submitted:

- 5 1. Plaintiff’s Notice of Motion and Motion for Class Certification,
6 Appointment of Class Representative and Class Counsel (“Motion”).
- 7 2. Memorandum of Points and Authorities in Support of Plaintiff’s
8 Motion for Class Certification, Appointment of Class Representative
9 and Class Counsel (“Memorandum”).
- 10 3. Exhibits 3, 4, 5, 9, 11, and 13, to the Declaration of Christopher R.
11 Pitoun in Support of Plaintiff’s Motion for Class Certification,
12 Appointment of Class Representative and Class Counsel (“Exhibits”).

13 The June 5, 2020 Protective Order (“Protective Order”) requires that any
14 information designated as confidential qualify for protection under Federal Rule of
15 Civil Procedure 26(c). ECF No. 29. In turn, under Rule 26(c), a Court may require
16 “that a trade secret or other confidential research, development, or commercial
17 information not be revealed or be revealed only in a specified way.” Fed. R. Civ. P.
18 26(c)(1)(G). Defendant John Hancock Life Ins. Company (USA) (“Defendant”) has
19 designated information found in the documents listed above as “Confidential” and/or
20 “Highly Confidential” under the Protective Order in this action.

21 On November 10, 2022, Plaintiffs met and conferred with counsel for
22 Defendant regarding documents referenced by the Motion and Memorandum. During
23 the meet and confer, Plaintiff identified which documents Defendant designated as
24 “Confidential” and/or “Highly Confidential” would likely be referenced in the Motion
25 and Memorandum. *See* Declaration of Christopher R. Pitoun in Support of Plaintiffs’
26 Application to File Under Seal Plaintiff’s Motion for Class Certification and Certain
27 Supporting Documents (“Pitoun Decl.”), ¶¶ 5-9. Plaintiff understood that Defendant
28

1 would subsequently review Plaintiff’s list of identified documents and inform Plaintiff
2 if Defendant was willing to have those documents filed openly. *Id.* ¶¶ 7-9. On
3 November 18, 2022, Defendant informed Plaintiff of which documents Defendant
4 would agree could be filed publicly. *Id.* ¶ 10.

5 Plaintiff applies for an order regarding the sealing of these documents to comply
6 with the provisions set forth in the Protective Order. *See id.* ¶ 8. These documents may
7 include information relating to internal investigations, trade secrets, or other
8 proprietary information. However, Defendant is the party who has designated the
9 materials confidential and presumably has knowledge regarding the basis for the
10 confidentiality designations and an interest in the materials being sealed. Therefore, it
11 is Defendants who must “overcome the presumption of the public’s right of access
12 sufficient to permit sealing.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172,
13 1178-1180 (9th Cir. 2006). Plaintiff takes no position on whether these documents
14 qualify for protection under Rule 26(c).

15 Pursuant to Local Rule 79-5.2.2(b)(i), within 4 days of this filing, Defendant
16 must file with the Court a declaration establishing that the designated information is
17 sealable. If Defendant does not file its responsive declaration as required by this
18 subsection, the documents and information Plaintiff is herein requesting be filed under
19 seal may be made part of the public record in their entirety.

21 Dated: November 18, 2022

Respectfully submitted,

22 HAGENS BERMAN SOBOL SHAPIRO LLP

23 By: /s/ Christopher R. Pitoun

24 Christopher R. Pitoun (SBN 290235)

25 301 North Lake Avenue, Suite 920

26 Pasadena, CA 91101

27 Telephone: (213) 330-7150

Email: christopherp@hbsslw.com

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David S. Klevatt (admitted *pro hac vice*)
KLEVATT & ASSOCIATES, LLC
77 West Wacker Drive, Suite 4500
Chicago, IL 60601-1604
Telephone: (312) 782-9090
Email: dklevatt@insurancelawyer.com

Joseph M. Vanek (admitted *pro hac vice*)
Mitchell H. Macknin (admitted *pro hac vice*)
John P. Bjork (admitted *pro hac vice*)
SPERLING & SLATER, P.C.
55 W. Monroe Street, Suite 3200
Chicago, IL 60603
Telephone: (312) 641-3200
Email: jvanek@sperling-law.com
Email: mhmacknin@sperling-law.com
Email: jbjork@sperling-law.com

*Attorneys for Plaintiff Silvina Kroetz
and Proposed Class*