THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, STATE OF NEW YORK, STATE OF CONNECTICUT, COMMONWEALTH OF PENNSYLVANIA, STATE OF DELAWARE, STATE OF MAINE, STATE OF MARYLAND, COMMONWEALTH OF MASSACHUSETTS, STATE OF MICHIGAN, STATE OF MINNESOTA, STATE OF NEVADA, STATE OF NEW HAMPSHIRE, STATE OF NEW JERSEY, STATE OF NEW MEXICO, STATE OF OKLAHOMA, STATE OF OREGON, STATE OF RHODE ISLAND, and STATE OF WISCONSIN,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

Case No. 2:23-cv-01495-JHC

DEFENDANT'S UNOPPOSED MOTION TO SEAL EXHIBIT B TO THE DECLARATION OF CAROL J. PRUSKI

NOTE ON MOTION CALENDAR:
October 27, 2023

I. INTRODUCTION & BACKGROUND

Pursuant to Local Civil Rule 5(g), Defendant Amazon.com, Inc. ("Amazon") respectfully requests that the Court seal Exhibit B to the Declaration of Carol J. Pruski ("Pruski Decl."), filed in support of Amazon's Unopposed Motion to Seal Commercially Sensitive Information

MORGAN, LEWIS & BOCKIUS LLP
ATTORNEYS AT LAW
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101
TEL +1.206.274.6400 FAX +1.206.274.6401

Contained in the Complaint ("Motion to Seal"). Exhibit B is a partially unredacted version of the Complaint that is currently temporary seal, with highlighting to show Amazon's proposed redactions. As such, publicly filing it on the docket would therefore reveal what Amazon contemporaneously moves the Court to seal. On October 27, 2023, counsel for Plaintiffs, including Daniel Schwartz, Danielle Quinn, Lily Rudy, Daniel Principato, and Tim Smith—and counsel for Amazon—Kevin Hodges and Carol J. Pruski—conferred via email regarding the need to file Exhibit B under seal. Plaintiffs do not oppose Amazon's Motion.

II. ARGUMENT & AUTHORITY

As outlined in Amazon's Motion to Seal, Courts have long recognized that "business information that might harm a litigant's competitive standing" should be sealed. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978). While "[t]here is a strong presumption of public access to the court's files," LCR 5(g), that presumption may be overcome when a party presents compelling reasons for maintaining confidentiality that outweights the public's interest in disclosure. *Kamakana v. City & Cty. Of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006). Publicly disclosing the information contained in Exhibit B—namely, the material Amazon seeks to permanently seal in Plaintiffs' Complaint—would force Amazon to disclose highly confidential and competitively sensitive information which could cause significant harm to Amazon, as its competitors would gain access to Amazon's proprietary internal processes and its confidential business metrics. *See* Motion to Seal, Section III.B; LCR 5(g)(3).

III. CONCLUSION

For the foregoing reasons, Amazon respectfully requests that Exhibit B to the Pruski Declaration be permanently sealed.

//

//

//

MORGAN, LEWIS & BOCKIUS LLP
ATTORNEYS AT LAW
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101
TEL +1.206.274.6400 FAX +1.206.274.6401

DATED this 27th day of October, 2023.

I certify that this memorandum contains 306 words, in compliance with the Local Civil Rules.

MORGAN, LEWIS & BOCKIUS LLP

By: *s/ Patty A. Eakes*
Patty A. Eakes, WSBA #18888
Molly A. Terwilliger, WSBA #28449
1301 Second Avenue, Suite 2800
Seattle, WA 98101
Phone: (206) 274-6400
Email: patty.eakes@morganlewis.com
molly.terwilliger@morganlewis.com

WILLIAMS & CONNOLLY LLP

Heidi K. Hubbard (*pro hac vice*)
Kevin M. Hodges (*pro hac vice*)
680 Maine Avenue SW
Washington, DC 20024
Phone: (202) 434-5000
Email: hhubbard@wc.com
khodges@wc.com

Attorneys for Defendant Amazon.com