

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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ARKANSAS TEACHER RETIREMENT SYSTEM,  
on behalf of itself and all others similarly situated,  
Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,  
Defendant.

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No. 11-cv-10230 MLW

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ARNOLD HENRIQUEZ, MICHAEL T. COHN,  
WILLIAM R. TAYLOR, RICHARD A. SUTHERLAND,  
and those similarly situated,  
Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,  
STATE STREET GLOBAL MARKETS, LLC and  
DOES 1-20,  
Defendants.

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No. 11-cv-12049 MLW

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THE ANDOVER COMPANIES EMPLOYEE SAVINGS  
AND PROFIT SHARING PLAN, on behalf of itself, and  
JAMES PEHOUSHEK-STANGELAND, and all others  
similarly situated,  
Plaintiffs,

v.

STATE STREET BANK AND TRUST COMPANY,  
Defendant.

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No. 12-cv-11698 MLW

**THORNTON LAW FIRM LLP'S MOTION FOR  
PARTIAL UNSEALING OF EVAN HOFFMAN'S JUNE 5, 2017 DEPOSITION**

The Thornton Law Firm LLP respectfully moves this Court to unseal pages 96 to 99 of Thornton attorney Evan Hoffman's June 5, 2017 deposition and in support thereof states as follows:

1. On May 15, 2018, the Special Master filed his Report and Recommendations and its accompanying exhibits (the "Exhibits") under seal. *See* Dkt. 220 (the Court's sealing order). Exhibit 63 to the Special Master's Report and Recommendations was the June 5, 2017 deposition of Evan Hoffman.

2. Pursuant to the Court's May 31, 2018 Order (Dkt. 237), on June 13, 2018, the

parties submitted under seal a version of the Exhibits (including the depositions) containing the parties' proposed redactions. *See* Dkt. 297.

3. On June 28, 2018, the Court ordered the parties to file on the public docket a set of non-deposition Exhibits with agreed-upon redactions. *See* Dkt. 356 at 32-33. With respect to depositions, based on State Street's motion, the Court ordered the parties:

to submit versions of the deposition transcripts for the public record that contain only the pages cited in the Report and their necessary context, as well as any other excerpts the parties deem relevant to the resolution of the issues in these proceedings, with appropriate redactions.

*Id.* at 29-30.<sup>1</sup>

4. The redacted Exhibits (including the redacted depositions) were posted on the public docket on July 23, 2018. *See* Dkt. 401.

5. Pages 96 to 99 of Mr. Hoffman's June 5, 2017 deposition were not selected for publication on the public docket. *See* Dkt. 401-62 (Hoffman deposition). These pages remain under seal pursuant to the Court's May 15, 2018 (Dkt. 220) and June 28, 2018 (Dkt. 356) Orders.

5. The Special Master, in his Response to Thornton, quotes from a portion of Mr. Hoffman's deposition (pages 96 and 97). *See* Dkt. 525 at 17-18.

6. In its forthcoming Sur-Reply, the Thornton Law Firm intends to quote from, and attach as an exhibit, pages 96 to 99 of Mr. Hoffman's deposition. The Thornton Law firm will

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<sup>1</sup> Pursuant to the Court's August 10, 2018 Order (Dkt. 445):

The Master shall file any exhibits to his response to the objections contemporaneously with the response. The Master and the lawyers shall confer concerning proposed redactions to any exhibits that are not yet part of the Record and file them for the public record, with a motion to impound the redacted information, within 14 days of filing the response. The same procedure shall apply concerning any replies to the Master's response.

Undersigned counsel does not believe this process applies to documents such as Mr. Hoffman's deposition transcript, which was sealed as part of the Master's original filing of his Report and Recommendations, and unsealed portions of which are already on the public docket. That is why this Motion is necessary.

also quote from and attach other pages already part of the public docket.

7. Pages 96 to 99 of Mr. Hoffman's deposition do not contain any information regarding State Street or any of the ERISA law firms, and no party proposed redactions to these pages as part of the June 13, 2018 consolidated submission. *See* Dkt. 297 (under seal).<sup>2</sup>

WHEREFORE, for the reasons set forth above, the Thornton Law Firm respectfully requests that the Court unseal pages 96 to 99 of Mr. Hoffman's deposition so that the Thornton Law Firm may quote from and attach these pages of the deposition to its forthcoming Sur-Reply.

Respectfully submitted,

/s/ Brian T. Kelly  
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Dated: December 17, 2018

*Counsel for the Thornton Law Firm LLP*

**LOCAL RULE 7.1 CERTIFICATION**

I informed counsel for all parties of this motion. State Street, the Competitive Enterprise Institute, the Special Master, and Lieff Cabraser consent to the motion. Labaton Sucharow does not oppose the motion. At the time of filing, I did not receive a response from Keller Rohrback, McTigue Law, and Zuckerman Spaeder.

/s/ Joshua C. Sharp  
Joshua C. Sharp

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<sup>2</sup> Prior to the Objections being filed, the Court stated that "the memoranda in support of objections to the Report may cite and quote any portion of an exhibit not proposed for redaction in the June 13, 2018 consolidated submission." *See* Dkt. 356 at 4 n.4. However, the Order did not specifically carve out replies or sur-replies. Undersigned counsel therefore files this Motion out of an abundance of caution.

**CERTIFICATE OF SERVICE**

I certify that the foregoing document was filed electronically on December 17, 2018 and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing (“NEF”).

/s/ Joshua C. Sharp  
Joshua C. Sharp