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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Liberty Life Insurance Company,
Plaintiff,
v.
Eric L. Myers, et al.,
Defendants.

No. CV 10-2024-PHX-JAT

ORDER

Pending before the Court is Defendant Eric L. Myers’ Motion to Strike Plaintiff’s Motion for Partial Summary Judgment (Doc. 228), Plaintiff’s Statement of Facts in Support of the Motion for Partial Summary Judgment (Doc. 229), and all of the extensions to Doc. 229. (Doc. 245). Plaintiff has filed a Response (Doc. 246) and Defendant has filed a Reply (Doc. 247).

I. BACKGROUND

On March 30, 2012, Plaintiff filed its Motion for Partial Summary Judgment (Doc. 228) and the accompanying statement of facts and exhibits to that motion (Doc. 229; Doc. 229-1; Doc. 229-2; Doc. 229-3; Doc. 229-4; Doc. 229-5). Defendant has pointed out that these documents contain instances of Defendant’s unredacted social security number and birth date. (See Doc. 229-3 at 5, 29, 37, 43).

1 **II. DISCUSSION**

2 As an initial matter, Defendant has not shown why Plaintiff’s Motion for
3 Summary Judgment (Doc. 228) should be struck from the record. Defendant has not
4 proven that Doc. 228 contains any information subject to the redaction requirements of
5 Federal Rule of Civil Procedure 5.2. Accordingly, the Court denies Defendant’s request
6 to strike Doc. 228.

7 Redaction requirements for filings are governed by Federal Rule of Civil
8 Procedure 5.2. Under Rule 5.2(a), filings may only include the year of an individual’s
9 birth and the last four digits of the social-security number. Fed. R. Civ. Pro. 5.2(a)(1)-(2).
10 Under Federal Rule of Civil Procedure 5.2(b), however, the redaction requirement does
11 not apply to the official record of a state-court proceeding and the record of a court or
12 tribunal, if that record was not subject to the redaction requirement when originally filed.
13 *Id.* at 5.2(b)(3)-(4). Further, Rule 5.2(h) states “[a] person waives the protection of Rule
14 5.2(a) as to the person’s own information by filing it without redaction and not under
15 seal.”

16 Defendant has filed numerous documents with the Court that includes his birth
17 date. (*See* Doc. 169-1; Doc. 176 at 10-11). Under Rule 5.2(h) this waives any privacy
18 Defendant had in that information.

19 The instances where Defendant’s social security number was not redacted in
20 Plaintiff’s filings, which Defendant points to as grounds to strike Doc. 229-1, were all part
21 of the official record in Maricopa County Superior Court. The exhibits challenged by
22 Defendant were all documents originally attached as exhibits to Defendant Donald Myers’
23 (“Donald”) petition for a death certificate for Defendant that Donald filed in 1997. (*See*
24 Doc. 229-1 at 2-45). In addition, Defendant has also filed documents containing his social
25 security number in his probate action in state court. (Doc. 246 at 6).

26 In *Richards v. Great Western Ins. Co.*, No. 11-CV-965, 2012 WL 695991, at *12
27 (D. Minn. Jan. 13, 2012), the district court found that when a party filed information
28 subject to redaction in an attachment to a pleading the party filed in state court, that the

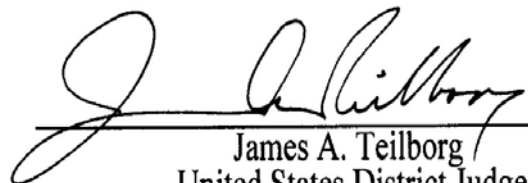
1 party had waived any privacy in that information. The district court cited Federal Rule of
2 Civil Procedure 5.2(b)(3)-(4) and Rule 5.2(h). *Id.* The Court agrees with the district
3 court's reasoning and conclusion in *Richards*. Regardless of whether Defendant was
4 required to or not, Defendant used his unredacted social security number in a pleading in
5 state court and that pleading is part of the record in this case. Further, Donald's petition
6 for a death certificate that contains Defendant's unredacted social security number is part
7 of the official record of a state court proceeding. Under Rule 5.2(b)(3) the redaction
8 requirement does not apply to the documents Plaintiff filed as an attachment to its
9 Statement of Facts. (Doc. 229-1 at 2-45).

10 **V. CONCLUSION**

11 Based on the foregoing,

12 **IT IS ORDERED** denying Defendant Eric L. Myer's Motion to Strike. (Doc.
13 245).

14 Dated this 11th day of February, 2013.

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James A. Teilborg
United States District Judge