

1 **JOHN DOUGLAS BARR** California State Bar No. 40663
 2 **TROY DOUGLAS MUDFORD** California State Bar No. 156392
 3 **ESTEE LEWIS**.....California State Bar No. 268358
 4 **CATHLEEN THERESA BARR** California State Bar No. 295538
 5 **BARR & MUDFORD, LLP**
 1824 Court Street/Post Office Box 994390
 Redding, California 96099-4390
 Telephone: (530) 243-8008 Facsimile: (530) 243-1648

6 Attorneys for Plaintiff

7
 8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

10
 11 GERALD KNIGHTEN,
 12 Plaintiff,
 13 vs.

14 THE CITY OF ANDERSON; THE CITY OF
 15 ANDERSON POLICE
 16 DEPARTMENT, MICHAEL JOHNSON in
 his official capacity as Chief of Police for the
 City of Anderson Police Department; and
 17 SEAN MILLER, individually and in his
 18 official capacity as a Police Officer with the
 City of Anderson Police Department.

19
20 Defendants.

NO. 2:15-CV-01751-TLN-CMK

**PLAINTIFF’S REQUEST TO SEAL
 THE POLICE REPORT ATTACHED
 AS EXHIBIT A TO PLAINTIFF’S
 OPPOSITION TO DEFENDANT THE
 CITY OF ANDERSON, THE CITY OF
 ANDERSON POLICE DEPARTMENT,
 AND MICHAEL JOHNSON’S MOTION
 TO DISMISS; ORDER THERETO**

Date : November 5, 2015
Time : 2:00 p.m.
Dept : 2

Judge: Honorable Troy L. Nunley

21
 22
 23 Plaintiff requests to seal the Police Report authored by Redding Police Department
 24 Officer, Edward Gilmette, which is attached as Exhibit A to Plaintiff’s Opposition to Defendants
 25 City of Anderson’s Motion to Dismiss. (Court Doc. 11.) Plaintiff makes this request because
 26 the police report contains the birthdates of plaintiff and the two gentlemen that witnessed the
 27 event that resulted in this lawsuit.
 28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. Legal Authority

The request to seal documents is controlled by Federal Rule of Civil Procedure 26(c). The Rule permits the Court to issue orders to “protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.” Only if good cause exists may the Court seal the information from public view after balancing “the needs for discovery against the need for confidentiality.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. Cal. 2010) (quoting *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002)). Generally, documents filed in civil cases are presumed to be available to the public. *EEOC v. Erection Co.*, 900 F.2d 168, 170 (9th Cir. 1990); see also *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.2006); *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1134 (9th Cir.2003). Documents may be sealed only when the compelling reasons for doing so outweigh the public’s right of access. (*EEOC* at 170.) In evaluating the request, the Court considers the “public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for scandalous or libelous purposes or infringement upon trade secrets.” *Valley Broadcasting Co. v. United States District Court*, 798 F.2d 1289, 1294 (9th Cir. 1986).

2. Request To Seal

Plaintiff requests that the Court seal page one and page three of the police report attached as Exhibit A to Plaintiff’s opposition to Defendants City of Anderson’s 12(b)6 Motion to Dismiss.

Page one and three of the police report contain the birthdates of plaintiff and the two witnesses listed in the police report. Per FRCP 52 and Local Rule 140, all filers must redact dates of birth. Based on this rule, this Court finds that the compelling reasons for sealing dates of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

birth outweigh the public's right of access. Plaintiff inadvertently attached the police report without redacting the dates of birth of Plaintiff and of the two witnesses from the police report.

The redacted police report is attached hereto as Exhibit A.

DATED: October 26, 2015

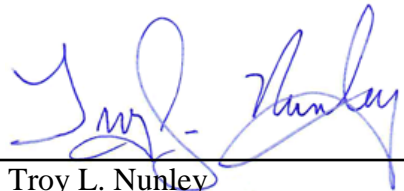
BARR & MUDFORD, LLP

/s/ CATHLEEN THERESA BARR
JOHN DOUGLAS BARR
CATHLEEN THERESA BARR
Attorneys for Plaintiff

ORDER

IT IS HEREBY ORDERED that pages 1 and 3 of the Police Report, attached as Exhibit A to Plaintiff's Opposition to Defendants City of Anderson's Motion to Dismiss (Court Doc. 11) be, and hereby is, redacted.

DATED: October 26, 2015



Troy L. Nunley
United States District Judge