

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**JOHN R. STELLY, II,
Plaintiff**

VERSUS

**STATE OF LOUISIANA, THROUGH
DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS, OFFICE OF
STATE POLICE
Defendant**

* * * * *

* **CIVIL ACTION NO. 23-772**
*
* **SECTION “T”**
*
* **JUDGE GREG G. GUIDRY**
*
* **MAGISTRATE JUDGE**
* **JANIS VAN MEERVELD**
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**MOTION TO FILE CERTAIN EXHIBITS TO
MOTION FOR SUMMARY JUDGMENT UNDER SEAL**

Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police (“Defendant” or the “State Police”), respectfully requests leave to file the following exhibits to its Motion for Summary Judgment under seal: Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly, which itself is Exhibit “G” to the Motion for Summary Judgment pursuant to the Protective Order entered in this case [Rec. Doc. 64] and Local Rule 5.6 and in accordance with the Memorandum attached hereto.

WHEREFORE, the State of Louisiana, through Department of Public Safety and Corrections, Office of State Police, respectfully requests that the Court grant this motion for leave and allow it to file Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly (itself Exhibit “G” to the Motion for Summary Judgment) under seal.

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ORDER

Considering the Motion to File Certain Exhibits Under Seal filed by Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police,

IT IS ORDERED that the Motion be and is hereby GRANTED. Balancing the public's the right of access to the documents against the possible harm that may result from the exposure of personal employment files of non-party State Police personnel, the Court finds that Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly, which itself is Exhibit ____ to the Motion for Summary Judgment, be sealed in the Court record for a period of five years from the completion of this litigation.

New Orleans, Louisiana, this ____ day of _____, 2024.

JUDGE

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**MEMORANDUM IN SUPPORT OF MOTION TO FILE CERTAIN EXHIBITS TO
MOTION FOR SUMMARY JUDGMENT UNDER SEAL**

Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police (“Defendant” or the “State Police”), respectfully requests leave to file the following exhibits to its Motion for Summary Judgment under seal: Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly, which itself is Exhibit “G” to the Motion for Summary Judgment pursuant to the Protective Order entered in this case [Rec. Doc. 64] and Local Rule 5.6.

The Fifth Circuit has held that to decide whether something should be sealed from the public record, a court must undertake a “document-by-document” balancing of the public’s “common law right of access against the interests favoring nondisclosure.” *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 521 (5th Cir. 2022). To the extent that any sealing is necessary, it must be “congruent to the need.” *Id.* (citing *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 417 (5th Cir. 2021)). Countervailing interests can “outweigh the right of public access,” so long as the party seeking to overcome the presumption of access shows that the interest in secrecy outweighs the presumption. *See Cox Operating, LLC v. Atina M/V*, No. CV 20-2845, 2023 WL 3092797, at

*1 (E.D. La. Apr. 26, 2023). Courts have held that possible harm may result if employee's personnel files are disclosed to the public. *See, e.g., Duling v. Gristede's Operating Corp.*, 266 F.R.D. 66 (S.D.N.Y. 2010) (finding possible harm from disclosure of personal information in employers' personnel files demonstrated a particular need for protection).

The State Police is cognizant of the presumption in favor of the public's access to judicial records, and, for that reason, is not seeking to seal any of the deposition transcripts or the memorandum in support. Instead, the State Police requests that the Court file Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly (itself Exhibit "G" to the Motion for Summary Judgment) under seal. These documents are eighteen "summary reports" created by State Police Internal Affairs and contain information on each candidate for the following categories: (1) State Police experience; (2) time in grade (time as a lieutenant); (3) Prior law enforcement experience; (4) education; (5) specialized training; (8) PES rating (i.e. performance evaluation rating); (9) Disciplinary action; (10) awards; and (11) commendations. There are typically four to eight candidates for each promotion represented on each summary report.

Other than John Stelly, none of the individuals on the summary reports are parties to this litigation. The State Police has an interest in keeping the personal, employment information of its troopers confidential from the public. Individuals who applied for captain positions from 2017-2021 should not have their personal information made public through this litigation.

In the alternative, if the Court determines these documents should be public, the State Police requests the Court allow it to redact any information included on the summary reports that is not relevant to the claims and/or defenses made in the lawsuit. For instance, Exhibit 3 to John Stelly's deposition contains the summary report for the September 1, 2017 captain promotion.

Chavez Cammon was awarded that promotion. Therefore, all identifying information related to the other individuals on that panel that are not Chavez Cammon or John Stelly should be redacted. The State Police requests authority to redact this information if the Court is inclined not to allow it to seal the documents.

The State Police requests the exhibits be sealed for a period of five years from the conclusion of this litigation to allow sufficient time to pass before the personal information of officers becomes public. The State Police requests that sealed documents not be made available through PACER or the clerk's office.

The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police, respectfully requests that the Court grant this motion for leave and allow it to file Exhibits 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 29, 20, and 21 to the Deposition of John Stelly (itself Exhibit "G" to the Motion for Summary Judgment) under seal.

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Counsel for Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police

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**EXHIBITS 3 - 9 AND 11 - 21 OF EXHIBIT "G" TO MEMORANDUM
IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
FILED UNDER SEAL**

Respectfully submitted,

**LIZ MURRILL
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