

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-03204-RBJ-NRN

LORI FRANK,

Plaintiff,

vs.

CITY OF FORT COLLINS, a municipality; and
JEROME SCHIAGER, former Deputy Chief of Police, in his individual capacity,

Defendant.

**DEFENDANT CITY OF FORT COLLINS MOTION TO RESTRICT
PUBLIC ACCESS TO EXHIBIT A**

Defendant City of Fort Collins, by and through its counsel, Cathy Havener Greer and Kathryn A. Starnella of Wells, Anderson & Race, LLC, and pursuant to D.C.COLO.LCivR. 7.2 move for leave to file the attached Exhibit A related to the City's Motion for Designation of Confidentiality Pursuant to Protective Order under restricted access, and states as follows:

CERTIFICATION PURSUANT TO D.C.COLO.LCivR. 7.1(a).

Counsel for the City of Fort Collins emailed all counsel on January 29, 2020 a list of portions of the deposition transcripts of Terry Jones, Erik Martin, and Greg Yeager to be designated as confidential under paragraphs 4 and 5c of the protective order entered May 8, 2019, (Doc#32). On February 6, 2020, Plaintiff's counsel emailed that she did not agree to any portion of the transcripts being designated confidential. Counsel for Plaintiff, counsel for Defendant Schiager, and undersigned counsel discussed the issue and Plaintiff's counsel opposes this Motion.

1. Defendants have contemporaneously filed a Motion for Designation of Confidentiality Pursuant to Protective Order.

2. Exhibit A to Defendant's Motion is comprised of excerpts of the transcripts of depositions of Erik Martin, Greg Yeager, and Terry Jones that the City's counsel requests be designated as confidential.

3. The Protective Order defines Confidential Information at paragraph 4 to include information, documents or material that are "protected by a statutory, regulatory, or common law right of privacy or protection, or otherwise contain nonpublic personal, personnel, employment...or other information implicating privacy interests...of the Plaintiff, any of the Defendants, or other persons, including non-parties, providing discovery in this case...".

4. The attached Exhibit A transcript portions designated by the City as confidential relate to information about non-parties and to personnel information that is considered by and treated by the City as confidential.

5. The public's interest to view said documentation is substantially outweighed by the privacy interests of non-parties to this matter, and the confidentiality of personnel matters of non-parties as specified in the Protective Order entered in this case.

6. No alternative to restriction will adequately protect the privacy interests in question.

7. Defendants request a Level 1 restriction in accordance with D.C.COLO.LCivR 7.2(b) with respect to Exhibit A.

WHEREFORE, the City of Fort Collins respectfully moves this Court to restrict public access to Exhibit A attached hereto as it relates to the City's Motion for Designation of

Confidentiality Pursuant to Protective Order for the reasons stated above. A proposed Order is filed herewith for the Court's consideration.

Dated this 21st day of February, 2020.

Respectfully submitted,

s/ Cathy Havener Greer

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, a true and correct copy of the above and foregoing **DEFENDANT CITY OF FORT COLLINS MOTION TO RESTRICT PUBLIC ACCESS TO EXHIBIT A** was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following email addresses:

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