UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, *et al.*,	)	
Plaintiffs,	)	
v.	)	
	)	Civ. No. 03-2006 (EGS/JMF)
RINGLING BROTHERS AND BARNUM & BAILEY CIRCUS, *et al.*,	)	
Defendants.	)	

PLAINTIFF TOM RIDER'S MOTION FOR A PROTECTIVE ORDER TO PROTECT HIS PERSONAL PRIVACY

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, for good cause and to protect plaintiff Tom Rider from "annoyance, embarrassment, [and] oppression," plaintiff Mr. Rider hereby moves for a protective order to prohibit defendants Ringling Brothers and Barnum & Bailey Circus and Feld Entertainment from discovering information concerning Mr. Rider's marital history and possible arrest record unrelated to whether Mr. Rider was actually convicted of any charges. For the same reasons plaintiffs also seek a protective order that would limit disclosure and dissemination only to defendants and the Court of certain information concerning Mr. Rider's military service and whether he has ever been convicted of a misdemeanor.

In support of this motion, Mr. Rider submits the accompanying memorandum of law and Exhibits A - H. In addition, pursuant to Rule 26(c), plaintiffs' counsel certifies that she has in good faith conferred with counsel for defendants in an effort to resolve this dispute without court

action, but that defendants have refused to discuss entering into a protective order with respect to these matters and instead, on October 30, 2006 – less than two weeks after seeking plaintiffs' position on this matter – filed a motion to compel public disclosure of all of the testimony at issue. See Defendant Feld Entertainment, Inc.'s Motion to Compel Testimony of Plaintiff Tom Eugene Rider and For Costs and Fees (Docket No. 101).

Respectfully submitted,

/s/
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November 13, 2006

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Defendants.	)	

MEMORANDUM IN SUPPORT OF PLAINTIFF TOM RIDER'S MOTION FOR A PROTECTIVE ORDER TO PROTECT HIS PERSONAL PRIVACY

Plaintiff Tom Rider has moved for a protective order to protect his personal privacy by prohibiting defendants from inquiring into matters concerning Mr. Rider's past marital history and whether Mr. Rider has ever been arrested, unrelated to whether he was actually convicted of any charges. Mr. Rider also seeks a protective order that would permit him to provide information to defendants concerning his military service and whether he has ever been convicted of a misdemeanor, but would protect such information from public disclosure. For the reasons discussed below, all such information is highly personal in nature, and, with respect to Mr. Rider's marital history and possible arrest record, also completely irrelevant to this proceeding.

BACKGROUND

In this case under the Endangered Species Act ("ESA"), 16 U.S.C. § 1531 et seq., plaintiffs challenge defendants' treatment of the endangered Asian elephants they use in their highly profitable commercial circus as violating the ESA's prohibition against the "take" of any endangered species, which includes actions that "harm," "harass," "wound," or "kill" endangered species. See 16 U.S.C. §§ 1538(a); 1532(19). Tom Rider, who was employed as a "barn man" by the Ringling Bros. Circus for two and a half years, is one of the plaintiffs in the case.

In their March 2004 written discovery directed to Mr. Rider, defendants did not make any inquiry regarding Mr. Rider's marital history or military background. See Rider Objections and Responses to Defendants' First Set of Interrogatories to Plaintiff Tom Rider (June 9, 2004) ("Rider Int. Resp."), Exhibit A. However, defendants did inquire about Mr. Rider's arrest record, and whether he had ever been convicted of either a misdemeanor or felony. See id. at 13. In response, Mr. Rider answered the question with respect to whether he had ever been convicted of a felony (he has not), see id., but objected to providing information with respect to possible arrests and misdemeanor convictions, on the grounds that such information was not relevant to this case, and because the question was "overly broad . . . vexatious, and seeks to invade his personal privacy." Id. Mr. Rider also specifically reserved his "right to object to further discovery into the subject matter" of defendants' Interrogatories. See id. at 2, ¶5.

In response to this objection, defendants took no further action for almost two and a half years. Thus, during that time defendants did not inquire further about these objections, require plaintiffs to seek a protective order with respect to this information, seek to compel the answers to these questions, or otherwise indicate in any way that they were dissatisfied with Mr. Rider's

responses or that they needed the answers to these questions in order to pursue their defense of this case. Indeed, although defendants originally noticed Mr. Rider's deposition for February 9, 2005, they still have not made any effort to actually depose him in this case.

However, on October 12, 2006, to preserve Mr. Rider's eye-witness testimony concerning the various ways in which Ringling Bros. mistreats the Asian elephants, the other plaintiffs in this action – the American Society of Prevention of Cruelty to Animals, The Fund for Animals, the Animal Welfare Institute, and the Animal Protection Institute – took Mr. Rider's deposition, as they are clearly entitled to do. See Transcript of Deposition of Tom Rider (Oct. 12, 2006), Exhibit B; see also Rule 30(a)(1) ("[a] Party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court") (emphasis added). On the day before the deposition, defendants faxed to plaintiffs – and filed with the Court - their "objections" to that deposition, in which they made clear their intention to take their own deposition of Mr. Rider at some point in the future. See Defendant's Objections To Plaintiffs' Preservation Deposition Of Plaintiff Tom Rider (Oct. 11, 2006), Exhibit C, at 2 ("FEI reserves its right under the Federal Rules to conduct a discovery deposition of Rider at the appropriate time and in the manner that FEI sees fit to conduct it").

During cross-examination at the October 12, 2006 deposition, defendants' counsel asked Mr. Rider – for the first time – questions about past marital disputes and his military service. See Rider Dep. Tr. at 157-58, 165-67. For the first time since March 2004, defendants' counsel also asked Mr. Rider whether he had ever been arrested for or convicted of either a misdemeanor or felony. See id. at 163-64. Mr. Rider again answered the question concerning whether he has ever been convicted of a felony. See id. However, his counsel objected to, and instructed Mr.

Rider not to answer, questions concerning his marital history, military service, and arrests and misdemeanor convictions, on the grounds that these questions constitute "an unwarranted invasion of [Mr. Rider's] personal privacy." See Rider Dep. Tr. at 157-67.

In response, defendants' counsel did not indicate at any time during the deposition that defendants would nevertheless insist on public answers to all of those questions, or that this matter needed to be immediately resolved by the Court. See id. However, the day after the deposition, by letter dated October 13, 2006, defendants did make clear – for the first time – that they wished to pursue all of these matters, and they inquired as to whether plaintiffs intended to move for a protective order regarding such discovery. See Letter from John Simpson to Katherine Meyer (October 13, 2006), Exhibit D.

By letter dated October 18, 2006, plaintiffs' counsel responded that, indeed, now that plaintiffs knew that defendants wished to pursue all of this information, Mr. Rider wished to enter into a stipulation by which he would agree to answer defendants' questions concerning his military service and whether he has ever been convicted of a misdemeanor, but defendants would agree that such information would not be publicly disclosed. See Letter from Katherine Meyer to John Simpson (October 18, 2006), Exhibit E, at 1. Plaintiffs also agreed to make Mr. Rider available by deposition to provide this information. Id. at 2.

However, with respect to Mr. Rider's marital history and whether he had ever been arrested for (but not charged) with a felony or misdemeanor, plaintiffs' counsel stated that, absent some showing that such information was somehow relevant to this proceeding, Mr. Rider would seek a protective order to excuse him from answering these extremely personal questions. See id. Explaining that she would be out of town on business for most of the week ending on

October 27, 2006, plaintiffs' counsel nonetheless advised defendants' counsel that, should defendants decline to accept plaintiffs' suggestions that the parties enter into a stipulated protective order concerning these matters, she would be prepared to file a motion for a protective order within "a few weeks." Id. at 2.

In response, defendants chose not to make any showing that Mr. Rider's marital history and possible arrests unrelated to convictions were somehow relevant to this proceeding, and they also declined to enter into any kind of protective order that would allow Mr. Rider to answer questions about his military service and any possible misdemeanor convictions, but ensuring that such information was not disclosed. See Letter from John Simpson to Katherine Meyer (October 20, 2006), Exhibit F. Rather, defendants explained that, because earlier in the litigation plaintiffs had objected to the entering of a blanket protective order that would have required all discovery in the case to be conducted in secret – a position that was upheld by the Court, see Order (November 25, 2003) (Docket No. 15) – defendants "see no need to now reverse that course and provide special protections for your client, Mr. Rider." Simpson Letter, Exhibit F.

Moreover, although defendants had not pursued any of this information from Mr. Rider for two and a half years, and had also just informed plaintiffs that defendants were not yet prepared to take their own discovery deposition of Mr. Rider, see Defendant's Objections, Exhibit C, their counsel nevertheless insisted that defendants were not willing to wait a "few weeks" to allow plaintiffs to file a motion for a protective order. Simpson Letter, Exhibit F. Thus, defendants' counsel stated that he would instead file a motion to immediately compel Mr. Rider's testimony on all of these points and seek sanctions against plaintiffs, which defendants have now done. See id.; see also Defendant Feld Entertainment, Inc.'s Motion to Compel

Testimony Of Plaintiff Tom Eugene Rider and For Costs and Fees (October 30, 2006) (Docket No. 101).

However, as Mr. Rider's counsel promised defendants she would do within a "few weeks" of October 18, 2006, Mr. Rider is now moving for a protective order regarding these matters, and plaintiffs are also today filing their opposition to defendants' completely unnecessary motion to compel. As demonstrated below, the protective orders requested by Mr. Rider are completely warranted under Rule 26(c) to protect his personal privacy.

ARGUMENT

Introduction

Rule 26(c) provides that "for good cause shown," the Court may enter a protective order to protect a party or person "from annoyance, embarrassment, [or] oppression," and that such an order may provide that the disclosure or discovery either not be had at all, or that it be allowed pursuant to "specified terms and conditions." Rule 26(c), Fed. R. Civ. P. As the Court of Appeals for this Circuit has observed, "Rule 26(c) is highly flexible, having been designed to accommodate all relevant interests as they arise," and the existence of "good cause" for a protective order "is a factual matter to be determined from the nature and character of the information sought." U.S. v. Microsoft, 165 F.3d 952, 959 (D.C. Cir. 1999).

It is well settled that such protective orders may include protection for matters that would invade an individual's personal privacy. See, e.g., Seattle Times Co. v. Rhinehart, 467 U.S. 20, 35 (1984) (recognizing that "[a]lthough [Rule [26(c)] contains no specific reference to privacy or to other rights or interests that may be implicated, such matters are implicit in the broad purpose and language of the Rule") (emphasis added); In re Sealed Case, 381 F.3d 1205, 1216 (D.C. Cir.

2004) ("[i]n exercising their discretion under the rule, courts have long recognized that interests in privacy may call for an extra measure of protection, even where information sought is not privileged") (emphasis added).

Thus, as the Court of Appeals has also observed, the "'court, in its discretion, is authorized . . . to fashion a set of limitations that allows as much relevant information to be discovered as possible, while preventing unnecessary intrusions into the legitimate interests – including privacy and other confidentiality interests – that might be harmed by the release of the material sought.'" In re Sealed Case, 381 F.3d at 1216 (internal citations omitted) (emphasis added).

Here, Mr. Rider seeks protective orders that would prohibit defendants from inquiring into his marital history and arrest record unrelated to convictions, and he seeks a much more limited protective order that would allow defendants to inquire into his military background and whether he has ever been convicted of a misdemeanor, but would restrict disclosure and dissemination of such information to defendants and the Court only. As demonstrated below, both protective orders are for "good cause" and necessary to protect Mr. Rider's personal privacy. Rule 26(c), Fed. R. Civ. P.

A. Defendants Should Be Prohibited From Inquiring About Mr. Rider's Marital History And Arrest Record Unrelated To Convictions.

At Mr. Rider's October 12, 2006 deposition, defendants for the first time attempted to have Mr. Rider answer questions concerning whether he had ever been involved in a custody dispute with his former wife, see Rider Dep. Tr. at 165-66, and, for the first time in two and a half years, defendants also pressed the issue of whether Mr. Rider had ever been arrested for any

felonies or misdemeanors for which he was not convicted. See Rider Dep. Tr. at 157-67; see also supra at 2-3 (explaining that although defendants had also asked this question in their March 2004 written discovery, they had not taken issue with Mr. Rider's objection to providing that information). Mr. Rider's counsel objected to these questions on the grounds that such information is completely irrelevant to this Endangered Species Act case and would require the disclosure of information that would constitute an unwarranted invasion of Mr. Rider's personal privacy. See id.

When, by letter dated October 13, 2006, defendants' counsel subsequently made clear that defendants nevertheless wished to pursue both lines of inquiry, plaintiffs immediately explained that, in the absence of some showing that this information is relevant to this case, Mr. Rider would be seeking a protective order to prohibit the disclosure of this information. See Letter from Katherine Meyer to John Simpson (Oct. 18, 2006), Exhibit E.

In response, defendants' counsel did not make any showing of relevance whatsoever. See Letter from John Simpson to Katherine Meyer (October 20, 2006), Exhibit F. Instead, as demonstrated supra at 4-5, defendants declined to enter into a protective order to protect Mr. Rider's personal privacy as retaliation for plaintiffs' refusal to agree to conduct all of the discovery in this case in secret, as defendants had desired but the Court had rejected. However, not only is this not a good faith basis for refusing to agree to a legitimate request for a protective order with respect to particularly sensitive information, but defendants' rendition of events is sorely lacking.

Thus, while it is true that, in light of the "strong presumption" in favor of open discovery established by the Federal Rules, see John Does I-VI v. Yogi, 110 F.R.D. 629, 632 (D.D.C.

1986), plaintiffs had refused to enter into a blanket protective order for all of defendants' discovery in this case – a position that was upheld by this Court, see Order (November 25, 2003) (Docket No. 15) – plaintiffs have in fact entered into several protective orders with respect to particular categories of records they requested from defendants, as defendants well know. Thus, pursuant to this Court's directive that protective orders may be appropriate in this case for "particular specified information . . . upon a showing of 'good cause,'" id., plaintiffs have agreed to such orders governing the production of certain of defendants' videotapes and certain medical records of the animals at issue in this case. See Joint Stipulated Protective Order Concerning Recordings of Ringling Bros. And Barnum & Bailey Circus Performances (Aug. 15, 2006) (Docket No. 77); Joint Stipulated Protective Order Regarding Video Recordings (Aug. 4, 2006) (Docket No. 76); Plaintiffs' Proposed Protective Order (Docket No. 49, Attachments 1 and 2) (regarding medical records containing information that "forms the basis of a specific research paper that defendants intend to publish in the near future"); Court's Order (September 26, 2005) (Docket No. 50) (approving plaintiffs' protective order for medical records).[1]

In light of this procedural history, it is simply not correct that, by seeking a protective order to protect particular information that involves Mr. Rider's personal privacy, plaintiffs seek to "reverse [] course" on the issue of protective orders and "provide special protections" for Mr. Rider. Simpson Letter, Exhibit F. Rather, in view of the fact that plaintiffs have agreed to

[1]With regard to the medical records in particular, although the Court approved a narrow protective order designed to protect particular records that relate to certain alleged research being conducted by defendants, see Court's Order (Docket No. 50), defendants have nevertheless improperly invoked that protective order with respect to over 18,000 pages of medical records, without demonstrating that any of those records relate to any forthcoming research paper. Here, in sharp contrast, Mr. Rider has more than amply demonstrated his entitlement to a protective order for matters related to his personal privacy.

protective orders for particular information requested of the corporate defendants, Mr. Rider's request that certain personal information be likewise protected under Rule 26(c) is completely consistent with the Court's November 25, 2003 directive.

Furthermore, as the Court of Appeals has explained, the decision to grant a protective order involves the balancing of several factors, including: (1) the burden of producing the information; (2) the information's relevance to the litigation; (3) the requester's need for the information; and (4) the harm that disclosure would cause the party seeking a protective order. See Burka v. United States Dep't of Health and Human Serv., 87 F.3d 508, 517 (D.C. Cir. 1986). Here, although it would not be that burdensome for Mr. Rider to answer questions about his marital history and any arrest record, none of this information is at all relevant to this proceeding, nor have defendants shown any particular need for this information. On the other hand, disclosure of such information would clearly invade Mr. Rider's personal privacy. Accordingly, pursuant to all of the factors that apply under Burka, the requested protective order should be granted for these two lines of inquiry.

1. Evidence of Marital Disputes

In the absence of some special circumstances as to why this information is somehow relevant here, it is well settled that a person's marital history is completely inadmissible in a matter that is completely unrelated to the case at hand, as is the situation presented here. See, e.g., U.S. v. Miles, No. CR90-092-01-J, 1992 WL 138612 (10th Cir. June 19, 1992) (divorce decree irrelevant to issues surrounding illegal distribution of drugs); U.S. v. Johnson, 64 Fed. Appx. 596 (8th Cir. 2003) (evidence of police officer's domestic conflicts not permitted because it "would have been more unfairly prejudicial than probative as required by Federal Rule of

Evidence 403");Miller v. U.S., 135 F.3d 1254 (8th Cir. 1998) (inquiry into instances of domestic violence not permitted since it was completely collateral to the issue raised in the case); U.S. v. Hoffa, 349 F.2d 20 (6th Cir. 1965) (evidence of domestic troubles was not admissible to impeach witness, where witness had not been convicted of any related offense and the attempted impeachment related to collateral matters); U.S. v. Edgecombe, 107 Fed. Appx. 532 (6th Cir. 2004) (witnesses' prior arrest for domestic violence could not be used to impeach him where witness had not been convicted for the offense); U.S. v. Key, 40 Fed. Appx. 545 (9th Cir. 2002) (trial court did not abuse discretion in disallowing evidence of domestic violence that was unrelated to drug charges for which the defendant was being tried).

In their recently filed motion to compel, defendants made not showing that the substance of any of Mr. Rider's martial disputes has any relevance to this proceeding whatsoever. Defendants suggest only that it is permissible for them to inquire about Mr. Rider's marital history because, in answer to their March 2004 Interrogatory asking him to identify all "civil litigation" to which he had ever been a party, Mr. Rider did not mention certain marital disputes that had been the subject of civil litigation fifteen years ago. See Def. Compel Mem. at 6. Hence, defendants contend, Mr. Rider's answers to these questions bear on his credibility as a reliable witness concerning whether defendants do in fact beat and strike their elephants with bullocks, keep the animals chained for most of the day and night, and forcibly remove baby elephants from their mothers, as plaintiffs have alleged in this case. See id.

However, not only is there plenty of evidence corroborating Mr. Rider's testimony on these matters – including defendants' own internal documents and videotapes, see, e.g., Plaintiffs' Opposition to Defendant's Motion for Summary Judgment (Docket No. 96) – but, as

soon as defendants inquired further about why Mr. Rider had not mentioned these marital disputes in his answer to their previous Interrogatory, Mr. Rider immediately agreed to answer that question. See Meyer Letter (Oct. 18, 2006), Exhibit E at 1 ("[we are also willing to have Mr. Rider answer questions at to why his Interrogatory Response concerning 'prior civil litigation' did not mention some marital disputes to which he has been a party"). However, defendants declined that offer and instead chose to file their motion to compel. See Simpson Letter (Oct. 20, 2006).

In fact, as the attached declaration from Mr. Rider explains, the reason he did not list those marital disputes with his ex-wife in response to this Interrogatory was quite simple:

> when I was providing that answer, it did not even occur to me that those kinds of matters are "civil litigation." . . . I am not a lawyer and did not realize that filings in court concerning marital disputes are "civil litigation."

Declaration of Tom Rider, ¶¶ 3-4, attached as Exhibit G; see also Rider Objections To Defendants' Interrogatories, Exhibit A, at 2 ("Mr. Rider objects to . . . each Interrogatory to the extent that it is vague, ambiguous [or] overly broad . . .").

However, since the specific question asked of Mr. Rider at the October 12, 2006 deposition concerning this matter would have required him to publicly confirm matters that have nothing to do with this case, and are highly personal, he should be granted a protective order to decline to answer such questions. See Rider Dep. Tr. at 165 ("[w]ere you a party to a case in 1998 that you filed in Illinois concerning the custody of your children") (emphasis added); see also supra at 10-11 (cases holding that such personal information is neither relevant nor admissible in a completely unrelated case).

2. Evidence of Arrests Unrelated to Convictions

It is also well settled that whether someone has been arrested – but not convicted – of a crime is also completely irrelevant and inadmissible. See, e.g., Wigmore on Evidence, Vol. IIIA, § 980a, p. 835 ("the fact of arrest or indictment is quite consistent with innocence, and . . . the reception of such evidence is merely the reception of somebody's hearsay assertion as to the witness' guilt); U.S. v. Musgrave, 483 F.2d 327, (5th Cir. 1973) ("the mere fact of arrest of indictment of a witness is not normally admissible for impeachment purposes"); Hill v. Greyhound Lines, 615 F.2d 886, 890 (9th Cir. 1980) (noting that "[s]ince arrest is not considered evidence of guilt, a citation should not be considered evidence of negligence" in a tort action arising out of a motor vehicle collision, and that "[t]he unfair prejudice that the claimant would suffer from a nonjudicial determination of improper driving outweighs the probative value of the citation on the issue of negligence").

Again, although asked to explain why such information is relevant in this case, defendants declined to do so. See Meyer Letter (Exhibit E); Simpson Letter (Exhibit F). Accordingly, and because such information clearly implicates Mr. Rider's personal privacy, the Court should grant Mr. Rider's request for a protective order for this information as well. See, e.g., Herbert v. Lando, 441 U.S. 153, 177 (1979) ("[t]he requirement of rule 26(b)(1) that the material sought in discovery be 'relevant' should be firmly applied, and the district courts should not neglect their power to restrict discovery where 'justice required [protection for] a party or person from annoyance, embarrassment, oppressions, or undue burden or expense"); see also Burka, 87 F.3d at 517 (in deciding whether to grant a protective order the court should weigh the relevance of the information against the harm that disclosure would cause the party seeking the

order) .

B. Mr. Rider Should Be Granted A Protective Order To Prohibit The Public Disclosure Of Information Concerning His Military Background And Any Misdemeanor Convictions.

Mr. Rider also requests that the Court enter a protective order under which he would provide to defendants information about his military background and whether he has ever been convicted of a misdemeanor, but would prohibit defendants from disclosing or disseminating such information to anyone else, other than the Court.

While Mr. Rider acknowledges that this information may arguably bear on his credibility in this case and hence is relevant, he sees no reason – and defendants have not provided any, other than their wish to retaliate against plaintiffs for refusing to enter into a blanket protective order for the entire case – to insist that Mr. Rider discuss these extremely personal matters in public. See Simpson Letter (Exhibit F). Although defendants suggest in the memorandum in support of their motion to compel that a protective order for such matters is completely unwarranted because the requested information concerns "matters of public record," see Memorandum in Support of Motion To Compel Testimony of Tom Rider (Docket No. 101) at 2, the fact that defendants believe that they have already obtained some information bearing on these matters from other sources does not justify defendants' desire to force Mr. Rider to discuss these extremely personal matters in public.[2]

[2]Moreover, some of these records – i.e., those that were apparently released to defendants by the military, see Defendants' Exhibit F, attached to their motion to compel – appear to have been released in violation of Mr. Rider's statutory rights under the Privacy Act, 5 U.S.C. § 552a, et seq. See, e.g., 5 U.S.C. § 552a(b) (prohibiting all government agencies from releasing to third parties personal information about an individual without the "prior written consent of" that person).

Accordingly, clearly Mr. Rider has demonstrated "good cause" for a protective order that will protect him from "annoyance, embarrassment, [or] oppression," by requiring that defendants not disclose or disseminate to anyone else such highly personal information. See also In re Sealed Case, 381 F.3d at 1216 (noting that "the court, in its discretion, is authorized by [Rule 26(c)] to fashion a set of limitations that allows as much relevant material to be discovered as possible, while preventing unnecessary intrusions into the legitimate interests – including privacy and other confidentiality interests – that might be harmed by the release of the material sought").

Indeed, forcing Mr. Rider and others seeking to enforce important remedial statutes such as the ESA to discuss such personal matters publicly would create a powerful deterrent for those with evidence of wrongdoing to come forward in the future – a result that is completely antithetical to both the Federal Rules and the public interest. See, e.g., Seattle Times v. Rhinehart, 467 U.S. at 36, n.22 (noting that, without the ability to protect their personal privacy through the use of a protective order, "individuals may well forgo the pursuit of their just claims," and that "[t]he judicial system will thus have made the utilization of its remedies so onerous that the people will be reluctant or unwilling to use it, resulting in frustration or a right as valuable as that of speech itself") (emphasis added); see also Rivera v. NIBCO, Inc., 364 F.3d 1057, 1065 (9th Cir. 2004) (noting that the chilling effect of refusing to enter a protective order in an employment discrimination case to protect an individual's personal privacy "unacceptably burdens the public interest"); Topo v. Dhir, 210 F.R.D. 76, 79 (S.D.N.Y. 2002) ("[t]he potential danger of deterring a plaintiff from having her day in court by inquiring into a non-relevant matter such as her immigration status is precisely the type of 'oppression' that Rule 26(c) was designed to prevent").

Accordingly, Mr. Rider should be granted the requested protective order, which would allow him to answer defendants' legitimate inquiries regarding his military background, as well as whether he has ever been convicted of a misdemeanor, without requiring Mr. Rider to discuss these highly personal matters in public.[3]

CONCLUSION

For the foregoing reasons, Mr. Rider's motion for a protective order should be granted.

Respectfully submitted,

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November 13, 2006

[3]Defendants suggest that they need information about Mr. Rider's military background to show that he provided "false"information when he omitted military service from the list of "every job" that he had held since he "completed high school." See Def. Compel Mem. at 8; Rider Int. Resp. (Exhibit A) at 4. However, not only has Mr. Rider never hid from defendants the fact that he served in the military, see e.g., Mr. Rider's Application for Employment at Ringling Bros., Feld 0004826 (Exhibit H), but when Mr. Rider testifies further about this matter, subject to an appropriate protective order, he can explain why his Interrogatory Response is accurate concerning when, in relation to receiving his high school diploma, he served in the military.