

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

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DONALD HITCHCOCK,)	
)	
Plaintiff,)	
v.)	Civil Action No. 07-003040
)	Judge Jeanette Clark
DNC SERVICES CORPORATION, D/B/A)	Next Event: Mediation
DEMOCRATIC NATIONAL)	July 31, 2008 – 11:00 a.m.
COMMITTEE, <i>et al.</i>,)	
Defendants.)	
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ORDER DENYING DEFENDANT DNC’S MOTION FOR PROTECTIVE ORDER

Upon consideration of defendant Democratic National Committee’s (“DNC”) Motion for a Limited Protective Order, Plaintiff’s opposition thereto, DNC’S Reply, Plaintiff’s Response, and the record herein, the Motion is denied.

I. FACTUAL AND PROCEDURAL HISTORY

On January 2, 2008, the Court granted the parties’ Joint Motion for Entry of Stipulated Confidentiality Agreement and Protective Order to treat certain documents as “Confidential Information” and to use them as set forth in the stipulated order. The DNC filed a Motion for Limited Protective Order on January 30, 2008; Plaintiff filed an Opposition thereto on February 5, 2008; a Reply brief was filed by the DNC on February 11, 2008; and on February 12, 2008, Plaintiff filed a Response to Defendant’s Motion for a Limited Protective Order.

II. STANDARD OF REVIEW

Pursuant to Super. Ct. Civ. R. 26(c), the trial court may grant a protective order “[u]pon motion by a party or by the person from whom discovery is sought, and for good cause shown may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense

. . .” The D.C. Court of Appeals has explained that:

‘To prevent abuse of the discovery process, the order may impose specific terms and conditions for discovery and may require that confidential information be disclosed in a certain manner, or not be disclosed at all.’ *Mampe v. Ayerst Labs.*, 548 A.2d 798, 803 (D.C. 1988); *see also Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 82 L. Ed. 2d 17, 104 S. Ct. 2199 (1984).

Roberts-Douglas v. Meares, 624 A.2d 405, 416 (D.C. 1992). Indeed, “a court has substantial discretion in deciding to grant a protective order, and its decision to do so will not ordinarily be disturbed on appeal unless that discretion has been abused. (citation omitted).” *Mampe, supra* at 803.

As an initial matter,

“[b]efore a protective order may be entered , . . . , the party seeking it must make a showing of good cause, stating with some specificity how it may be harmed by the disclosure of a particular document or piece of information (citations omitted).

Id. Next,

“[t]he burden then shifts to the party seeking discovery to establish that the disclosure is both relevant and necessary to the action To show necessity, the party seeking discovery must demonstrate that the information is necessary to the preparation of its case for trial, including proving its own theories and rebutting those of its opponent. (citation omitted).”

Id.

III. ANALYSIS

In the instant action, the DNC seeks an order to prohibit “the parties, their counsel, their employees, agents and all those acting in concert with them” from “disseminat[ing] or reveal[ing] any document produced during discovery in this case, any transcript of any deposition or any exhibit to a deposition, or information contained therein or summaries or notes made therefrom to any person or entity other than [certain exceptions].” DNC’s Proposed Order at 1. In other words, the DNC, requests “a limited protective order simply prohibiting the parties from disseminating documents and deposition transcripts to the public.” Motion at 6.

The overly broad request made by the DNC would be onerous and difficult to enforce if the intent was to prohibit disclosure of discovery materials to the public which are not currently covered by the existing Stipulated Confidentiality Agreement and Protective Order that was issued by the Court on January 2, 2008. On the other hand, the DNC, would allow discovery materials to be attached to pleadings filed in court. *See* DNC Proposed Order at 2. Therefore, such information that was not filed under seal with the court, would be disclosed to the public and could raise similar objections by the DNC.

Moreover, the record evidence shows that both parties have admitted that they or their agents have disclosed information to the news media or over the internet. Motion at 6; Plaintiff’s Response to Defendant’s Motion for Limited Protective Order at 5. Furthermore, although the DNC extensively complains about the e-mails regarding Rev. Daughtry, such information was not generated as a result of the instant case and could not have been subject to a protective order, if one had been issued. The e-mails concerning Rev. Daughtry appear to have been generated by third parties, not subject to the

jurisdiction of this Court in this case. On the other hand, the two internal DNC e-mails were produced by the DNC during discovery and published in a media outlet in January 2008. Furthermore, Mr. Bond's transcripts were generated in the context of the discovery conducted in the instant case and were leaked to the press. *See* Defendant's Motion at 6.

However, the court does not find that the DNC has shown good cause as to how it would be harmed by disclosure of *all* future discovery materials. As to the second prong of the court's inquiry under *Mampe, supra*, the Court notes that the DNC is not seeking to prevent the disclosure of information to Plaintiff. Rather, the DNC seeks to limit the distribution of discovery materials to third parties who are not connected to the litigation.

To be sure,

[P]retrial depositions and interrogatories are not public components of a civil trial. Such proceedings were not open to the public at common law, *Gannett Co. v. DePasquale*, 443 U.S. 368, 389 (1979), and, in general, they are conducted in private as a matter of modern practice. (citations omitted). Much of the information that surfaces during pretrial discovery may be unrelated, or only tangentially related, to the underlying cause of action. Therefore, restraints placed on discovered, but not yet admitted, information are not a restriction on a traditionally public source of information.

Seattle Times, supra at 33; *Mokhiber v. Davis*, 537 A.2d 1100, 1111 (D.C. 1988).

Notwithstanding the fact that the public at large has no constitutional right to pretrial discovery, the DNC has failed to "state[] with some specificity how it may be harmed by the disclosure of a particular document or piece of information. (citation omitted)."

Mampe, 548 A.2d at 804. The court went on to state that "[i]t has not shown how it would be harmed or embarrassed by public disclosure of particular documents." *Id.*

(emphasis added). Accordingly, the Court is constrained to deny the Motion because the DNC has not met its burden of articulating sufficient facts in support of its Motion to

limit the dissemination of discovery. Therefore, good cause was not shown to grant the Motion.

III. CONCLUSION

For the reasons stated above, the Motion is denied.

WHEFORE, it is this 20th day of May 2008

ORDERED, that the DNC's Motion is **DENIED**.



Judge Jeanette Clark
DC Superior Court

Copies e-filed to and docketed on this 20th day of May 2008:

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