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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BECKY CRESPO,
Plaintiff,
v.
TARGET CORPORATION, et al.
Defendant.

Case No. CV 16-6317 MWF (SS)
**MEMORANDUM AND ORDER RE:
STIPULATED PROTECTIVE ORDER
(Dkt. No. 15)**

The Court has received and considered the parties' "Stipulated Protective Order" (the "Proposed Order"). (Dkt. No. 15). The Court cannot adopt the Proposed Order as drafted by the parties. The parties may submit a revised proposed stipulated protective order, but must correct the following deficiencies.

First, the Proposed Order fails to include an adequate statement of good cause. (Proposed Order at 1-2, ¶1-2). The Court may only enter a protective order upon a showing of good cause. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006) (parties must make a "particularized showing" under Rule

1 26(c)'s good cause showing for the court to enter protective
2 order); Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-12 (9th
3 Cir. 2002) (Rule 26(c) requires a showing of good cause for a
4 protective order); Makar-Wellbon v. Sony Electrics, Inc., 187
5 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
6 require good cause showing).

7
8 In any revised proposed stipulated protective order submitted
9 to the Court, the parties must include a statement demonstrating
10 good cause for entry of a protective order pertaining to the
11 documents or information described in the order. The paragraph
12 containing the statement of good cause should be preceded by a
13 heading stating: "GOOD CAUSE STATEMENT." The parties shall
14 articulate, for each document or category of documents they seek
15 to protect, the specific prejudice or harm that will result if no
16 protective order is entered. Foltz, 331 F.3d at 1130 (citations
17 omitted).

18
19 Second, the Proposed Order is overbroad. (Proposed Order at
20 2, ¶ 2). A protective order must be narrowly tailored and cannot
21 be overbroad. Therefore, the documents, information, items or
22 materials that are subject to the protective order shall be
23 described in a meaningful and specific fashion (for example
24 "personnel records," "medical records," or "tax returns," etc.).
25 Here, the parties define confidential information as "any
26 Confidential Material produced or filed in this Lawsuit as
27 confidential subject to the terms of this Order by marking such
28 materials ('Confidential')." (Proposed Order at 2, ¶ 2). This

1 definition does not clearly place the parties or the Court on
2 notice of the specific documents covered by the Proposed Order. As
3 such, the definition is overbroad. The documents subject to a
4 protective order must be particularly defined and described. The
5 parties may submit a revised proposed stipulated protective order,
6 but must correct this deficiency.

7
8 In the alternative, if the parties seek a "blanket" protective
9 order, as opposed to an order protecting individually-identified
10 documents, the stipulation must state the justification for this
11 type of protective order. See Blum v. Merrill Lynch Pierce Fenner
12 & Smith, Inc., 712 F.3d 1349, 1352 n.1 (9th Cir. 2013) (defining a
13 "blanket" protective order as an order that is obtained without
14 "making a particularized showing of good cause with respect to any
15 individual document") (citing Foltz v. State Farm Mut. Auto. Ins.
16 Co., 331 F.3d 1122, 1138 (9th Cir. 2003)); Perry v. Brown, 667 F.3d
17 1078, 1086 (9th Cir. 2012) (blanket protective orders often cover
18 materials that would not qualify for protection if subjected to
19 individualized analysis).

20
21 Third, a protective order may not bind the Court. (Proposed
22 Order at 2, ¶ 4). Any revised proposed stipulated protective order
23 may not include language that binds the Court.

24
25 Fourth, parties must follow procedures from Local Rule 79 for
26 submitting confidential information to the court. (Proposed Order
27 at 3-4, ¶ 9-10). The Court cannot agree that all documents
28 designated "CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER"

1 shall be filed under seal. (Id.). If confidential material is
2 included in any papers to be filed in Court, such papers shall be
3 accompanied by an application pursuant to Local Rule 79, to file
4 the papers - or the confidential portion thereof - under seal. The
5 application shall be directed to the judge to whom the papers are
6 directed. Pending the ruling on the application, the papers or
7 portions thereof subject to the sealing applications shall be
8 lodged under seal.

9
10 Fifth, the Court will not agree to have any of its personnel
11 be bound by the terms of a protective order. (Proposed Order at
12 4, ¶10). The parties should not include any language in a revised
13 prospective stipulated protective order that obligates the Court
14 to act in a certain manner in relation to the confidential
15 documents. If the parties choose to submit a revised stipulation,
16 the parties should delete all references to the "Clerk of the
17 Court" or any other court personnel.

18
19 Finally, the Court will not agree to the procedures the
20 parties propose in the event of a dispute regarding the designation
21 of confidential information. (Proposed Order at 4-5, ¶ 12, 15).
22 In the event of a dispute regarding the designation of confidential
23 information, the procedure for obtaining a decision from the Court
24 is that set forth in Local Rule 37. If the parties want to file
25 the Joint Stipulation required by Local Rule 37 under seal, the
26 parties may file a stipulation to that effect or the moving party
27 may file an ex parte application making the appropriate request.
28 The parties must set forth good cause in the stipulation or ex

1 parte application as to why the Joint Stipulation or portions
2 thereof should be filed under seal.

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All future discovery documents shall include the following in the caption: "[**Discovery Document: Referred to Magistrate Judge Suzanne H. Segal**]." The Court's website (see <http://www.cacd.uscourts.gov>) contains additional guidance regarding protective orders and a sample protective order. This information is available in Judge Segal's section of the link marked "Judges' Procedures & Schedules." The parties may submit a revised Stipulation and [Proposed] Protective Order for the Court's consideration.

IT IS SO ORDERED.

DATED: April 13, 2017

/s/

SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE