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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 ROBERT DUANE FRANKLIN,

12 Plaintiff,

No. 2:07-cv-2259 FCD KJN P

13 vs.

14 G. DUDLEY,

15 Defendant.

ORDER

16 _____/
17 Introduction

18 Plaintiff, a state prisoner proceeding without counsel, seeks relief pursuant to 42
19 U.S.C. § 1983. Pending before the court is plaintiff's motion for a protective order regarding
20 deposition testimony, filed on March 12, 2010, and plaintiff's motion to compel filed on March
21 17, 2010.

22 Motion for Protective Order

23 "It is well-established that [under the Federal Rules of Civil Procedure,] the fruits
24 of pretrial discovery are, in the absence of a court order to the contrary, presumptively public."
25 San Jose Mercury News, Inc. v. United States District Court-Northern District, 187 F.3d 1096,
26 1103 (9th Cir. 1999). Rule 26(c), which governs the granting of a protective order, "authorizes a

1 district court to override this presumption where ‘good cause’ is shown.” San Jose Mercury
2 News, 187 F.3d at 1103. Rule 26(c) confers “broad discretion on the trial court to decide when a
3 protective order is appropriate and what degree of protection is required.” See Seattle Times Co.
4 v. Rhinehart, 467 U.S. 20, 36 (1984).

5 To obtain a protective order, the party resisting discovery or seeking limitations
6 must, under Rule 26(c), show good cause for its issuance. “For good cause to exist, the party
7 seeking protection bears the burden of showing specific prejudice or harm will result if no
8 protective order is granted.” Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir.
9 2002). “Broad allegations of harm, unsubstantiated by specific examples or articulated
10 reasoning, do not satisfy the Rule 26(c) test.” Beckman Indus., Inc. v. Int’l Ins. Co., 966 F.2d
11 470, 476 (9th Cir. 1992).

12 Additionally, a court will not grant a motion to seal documents unless the
13 proponent makes a particularized showing either that the record is one traditionally kept secret or
14 that there is a compelling reason for sealing the document. Kamakana v. City and County of
15 Honolulu, 447 F.3d 1172, 1178-79 (9th Cir. 2006). Compelling reasons that would outweigh the
16 public's interest in disclosure include the likelihood the record would be used for an improper
17 purpose, such as to gratify private spite, promote public scandal, circulate libelous statements or
18 release trade secrets. Nixon v. Warner Communications, 435 U.S. 589, 598 (1978).

19 Plaintiff’s motion is severely deficient. Plaintiff requests the protective order to
20 prevent annoyance, embarrassment and oppression, yet presents no arguments why the subject of
21 the testimony would lead to this result. Plaintiff has failed to set forth compelling reasons in
22 favor of a protective order, thus the motion is denied.

23 Motion to Compel

24 On March 17, 2010, plaintiff filed a motion to compel answers to interrogatories.
25 Unbeknownst to plaintiff, on the same day, March 17, 2010, defendant filed a motion for an
26 extension to serve discovery responses as discovery was scheduled to expire on March 26, 2010.

1 The court granted defendant's extension and granted defendant until April 22, 2010, to serve her
2 discovery responses. On April 7, 2010, defendant filed an opposition to plaintiff's motion to
3 compel and indicated that due to the extension to serve discovery responses the motion to compel
4 was moot. Though not explicitly stated, the court assumes that defendant has served the
5 discovery responses or will serve them by April 22, 2010.

6 Plaintiff's motion to compel is most likely moot as the discovery responses will
7 be served, therefore plaintiff's motion to compel is vacated. However, as the court is not aware
8 of plaintiff's requests and what defendant intends to serve in response, plaintiff will be granted
9 until April 30, 2010, to file any further motion to compel. Plaintiff is cautioned, however, that he
10 should only file a further motion to compel if it is absolutely necessary.


11 Accordingly, IT IS HEREBY ORDERED that

12 1. Plaintiff's motion for a protective order, filed on March 12, 2010, is denied.

13 2. Plaintiff's motion to compel, filed on March 17, 2010, is vacated.

14 3. Plaintiff has until April 30, 2010, to file a new motion to compel, only if
15 necessary.

16 DATED: April 13, 2010

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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