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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NATHAN HANSFORD,

No. 2:08-cv-02232-MCE-KJN

Plaintiff,

v.

MEMORANDUM AND ORDER

SOLANO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,  
and DOES 1-50, inclusive,

Defendant.

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Presently before the Court is Defendant County of Solano's ("Defendant") Request for Reconsideration by the District Court of Magistrate Judge's Ruling (ECF No. 62). Defendant seeks reconsideration of the magistrate judge's denial of its Motion for a Protective Order limiting or precluding the production of the personnel files of one former and five current Solano County employees. For the following reasons, Defendant's Request is DENIED.

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1 **BACKGROUND**

2  
3 Plaintiff Nathan Hansford ("Plaintiff") filed his Complaint  
4 against Defendant, Plaintiff's employer, on July 21, 2008,  
5 alleging causes of action under state law for unlawful  
6 discrimination, harassment and retaliation based on religion. In  
7 October of 2009, Plaintiff propounded a variety of discovery  
8 requests on Defendant, including document requests demanding the  
9 production of the personnel files of five of Defendant's  
10 employees and one of its former employees, none of whom are  
11 parties to this action. Declaration of Wendy Musell, ¶ 2.  
12 Defendant failed to respond to those discovery requests for  
13 approximately a year and a half. Id., ¶ 12. In the meantime,  
14 Plaintiff had already sought a motion to compel responses to,  
15 among other things, the above document requests, and Defendant  
16 had filed a motion for a protective order seeking to limit or  
17 preclude production of the personnel files. Id., ¶ 11.

18 Prior to the genesis of the above dispute, the parties, in  
19 June of 2009, had nonetheless entered a stipulated protective  
20 order pertaining specifically to the handing and confidentiality  
21 of personnel files. This Court approved that protective order on  
22 June 30, 2009, over two years ago.

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1 On June 17, 2011, the magistrate judge granted Plaintiff's  
2 motion to compel and, as pertinent here, denied Defendant's  
3 request for a protective order. The magistrate judge found that  
4 Defendant waived its objections to production by failing to  
5 timely respond to Plaintiff's requests and ordered Defendant to  
6 provide the requested personnel files, subject to the existing  
7 protective order and subject to further redactions of home  
8 address information and any health, tax, credit or social  
9 security information. Defendant now seeks reconsideration of the  
10 magistrate judge's ruling and asks this Court to grant  
11 Defendant's request for a protective order and to either further  
12 limit the scope of discovery or to subject the personnel files to  
13 in camera review.

14  
15 **STANDARD**  
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17 In reviewing a magistrate judge's determination, the  
18 assigned judge shall apply the "clearly erroneous or contrary to  
19 law" standard of review set forth in Local Rule 303(f), as  
20 specifically authorized by Federal Rule of Civil Procedure 72(a)  
21 and 28 U.S.C. § 636(b)(1)(A). Under this standard, the Court  
22 must accept the magistrate judge's decision unless it has a  
23 "definite and firm conviction that a mistake has been committed."  
24 Concrete Pipe & Products of Cal., Inc. v. Constr. Laborers  
25 Pension Trust for So. Cal., 508 U.S. 602, 622 (1993).

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1 If the Court believes the conclusions reached by the magistrate  
2 judge were at least plausible, after considering the record in  
3 its entirety, the Court will not reverse even if convinced that  
4 it would have weighed the evidence differently. Phoenix Eng. &  
5 Supply Inc. v. Universal Elec. Co., Inc., 104 F.3d 1137, 1141  
6 (9th Cir. 1997).

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8 **ANALYSIS**  
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10 Nothing before this Court indicates the magistrate judge  
11 clearly erred. First, it is well-settled that a failure to  
12 respond to discovery requests waives objections, including those  
13 based on privilege. Davis v. Fendler, 650 F.2d 1154, 1160 (9th  
14 Cir. 1981). In addition, the privacy rights of the third-party  
15 employees implicated in this case are not absolute. Rather,  
16 those rights "may be abridged to accommodate a compelling public  
17 interest. One such interest...is the historically important  
18 state interest of facilitating the ascertainment of truth in  
19 connection with legal proceedings." Moskowitz v. Superior Court,  
20 137 Cal. App. 3d 313, 315-16 (1982) (internal citations and  
21 quotations omitted). Documents directly relevant and essential  
22 to the subject matter of the litigation are discoverable. Britt  
23 v. Superior Court, 20 Cal. 3d 844, 859 (1978). Plaintiff seeks  
24 the personnel records of individuals allegedly responsible for,  
25 or who had knowledge of, the claimed harassment, discrimination  
26 and/or retaliation. These records are entirely relevant to  
27 Plaintiff's claims. See Ragge v. MCA/Universal Studios, 165  
28 F.R.D. 601, 604 (C.D. Cal. 1995).

1 Moreover, since production of the records is subject to an  
2 existing protective order and since the magistrate judge limited  
3 the most recent production order to further exclude, for example,  
4 health, tax, and financial information, Defendant has failed to  
5 point to any clear error here.

6  
7 **CONCLUSION**  
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9 Accordingly, Defendant's Request for Reconsideration by the  
10 District Court of Magistrate Judge's Ruling (ECF No. 62) is  
11 hereby DENIED.

12 IT IS SO ORDERED.

13 Dated: July 28, 2011

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16 MORRISON C. ENGLAND, JR.  
17 UNITED STATES DISTRICT JUDGE  
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