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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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12 SERGIO L. RAMIREZ, on behalf of
himself and all others similar situated,

13 Plaintiff,

14 v.

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16 TRANS UNION, LLC,

17 Defendant.
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Case No.: 3:12-cv-00632 JSC

**ORDER RE: JOINT STATEMENT OF
DISCOVERY DISPUTE (Dkt. No. 28)**

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20 Pending before the Court is the parties' Joint Statement Regarding Discovery Dispute
21 (Dkt. No. 28) which concerns entry of a protective order in this action. The Court finds that
22 the Motion is suitable for determination without oral argument, pursuant to Civil Local Rule
23 7-1(b). Having considered the papers submitted to the Court, the Court declines to enter the
24 protective order proposed by Defendant.

25 A party seeking to place documents under seal must meet the requirements of Civil
26 L.R. 79-5 and Ninth Circuit case law. Contratto v. Ethicon, Inc., 227 F.R.D. 304, 307 (N.D.
27 Cal. 2005). The Ninth Circuit holds that under Federal Rule of Civil Procedure 26(c) "the
28 party asserting good cause bears the burden, for each particular document it seeks to protect,
of showing that specific prejudice or harm will result if no protective order is granted." Foltz

United States District Court
Northern District of California

1 v. State Farm Mut. Aut. Ins. Co., 331 F.3d 1122, 1130 (9th Cir. 2003). “[B]road allegations
2 of harm, unsubstantiated by specific examples or articulated reasoning do not satisfy the Rule
3 26(c) test.” Beckman Indus., Inc. v. Int’l Ins. Co., 966 F.2d 470, 476 (9th Cir. 1992). The
4 court has broad discretion to “to decide when a protective order is appropriate and what
5 degree of protection is required.” Phillips v. Gen. Motors, 307 F.3d 1206, 1211 (9th Cir.
6 2002) (internal citations omitted).

7 Parties are encouraged to sign stipulated protective orders to facilitate the exchange of
8 materials in the discovery process; however, parties should be mindful of the “strong
9 presumption in favor of access to court records” and the requirement that a party establish
10 good cause for maintaining a document’s confidentiality in any court proceeding. See
11 Hagestad v. Tragesser, 49 F.3d 1430, 1434 (9th Cir. 1995). To this end, the Model Stipulated
12 Protective Order approved by the Northern District states that if there is a dispute regarding a
13 document’s confidentiality, the burden is on the party asserting that a document is
14 confidential to file a motion with the court seeking to retain the document’s confidentiality.

15 Here, Defendant seeks entry of a protective order which would shift the burden to the
16 party challenging the confidentiality designation to file a motion with the Court. Although
17 the language of the protective order states that the burden of persuasion in any such motion
18 remains on the party asserting that the challenged materials are confidential, the protective
19 order clearly shifts the initial burden to challenge the designation to the party challenging the
20 designation. This is inconsistent with Ninth Circuit case law. Defendant has offered no basis
21 for shifting the burden other than that the Court adopted a similar *stipulated* protective order
22 in another unrelated action in the Northern District. The Court finds this rationale insufficient
23 and declines to shift the burden in this case.

24 Accordingly, the Court declines to enter the protective order proposed by Defendant;
25 however, the Court would entertain a motion for protective order based on the Northern
26 District of California Model Stipulated Protective Order.

27 This Order disposes of Docket No. 28.

28 **IT IS SO ORDERED.**

United States District Court
Northern District of California

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Dated: July 25, 2012



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE