

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RYAN McFADYEN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:07CV953
)	
DUKE UNIVERSITY, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on a Motion for Confidentiality Protective Order [Doc. #271], in which Defendant Duke University seeks a protective order that will apply with respect to documents disclosed during discovery and designated by the parties as confidential. Plaintiffs agree that a blanket protective order is appropriate. Although Plaintiffs initially disagreed as to the contents of the order, the parties have now submitted a Stipulated Protective Order for consideration.

Blanket protective orders are often used to minimize discovery problems and to promote and expedite unrestricted discovery without Court intervention. *Cf. Longman v. Food Lion, Inc.*, 186 F.R.D. 331, 333 (M.D.N.C. 1999) (noting that, in a case involving “hundreds of documents containing confidential business information,” a blanket protective order was “essential to the efficient functioning of the discovery process”). The protection provided by such a protective order is often necessary since “discovery also may seriously implicate privacy interests of litigants and third parties.” *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 34-35 (1984) (“Liberal discovery is provided for the sole purpose of assisting in the preparation and

trial, or the settlement, of litigated disputes. Because of the liberality of pretrial discovery permitted by Rule 26(b)(1), it is necessary for the trial court to have the authority to issue protective orders conferred by Rule 26(c).”).

In the present case, having considered the information presented, the Court concludes that good cause exists to support entry of a protective order in this case with respect to the categories of documents proposed by both of the parties. All of the materials identified are materials that would ordinarily remain confidential. In addition, under the proposed protective order, material must be designated by the parties in good faith, and opposing parties have the opportunity to contest the designation. To the extent that the parties originally disputed minor provisions of the terms of the protective order, such as timing provisions and procedural mechanisms, the Court finds that the provisions set out in the Stipulated Protective Order are reasonable and consistent with the Court’s prior orders. Therefore, the Court will grant the Motion for Confidentiality Protective Order.

However, the Court does not at this time make any determination as to whether any of the information designated as confidential under the Protective Order meets the relevant standards for being filed under seal for dispositive or substantive filings with the Court. In this regard, blanket protective orders are limited by the concerns set out in Haas v. Golding Transport, Inc., No. 1:09CV116, 2010 WL 1257990 (M.D.N.C. March 26, 2010). Therefore, to the extent that either party would seek to file documents under seal, the party filing the document must file a motion to seal, and the party asserting confidentiality must set out a sufficient justification therefor, for consideration by the Court under the procedures and

standards set out by the Court of Appeals for the Fourth Circuit. See Virginia Dep't of State Police v. Washington Post, 386 F.3d 567, 576 (4th Cir. 2004) (noting that on a motion to seal, the court “must determine the source of the right of access with respect to each document, . . . [and] must then weigh the appropriate competing interests under the following procedure: it must give the public notice of the request to seal and a reasonable opportunity to challenge the request; it must consider less drastic alternatives to sealing; and if it decides to seal it must state the reasons (and specific supporting findings) for its decision and the reasons for rejecting alternatives to sealing.” (internal citations omitted)). These requirements are adequately addressed in the proposed Stipulated Protective Order at Paragraph 21, which sets out a procedure that includes filing a separate Motion to Seal with respect to any confidential documents filed with the Court as part of dispositive or other substantive, non-discovery-related filings. Therefore, the Motion for Protective Order will be granted, and the Court will enter the proposed Stipulated Protective Order in this case.

IT IS THEREFORE ORDERED that the Motion for Confidentiality Protective Order [Doc. #271] is GRANTED and the Stipulated Protective Order on Confidentiality is entered contemporaneously herewith.

This, the 24th day of July, 2012.

/s/ Joi Elizabeth Peake
United States Magistrate Judge