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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 ABRAHAM GHORBANIAN, D.D.S.,

Case No. C14-1396 RSM

9 Plaintiff,

ORDER DENYING MOTION FOR  
PROTECTIVE ORDER

10 v.

11 GUARDIAN LIFE INSURANCE  
12 COMPANY OF AMERICA, *et al.*,

13 Defendants.

14 **I. INTRODUCTION**

15 THIS MATTER comes before the Court on Defendants' Motion for Protective Order to  
16 Limit Further Inquiry During the Deposition of Dr. Haghightapour. Dkt. #102. Specifically,  
17 Defendants seek an Order prohibiting further questions about Dr. Haghightapour's immigration  
18 status and religion on the basis that such questions go beyond what is permitted to impeach the  
19 credibility of a non-party witness. Dkt. #105 at 1. Plaintiff opposes the motion, arguing that he  
20 does not seek to question Dr. Haghightapour about his immigration status, but rather to  
21 question him about past inconsistent representations made to the Court, which goes to his  
22 credibility. Dkt. #104. Plaintiff further argues that Dr. Haghightapour has made inconsistent  
23 statements about his religion, which also goes to his credibility. *Id.* Finally, Plaintiff argues  
24 that Defendants lack standing to bring this motion. *Id.* For the reasons set forth herein, the  
25 Court now DENIES Defendants' motion.  
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ORDER  
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## II. BACKGROUND

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2 As part of discovery in this matter, the parties deposed non-party witness Dr. Mohsen  
3 Haghghatpour, a dentist who formerly practiced with Plaintiff. Dkt. #103, Ex. A. During the  
4 deposition, Plaintiff's counsel attempted to question Dr. Haghghatpour about statements he  
5 made during an immigration proceeding of his. *Id.* at 97:3-101:2. Dr. Haghghatpour  
6 responded that he did not want to answer questions without his attorney. *Id.* At the same time,  
7 Defendants' counsel, although not representing Dr. Haghghatpour, objected on the basis of  
8 relevance, and informed the witness that he was not required to answer the deposition  
9 questions. *Id.* Dr. Haghghatpour went on to state that he did not understand "technical"  
10 questions in English, and requested that he be allowed to get an attorney and an interpreter. *Id.*  
11 at 101:3-103:2. He then refused to answer questions regarding statements he had made about  
12 his religion in various legal proceedings. *Id.* at 103:7-104:25. Again, Defendants' counsel  
13 made relevance objections and informed the witness that he could have an attorney present  
14 before answering questions. *Id.* Over the course of the remainder of the deposition, Dr.  
15 Haghghatpour continued to refuse to answer questions, became very agitated, and eventually  
16 stated he was going to report Plaintiff's counsel "to the bar." Dkt. #104-1, Ex. 4 at 174:1-25.  
17 Ultimately, Plaintiff's counsel suspended the deposition so that Dr. Haghghatpour could secure  
18 counsel. *Id.* at 177:1-7. The instant motion followed.  
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## III. DISCUSSION

### A. Legal Standard

22 Under Federal Rule of Civil Procedure 26(b)(1):

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26 Parties may obtain discovery regarding any nonprivileged matter that is  
27 relevant to any party's claim or defense and proportional to the needs of the  
28 case, considering the importance of the issues at stake in the action, the  
amount in controversy, the parties' relative access to relevant information,

1 the parties' resources, the importance of the discovery in resolving the  
2 issues, and whether the burden or expense of the proposed discovery  
3 outweighs its likely benefit. Information within this scope of discovery  
4 need not be admissible in evidence to be discoverable.

5 "The court should and ordinarily does interpret 'relevant' very broadly to mean matter that is  
6 relevant to anything that is or may become an issue in the litigation." *Oppenheimer Fund, Inc.*  
7 *v. Sanders*, 437 U.S. 340, 351, n.12, 98 S. Ct. 2380, 57 L. Ed. 2d 253 (1978)(quoting 4 J.  
8 Moore, Federal Practice ¶ 26.56 [1], p. 26-131 n. 34 (2d ed. 1976).

9 However,

10 [a] party or any person from whom discovery is sought may move for a  
11 protective order in the court where the action is pending – or as an  
12 alternative on matters relating to a deposition, in the court for the district  
13 where the deposition will be taken. The motion must include a certification  
14 that the movant has in good faith conferred or attempted to confer with  
15 other affected parties in an effort to resolve the dispute without court action.  
16 The court may, for good cause, issue an order to protect a party or person  
17 from annoyance, embarrassment, oppression, or undue burden or expense,  
18 including one or more of the following:

- 19 (A) forbidding the disclosure or discovery;
- 20 (B) specifying terms, including time and place or the allocation of  
21 expenses, for the disclosure or discovery;
- 22 (C) prescribing a discovery method other than the one selected by  
23 the party seeking discovery;
- 24 (D) forbidding inquiry into certain matters, or limiting the scope of  
25 disclosure or discovery to certain matters;
- 26 (E) designating the persons who may be present while the discovery  
27 is conducted;
- 28 (F) requiring that a deposition be sealed and opened only on court  
order;
- (G) requiring that a trade secret or other confidential research,  
development, or commercial information not be revealed or be revealed  
only in a specified way; and

1 (H) requiring that the parties simultaneously file specified  
2 documents or information in sealed envelopes, to be opened as the  
3 court directs.

4 Fed. R. Civ. Proc. 26(c)(1).

5 As an initial matter, the Court addresses Plaintiff's argument that Defendants do not  
6 have standing to bring the instant motion. *See* Dkt. #104 at 6-7. A party may move for a  
7 protective order in regard to a subpoena issued to a non-party if he or she believes his or her  
8 own interest is jeopardized by the discovery sought, and has standing under Rule 26(c) to seek  
9 a protective order regarding subpoenas issued to non-parties which seek irrelevant information.  
10 *See Auto-Owners Ins. Co. v. Southeast Floating Docks, Inc.*, 231 F.R.D. 426, 429 (M.D. Fla.  
11 2005); *Washington v. Thurgood Marshall Acad.*, 230 F.R.D. 18, 22 (D.D.C. 2005) (deeming a  
12 party's motion to quash subpoenas issued to non-parties as a motion for protective order under  
13 Rule 26(c)). In this case, Defendants do not assert that their own interests are jeopardized by  
14 the discovery sought by Plaintiff. Rather, they argue that such discovery is intended to  
15 intimidate the witness and would have a chilling effect on his testimony. Dkt. #102. Thus,  
16 Defendants have not articulated how the information sought by Plaintiff jeopardizes its own  
17 interests in this matter.  
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20 However, even if Defendants had articulated jeopardy to their own interests, the Court  
21 finds the testimony sought by Plaintiff to be relevant. Having reviewed the questions asked by  
22 Plaintiff's counsel during deposition, it is evident that Plaintiff's counsel sought to question the  
23 witness about specific statements and representations he had already made in a public hearing  
24 or legal filings that appeared to contradict each other. *See* Dkts. #103, Ex. A and #104-1, Ex. 4.  
25 For example, rather than asking the witness about his immigration status, Plaintiff's counsel  
26 asked him about statements he had made to support his asylum claim (*i.e.*, that he was a  
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1 Scientologist), which appeared to contradict statements he later made in a discrimination claim  
2 against Plaintiff (*i.e.*, that he was Muslim). *Id.* Through these questions, Plaintiff's counsel  
3 was not seeking to question the witness's legal status in this country, nor was she seeking to  
4 undermine any basis for his asylum claim based on his religious beliefs. Instead, the Court  
5 agrees with Plaintiff that counsel sought impeachment evidence going to Dr. Haghightpour's  
6 credibility and bias as a witness in this case. These types of questions are distinguishable from  
7 those held to be intimidating or to have a chilling effect in the cases cited by Defendants. *See*  
8 Dkt. #102 at 4-5. Accordingly, for all of these reasons, the Court will deny Defendants'  
9 motion.  
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#### 11 IV. CONCLUSION

12 Having reviewed Defendants' Motion to Compel, the Response in opposition thereto  
13 and Reply in support thereof, along with the supporting Declarations and exhibits and the  
14 remainder of the record, the Court hereby finds and ORDERS that Defendants' Motion for  
15 Protective Order (Dkt. #102) is DENIED.  
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17 DATED this 1<sup>st</sup> day of June 2017.  
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20 RICARDO S. MARTINEZ  
21 CHIEF UNITED STATES DISTRICT JUDGE  
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