

protective orders] under the inherent 'equitable powers of courts of law over their own process, to prevent abuses, oppression, and injustices.'" 467 U.S. 20, 35 (1984). The power to grant confidentiality orders, however, is not unlimited, and the Third Circuit has written that such orders should not be granted arbitrarily. *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3d Cir. 1994). Specifically, the Third Circuit directed that "whether an order of confidentiality is granted at the discovery stage or any other stage of litigation, including settlement, good cause must be shown to justify the order." *Pansy*, 23 F.3d at 786. The *Pansy* opinion requires district courts to clearly articulate the good cause justifying that the subject discovery be protected, *id.* at 786, and that the district court's analysis reflect a balancing of private and public interests. *Id.* Specifically, the court wrote:

Discretion should be left with the court to evaluate the competing considerations in light of the facts of individual cases. By focusing on the particular circumstances in the cases before them, courts are in the best position to prevent both the overly broad use of [protective] orders and the unnecessary denial of confidentiality for information that deserves it.

Glenmede Trust Co. v. Thompson, 56 F.3d 476, 483 (3d Cir. 1995)(quoting Arthur R. Miller, "Confidentiality, Protective Orders, and Public Access to the Courts," 105 Harv.L.Rev. 427, 492 (1991)).

The *Pansy* court articulated several factors, which are neither mandatory nor exhaustive, to be considered by a district court when

determining whether "good cause" exists. *Damiano v. Sony Music Entm't*, Civ.A 95-4795, 2000 WL 1689081, *9 (D. N.J. Nov. 13, 2001).

Those factors include:

- i. whether disclosure would violate the privacy interests of the party seeking protection;
- ii. whether the information is being sought for a legitimate purpose;
- iii. whether disclosure of the information will cause a party embarrassment;
- iv. whether confidentiality is being sought over information important to public health and safety;
- v. whether the sharing of information among litigants will promote fairness and efficiency;
- vi. whether a party benefitting from the order of confidentiality is a public entity or official; and
- vii. whether the case involves issues important to the public.

Pansy, 23 F.3d at 787-89; *Glenmede*, 56 F.3d at 483.

The Third Circuit has instructed District courts not to rely on the general interest in encouraging settlement and should require a particularized showing of the need for confidentiality in reaching settlement. See *Pansy*, 23 F.3d at 788.

Here, the proposed order seeks to "designate as confidential only such documents as contain personal or business sensitive information." See Proposed Protective Order, at 2. The proposed order indicates that "sensitive documents include but are not limited to medical records, income tax returns, and other confidential business records." See *id.* at 6. Having failed to make a particularized showing of the need for confidentiality, the Court is not in a position to determine whether good cause exists

for the proposed protective order. The request for protective order is denied.

An appropriate Order follows.

