

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW HASKELL, JR.,	:	
REVEREND,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	NO. 00-CV-4237
	:	
CHELTENHAM TOWNSHIP,	:	
J. STANTON, PENTSUGLIO, and	:	
MANDIA/MANDI, Individually and in their	:	
capacity as Police Officers for Cheltenham	:	
Township,	:	
Defendants.	:	

MEMORANDUM-ORDER

Green, S.J.

February _____, 2002

Presently before the Court is Plaintiff's Motion for Protective Order and Defendants' Response thereto. For the foregoing reasons, Plaintiff's Motion for Protective Order will be denied.

I. FACTUAL BACKGROUND

Plaintiff, Reverend Matthew Haskell, Jr. filed a complaint against Defendants Cheltenham Township and Police Officers J. Stanton, Pentsuglio and Mandia/Mandi on August 18, 2000 alleging, *inter alia*, a violation of his civil rights pursuant to 42 U.S.C. § 1983 and false arrest. On August 17, 2001, counsel for Defendants deposed Plaintiff at which time Plaintiff disclosed that he was a Pastor at the Ebenezer Baptist Church located at Tenth and Dauphin Streets in Philadelphia, Pennsylvania. Thereafter, on January 11, 2002, counsel for Defendants forwarded a subpoena to Plaintiff's employer, Ebenezer Baptist Church, requesting any and all employment records pertaining to Plaintiff. On January 22, 2002, Plaintiff filed the instant Motion for Protective Order to which Defendants responded.

II. DISCUSSION

The Federal Rules of Civil Procedure provide for liberal discovery. See Pacitti v. Macy's, 193 F.3d 766, 777 (3d Cir. 1999) (citations omitted); Fed.R.Civ.P. 26(b)(1). Generally,

[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

Fed.R.Civ.P. 26(b)(1). However, where discovery of relevant, non-privileged material will cause a party or person to suffer “annoyance, embarrassment, oppression, or undue burden or expense,” Federal Rule of Civil Procedure 26(c) permits a party to apply to the Court for an order protecting them from such discovery.¹ Fed.R.Civ.P. 26(c).

It is well-settled that the party seeking to obtain the protective order must demonstrate “good cause” for the order of protection. See Smith v. Bic Corp., 869 F.2d 194, 199 (3d Cir. 1989); see also Fed.R.Civ.P. 26(c). “Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking closure. [As such], [t]he injury must be shown with specificity.” Publicker Indus., Inc. v. Cohen, 733 F.2d 1059, 1071 (3d Cir. 1984) (citation omitted).

Alternatively, “broad allegations of harm, unsubstantiated by specific examples or

¹Fed.R.Civ.P. 26(c) provides in relevant part that:

Upon motion by a party or by the person whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending or alternatively on matters relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,”

articulated reasoning,” do not support a showing of “good cause.” Cipollone v. Liggett Group, Inc., 785 F.2d 1108, 1121 (3d Cir. 1986), *cert. denied*, 484 U.S. 976 (1987).

In determining whether the moving party has established “good cause” for the issuance of a protective order, federal courts have generally adopted a balancing process whereby “the requesting party’s need for information [is balanced] against the injury that might result if uncontrolled disclosure is compelled.” Pansy v. Borough of Stroudsburg, 23 F.3d 772, 787 (1994). In Pansy, the Third Circuit identified a number of factors a district court should consider when conducting its balancing test, including: (1) the privacy interests of the party seeking protection; (2) whether the information is being sought for a legitimate purpose or for an improper purpose; (3) whether a party benefitting from the order of confidentiality is a private litigant or a public entity or official; (4) whether the case involves issues important to the public; (5) whether confidentiality is being sought over information important to public health and safety; and (6) whether the sharing of information among litigants would promote fairness and efficiency. See id. at 787-88.

In the instant matter, Plaintiff argues that because the above-captioned action concerns a false arrest claim and because Plaintiff has asserted no claim for lost wages or any other employment issue, Defendants’ Subpoena, which requests Plaintiff’s employment records, is irrelevant and is designed solely for the purpose of annoying, embarrassing and oppressing Plaintiff. However, without evidence of the particular harm that would befall Plaintiff should such information be deemed discoverable, the Court finds Plaintiff’s arguments unpersuasive. The production of Plaintiff’s employment

records is not, by itself, harmful, and any questions concerning Plaintiff's employment should not be decided *in limine* but should be decided in the course of trial.

Moreover, to the extent that Plaintiff seeks to communicate to the jury that he is a minister employed by Ebenezer Baptist Church, his employment records are relevant as to whether he is a bona fide employee of the church, and as such, Defendants can use the requested information to prepare a thorough defense. However, to the extent that Defendants seek to inquire into the bona fides of the church itself, as it appears that Defendants are inclined to do, Plaintiff's employment records are not relevant and therefore may not be used for that purpose. Defendants should be mindful that the church has raised no objection to the information requested in their Subpoena.

Finally, the Court is aware that Defendants' requested discovery is untimely. As established by a Stipulation and Amended Scheduling Order entered August 28, 2001, discovery in the above-captioned action was to be completed by September 30, 2001.² (See Docket No. 17.) Thus, because Defendants had ample opportunity to issue the subpoena during the time allowed or request an extension of the discovery deadline, the reason for their delay is unavailing. However, because the Court does not see how discovery of the requested information will work a "clearly defined and serious injury" to Plaintiff, Defendants' dilatory request for information is not fatal. Accordingly, Plaintiff's Motion for Protective Order will be denied.

An appropriate order follows.

²Both Plaintiff and Defendants reference the August 10, 2001 discovery deadline imposed by the Court's May 11, 2001 Pretrial Order. (See Docket No. 9.)

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capacity as Police Officers for Cheltenham	:	
Township,	:	
Defendants.	:	

ORDER

AND NOW, this _____ day of February, 2002, upon consideration of Plaintiff's Motion for Protective Order and Defendants' response, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Protective Order is **DENIED**.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.

