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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN DOE #1, et al.,

Plaintiffs,

v.

SAM REED, et al.,

Defendants.

CASE NO. C09-5456BHS

ORDER DENYING
INTERVENOR
WASHINGTON FAMILIES
STANDING TOGETHER'S
MOTION FOR
RECONSIDERATION OR
CLARIFICATION

This matter comes before the Court on Intervenor Washington Families Standing Together's ("WFST") motion for reconsideration or clarification (Dkt. 185). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. PROCEDURAL AND FACTUAL HISTORY

On November 15, 2010, the Court held a hearing wherein it granted Plaintiffs' (collectively "Doe") motion for protective order (Dkt. 163) preventing the release of certain individuals names, which includes those Plaintiffs and declarants currently proceeding anonymously (e.g., "John Doe") in the case. Dkt. 181.

Prior to the hearing, WFST moved the Court to require the identification of the John Doe Plaintiffs and declarants in this case. Dkt. 176. The reply brief for this motion

1 185 at 3 (relying on *Does I thru XXIII v. Advance Textile Corp.*, 214 F.3d 1058, 1068 (9th
2 Cir. 2000)).

3 Effectively, WFST's motion for identification operated as a motion for
4 reconsideration on the Court's grant of Doe's motion for a protective order. *C.f. Advanced*
5 *Textile*, 214 F.3d at 1069. In *Advanced Textile*, the Ninth Circuit held that:

6 In cases where the plaintiffs have demonstrated a need for
7 anonymity, the district court should use its powers to manage pretrial
8 proceedings, *see* Fed. R. Civ. P. 16(b), *and to issue protective orders*
9 *limiting disclosure of the party's name, see* Fed. R. Civ. P. 26(c), to
preserve the party's anonymity to the greatest extent possible without
prejudicing the opposing party's ability to litigate the case.

10 *Id.* (emphasis added).

11 At the hearing on November 15, 2010, WFST had, but did not take, the
12 opportunity to express its concerns over what it contends is a separate basis (Rule 10(b))
13 for obtaining the names that the Court ordered protected under Rule 26(c). WFST was
14 aware at the time of the hearing that granting the protective order would be completely at
15 odds with its motion to require the disclosure of the information subject to the protective
16 order. Instead of raising this concern at the hearing, WFST waited four days after the
17 Court granted the protective order (Dkt. 182) and then filed its reply brief on the motion
18 for requiring identification of the Doe Plaintiffs and declarants. Dkt. 184.

19 To clarify, the Court's grant of Plaintiff's protective order operated to, at least
20 implicitly, deny Doe's motion for requiring identification of the Doe Plaintiffs and
21 declarants. To the extent it was unclear, the Court explicitly notes herein that WFST's
22 motion to require identification was denied without prejudice consistent with its grant of
23 the protective order.

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25 Now, WFST moves for reconsideration or clarification of that minute entry. Dkt.
26 185. This motion is essentially a motion for reconsideration of a motion for
27 reconsideration (reconsider the denial of the motion for requiring identification, which
28


1 had the operative value of a motion for reconsideration of the grant of the motion for
2 protective order).

3 The Court concludes that based on the record, the timing of these events, and the
4 nature of the pleadings, WFST has not met its heavy burden on reconsideration to
5 establish clear legal error or that manifest injustice would occur absent reconsideration.
6 *See* Local Rule 7(h). Further still, as the Court noted in the hearing wherein the protective
7 order was granted, WFST may raise these and other relevant issues in its planned
8 summary judgment motion(s) as was discussed at the hearing on November 15, 2010.

9 **III. ORDER**

10 Therefore, it is hereby **ORDERED** that WFST's motion for reconsideration is
11 **DENIED** and the Court has clarified herein its rulings to the extent needed.

12 DATED this 7th day of December, 2010.

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16 BENJAMIN H. SETTLE
17 United States District Judge
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