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MAY 09 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ASHOOR RASHO, et al.,)
)
Plaintiffs,)
)
V.)
)
DONALD SNYDER, et al.,)
)
Defendants.)

Civil No. 00-528-DRH

ORDER

PROUD, Magistrate Judge:

Before the Court is defendants' motion for entry of a protective order. (**Doc. 98**). Defendants note that in *Boyd v. Snyder*, 99-280-DRH, the predecessor to this case, an agreed protective order was authorized by the Court which gave the parties free rein to designate requested discovery materials and information "confidential" and/or to redact matters they deemed inappropriate for release. (*See Boyd*, 99-280-DRH, **Doc. 172**). Defendants request that an identical protective order be entered in this case.

This Court recognizes that in the prison context there are a variety of legitimate and well-recognized security and confidentiality concerns, and that pretrial discovery has traditionally been conducted in private. Nevertheless, under Fed.R.Civ.P. 26(c) and the dictates of *Citizens First National Bank of Princeton v. Cincinnati Insurance Co.*, 178 F.3d 943 (7th Cir. 1999), and *Union Oil Company of California v. Leavell*, , 220 F.3d 562 (7th Cir. 2000), the proposed protective order cannot be sanctioned by the Court.

The proposed protective order is fatally flawed, in that the parties have made no specific showing of good cause for the entry of a protective order, as required by Fed.R.Civ.P. 26(c), and

the parties, particularly the defendants, are given free rein to designate material as confidential. The determination of good cause cannot be left to the parties, that is the Court's prerogative.

As the Court of Appeals for the Seventh Circuit stated in *Union Oil Company of California v. Leavell*:

[T]he tradition that litigation is open to the public is of very long standing. People who want secrecy should opt for arbitration. When they call on the courts, they must accept the openness that goes with subsidized dispute resolution by public (and publicly accountable) officials.


220 F.3d at 567-568 (internal citations omitted).

Insofar as it may be argued that the Court should enforce the protective order as an agreement between the parties, or merely because a similar protective order was entered prior to the *Citizens First National Bank of Princeton* and *Union Oil Company of California* decisions, in keeping with Local Rule 26.1(b)(1), it would be incongruous, against public policy, to enforce the terms of the proposed protective order. The Court must strictly adhere to Rule 26(c).

IT IS THEREFORE ORDERED that the defendants' motion for entry of a protective order (**Doc. 98**) is **DENIED**.

IT IS SO ORDERED.

DATED: May 9, 2002


CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE