

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

ROBERT R. COTE
Plaintiff

Vs.

DONNA TRAVIS, et al.
Defendants

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C.A. No. 23-cv-346-MRD-AEM

**PLAINTIFF’S OBJECTION TO DEFENDANTS’
MOTION FOR PROTECTIVE ORDER**

Defendants have filed a motion for a protective order seeking to restrict Plaintiff’s freedom of speech respecting public officials and public issues. The relief sought is expansive: they seek to “prohibit Plaintiff from disclosing the contents of the Defendants’ discovery responses for any purpose to anyone other than the parties in this matter, legal staff, expert witnesses, witnesses at depositions, and third-party vendors such as stenographers.” But they have failed to support the motion with affidavits from any of the Defendants.¹ Moreover, their motion, if granted, would shield every item provided in discovery, without individualized evaluation, with a shield of confidentiality, regardless of its content, source, or presence in the public domain, on the basis that Plaintiff has somehow misused discovery provided more than three months ago on matters of public concern in a law suit which challenges the censorship of his speech on First Amendment grounds. In support of the motion, Defendants provide a brief memorandum which purports to provide evidentiary basis for the motion, but is not supported by affidavit or other evidence. Defendants’ citation to legal authority does not support their extraordinary request.

¹ Given the extraordinary breadth of the relief sought, and the delay in seeking it, Defendants should not be granted the opportunity to support the motion with affidavits or other evidentiary material that they did not see fit to provide at the time of its filing.

As set forth in his accompanying Second Affidavit, Plaintiff submits the issues he has discussed are of public importance and, for the most part, are already matters of public record. The Court should deny Defendants' motion because it fails to support their attempts to restrict Plaintiff's First Amendment rights.

FACTUAL AND PROCEDURAL BACKGROUND

1. Plaintiff resides in the City of Warwick and frequently comments on matters related to City government during the public comment period of City Council meetings.
2. As detailed in Cote's Verified Complaint (ECF 1), and his prior Affidavit, (ECF 41-1), Defendant Donna Travis, a now-former member of the Council, has a history of controversial and even illegal actions.
3. On July 10, 2023, the Providence Journal published an article entitled "How did a Warwick councilwoman acquire land next to her house? The neighbors have questions." The article described a controversial transaction in which Travis—identified as a member of the City Council of the City of Warwick—and her husband William acquired title to a vacant parcel of land adjoining their home in the Oakland Beach neighborhood of Warwick.²
4. The article stated that in 2021 the parcel of land was transferred by quitclaim deed from Oakland Beach Real Estate Owners Association (OBREOA) to the Travises, who had held leadership roles with OBREOA. The new OBREOA leadership alleged that the transaction occurred without a notification, discussion, or a vote by the organization's members. The

² The Journal's article can be found on-line at <https://www.providencejournal.com/story/news/politics/2023/07/10/oakland-beach-neighborhood-association-calls-foul-on-property-transfer/70356553007/>.

Travises stated that the property was transferred to them in exchange for helping to pay back taxes on it.

5. The article also stated that in 2017 a Warwick resident had filed two ethics complaints against Defendant Travis alleging that she was using the parcel for her personal purposes even though it was then owned by OBREOA and treated as tax exempt.
6. On July 17, 2023, Plaintiff signed up to address the Council and attempted to raise the issue of the transaction as it related to Travis' ethics as a member of the City Council.³
7. Plaintiff also intended to address two other topics: the actions of a firefighter in the Warwick Fire Department and an issue involving the Mayor.
8. Plaintiff started his comments by holding up a copy of the Providence Journal with the article and "congratulating" Defendant Travis for being on the front page at which time Defendant Travis, in her capacity as president *pro tem* of the Council, cut him off, and said that Plaintiff's comments did not relate to City government.
9. When Plaintiff started to explain that his comments did relate to City Government, Defendant Travis cut him off again. She said again that the matter did not relate to City government. Travis commented: "You get away with it every month, you're not going to do it with me. You're leaving now. I'm sure he can read – GO! Go, goodbye."
10. Travis directed that Plaintiff be escorted out of the meeting. A Warwick police officer escorted Plaintiff out of the meeting over Plaintiff's objections.⁴

³ The video of Plaintiff's attempt to address the Council can be found on-line at <https://youtu.be/PUPaSHtA6Ac?t=8222>

⁴ The video of Plaintiff's interaction with the Warwick police officer can be found on-line at <https://www.youtube.com/watch?v=O7baPsMSKns>.

11. None of the other Council members in attendance objected to Defendants Travis' actions or otherwise said Plaintiff should be permitted to present his public comments.
12. At no time was Plaintiff disorderly or in violation of any law.
13. In an article published on July 20, 2023 in the Warwick Beacon, Defendant Travis said it was the unwritten practice of the City Council not to allow "personal attacks" during the public comment period.⁵
14. Defendant Travis also said in the article that she has "dealt with Cote in the past." She alleged he had made a flier with her picture on it and put it on windshields in a Stop & Shop parking lot "to expose her taxes which included a temporary payment plan." According to the article, "Travis described Cote as 'always on the hunt.'" The article adds that Travis also said, "He's been doing this forever...Every time he comes, he has to complain about something. He's said bad things about the mayor, council people and me."
15. Plaintiff filed suit on August 28, 2023.
16. On August 30, 2023, Defendants' counsel forwarded to Plaintiff's counsel a letter from Defendant McAllister offering Plaintiff the opportunity to make the remarks he intended to make at a future Council meeting.
17. On September 18, 2023, Plaintiff made those remarks during the public comment period of a regularly scheduled Council meeting.
18. Immediately after Plaintiff spoke, Defendant Howe requested permission of Defendant McAllister to speak in his individual capacity which request McAllister granted.

⁵ The Warwick Beacon article can be found on-line at <https://warwickonline.com/stories/cote-contacts-aclu-after-cop-evicts-him-from-council-meeting,218003>.

19. Defendant Howe then went to the podium and responded to Plaintiff's comments about the mayor during which he implied that Plaintiff had a criminal record and had gotten it expunged, both of which comments were false. (Cote Affidavit, ECF 41-1, ¶¶23-24).
20. Plaintiff served interrogatories and document requests on Defendants in February 2024.
21. In April 2024, Defendants moved for summary judgment arguing, *inter alia*, that they were entitled to legislative immunity. Plaintiff opposed that motion on the grounds, in part, that he should be allowed to conduct discovery before the Court ruled on the motion.
22. On July 22, 2025, the Court issued a Memorandum and Order granting summary judgment to the Individual Defendants in their personal capacities based on legislative immunity and to all Defendants on Cote's claim for false arrest.
23. The Court entered a scheduling order on December 1, 2025.
24. Plaintiff first moved to compel responses to the discovery on March 6, 2026, which motions were denied without prejudice.
25. Defendants, except Rix, responded to the discovery in March and April 2026. Defendants produced documents in numbers ranging from 41 pages (Foley) to 884 pages (Warwick). Parts of each Defendants' production are identical to the others. The productions include Warwick City public records such as City Council bylaws, and text messages and emails with or about Plaintiff on many issues related to City government, including the construction of a new high school, about which Plaintiff has criticized the Council at meetings and online. (Second Cote Affidavit, Exhibit 1, ¶¶ 7-9).
26. Defendants' answers to interrogatories are identical and state, *inter alia*, the grounds on which they dispute Plaintiff's allegations. (Exhibits 2 and 3, Warwick's answers and supplemental answers to interrogatories).

27. Plaintiff began adding reference to some of Defendants' documents in his ongoing public discussions concerning Warwick in March 2026, including during City Council meetings.
28. On April 28, 2026, Plaintiff moved to compel Rix's responses.
29. On May 14, 2026, Plaintiff moved to strike objections to certain interrogatories and to compel Defendants, except Rix, to provide more responsive answers.
30. On May 29, 2026, the court entered text orders granting Plaintiff's motions to compel and ordering Defendants to respond by June 12, 2026. Defendant Rix has still not produced his documents.
31. Defendants filed their motion for protective order on July 1, 2026, more than three months after production and the events which Defendants claim justify a protective order. They complain that Plaintiff has:
- a. Complained to a City employee that she has acted as "lookout" for certain Council members and stated he no longer holds her in high regard. (Defendants' Memorandum, p. 3);
 - b. Told Council members during a public comment period that he has a thumb drive of discovery materials to review, that thumb drive contains text messages of a Council member berating people who come to meetings concerned about the fiscal soundness of the City, and that he told Defendant Foley that he will enjoy his testimony.
 - c. He recounted a text message between Defendant McAllister and his brother-in-law, who is a City employee.
 - d. He has posted about Defendants' discovery responses on social media in a way that Defendants believe mischaracterizes them.

32. The motion seeks to treat *all* materials produced by Defendants in discovery as confidential and not subject either to disclosure or even for plaintiff to comment critically on the progress of the litigation in public commentary. Defendants have not attempted to identify discrete items that are argued to be confidential, instead broadly seeking an order “prohibit[ing] Plaintiff from disclosing the contents of the Defendants’ discovery responses for any purpose to anyone other than parties in this matter, legal staff, expert witnesses, witnesses at depositions, and third-party vendors such as stenographers.” The motion further requests that “Plaintiff be prohibited from disclosing the contents of or reproducing any of the Defendants’ discovery responses on any social media platform or otherwise making such responses public in any way, including but not limited at City Council meetings.” (Defendants’ Memorandum, pp. 5-6).
33. Cote denies accusing the City Council liaison of acting as a “lookout” or stating he no longer holds her in high regard. He did, however, ask her if any City Council members had asked her to tell them when Cote arrived for a Council meeting. He also told her that her text messages to Council members may make her a witness in the case. (Second Cote Affidavit, ¶ 1).
34. Cote did complain that Defendant McAllister’s brother-in-law, who works for the City’s Board of Canvassers, had alerted McAllister when Cote picked up declaration papers and had made disparaging remarks about Cote to McAllister. (Id., ¶ 2).
35. Many of the documents produced are themselves public records. (Id., ¶ 3). Some of the documents reflect Cote’s criticisms of the Council on more recent issues, such as the cost of building a new high school. (Id., ¶ 9). Many of the arguments made by Defendants are not directed to disclosure of documents themselves, but rather to upset or embarrassment that Plaintiff continues to speak negatively about them.

ARGUMENT

Defendants have failed to support their motion with adequate facts or law. There is nothing sinister or inappropriate about the actions or statements of the Plaintiff. “A party may generally do what it wants with material obtained through the discovery process, as long as it wants to do something legal. The federal rules do not themselves limit the use of discovered documents or information.” Harris v. Amoco Prod. Co., 768 F.2d 669, 683-84 (5th Cir. 1985) (cleaned up; citations omitted). See also Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1128 n.1 (9th Cir. 2003).

Defendants’ motion falls woefully short of the mandates for issuance of a protective order. It is Defendants’ burden to show good cause and to demonstrate that cause as to the *specific* items that Defendants seek to shield from disclosure. “A party asserting good cause bears the burden, *for each particular document it seeks to protect*, of showing that specific prejudice or harm will result if no protective order is granted.” Id. at 1130 (citations omitted; emphasis added). “Good cause” is a high standard:

Good cause exists when the party seeking protection demonstrates that disclosure will result in a clearly defined, specific and serious injury. Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not satisfy the Rule 26(c) test. Moreover, the harm must be significant, not a mere trifle.

White v. County of Suffolk, No. 20-cv-1501, 2024 WL 6916084 at *5 (E.D.N.Y., Jan. 22, 2024) (cleaned up, internal citations omitted).

A review of decisions in similar cases shows Defendants’ motion is meritless. See, Shingara v. Skiles, 420 F.3d 301 (3rd Cir. 2005) (vacating protective order); Phillips v. General Motors Corp., 307 F.3d 1206 (9th Cir. 2002) (same); Roubert v. Amazon 609 F.Supp.3d 354 (E.D.Penn. 2022) (denying protective order); Flake v. Arpaio, No. CV-15-01132, 2016 WL

4095831 (D.Ariz. Aug. 2, 2016) (same); Welsh v. City and County of San Francisco, 887 F.Supp. 1293, 1297 (N.D.Cal. 1995) quoting Cipollone v. Liggett Group, Inc., 785 F.2d 1108, 1121 (3rd Cir. 1980) (“Mere embarrassment by the release of information is insufficient to constitute serious harm. ‘[A]n applicant for a protective order whose chief concern is embarrassment must demonstrate that the embarrassment will be particularly serious.’”); Hawley v. Hall, 131 F.R.D. 578, 585 (D.Nev. 1990) (denying protective order).

In Shingara, plaintiff was an employee of the Pennsylvania State Police who sued several other employees under §1983 alleging retaliation because he spoke out about allegedly faulty speed detection devices the State Police were using. He obtained certain materials concerning the devices in discovery. His attorney provided copies of the materials to Philadelphia Newspapers Inc. which used the materials to publish articles about the devices. The defendants sought a protective order to prevent further disclosure of discovery materials to the media. The district court granted the motion. Philadelphia Newspapers intervened and appealed.

The Third Circuit said there is good cause for a protective order when a party shows that disclosure will result in a “clearly defined, specific and serious injury but that broad allegations of harm are not sufficient to establish good cause.” 420 F.3d at 306, citing Pansy v. Borough of Stroudsburg, 23 F.3d 772, 786 (3rd Cir. 1994). The party seeking protection has the burden of showing good cause. Id. In determining whether there is good cause, the district court must balance the interests of the public and the parties. Id. The Third Circuit listed seven factors a court should consider: (1) whether disclosure will violate any privacy interests; (2) whether the information is being sought for a legitimate purpose or for an improper purpose; (3) whether the disclosure of the information will cause a party embarrassment; (4) whether confidentiality is sought over information important to public health and safety; (5) whether the sharing of information among

litigants will promote fairness and efficiency; (6) whether a party benefitting from the order of confidentiality is a public entity or official; and (7) whether the case involves issues important to the public. Shingara, supra. at 306.

The Third Circuit said:

To start with, the concern that the disclosure of discovery materials to the media *could* unduly prejudice the public is exactly the type of broad, unsubstantiated allegation of harm that does not support a showing of good cause. We ordinarily are confident that a district court will be able to select a fair and impartial jury in cases even where there has been pretrial media attention to the case and we see no reason to believe that this case would present an exception to the usual case.

Id. at 307 (citations omitted; emphasis in original). With respect to the other factors, the court said “privacy interests are diminished when the party seeking protection is a public person subject to legitimate public scrutiny.” Id. (quoting Pansy, 23 F.3d at 787). Further, “an applicant for a protective order whose chief concern is embarrassment must demonstrate that the embarrassment will be particularly serious.” Id. (internal quotations, citations omitted). This factor leaned against protection. The court said the last two factors also weighed against protection where the parties seeking it were public officials and the case certainly involved issues important to the public. Id. at 308.

Finally, the Third Circuit commented that the district court’s broad, umbrella protection of documents from disclosure was inappropriate. It said there are cases in which a document-by-document approach is preferable. Id.

Given that this action is neither complex nor involves large scale discovery and given that the good cause it found for entry of the protective order was weak at best (in actuality, non-existent), the district court erred in adopting the sweeping umbrella approach in this case.

Id. The court vacated the protective order.

Here, Defendants have requested relief months after the documents were produced and after Plaintiff has made perfectly permissible disclosures about them, concerning matters of public interest and concern. They have presented no affidavits setting forth good cause for a protective order. They have not identified any threats or potential harm to them other than possible embarrassment that their comments about Plaintiff or his claims may be made public or that an impartial jury cannot be empaneled. That is far too speculative; the matter is not on the trial calendar; there has been no publicity associated with the disclosures; and the court has many mechanisms to ensure the empanelment of an impartial jury in the future. See, e.g., Welsh v. City and County of San Francisco, 887 F.Supp. at 1302 (“defendants’ right to a fair trial can be protected by careful and vigorous voir dire, and the prospect of overwhelming pretrial publicity, while it may test the ethical behavior of counsel, does not in itself provide good cause for issuing a protective order.”).

Defendants have not presented any form of order or requested specific language in an order that would identify what information is covered by the order, other than anything and everything in their discovery responses. However, much of that information is in the public realm already. Further, much of it deals with Warwick government issues not related directly to the July 17, 2023 incident. For example, Plaintiff has frequently commented on the City’s issues related to the construction of a new high school, whether at City Council meetings or in direct communications with Council members by email or text messages. Defendants’ proposed order would apparently be broad enough to bar him from disclosing those communications.

Defendants’ cited decisions do not support their motion. In Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984), plaintiffs were the leaders and members of a religious group. They sued the defendant newspaper alleging a series of articles about them were defamatory. Plaintiffs sought a

protective order barring the newspapers from publishing information obtained in discovery. They filed affidavits detailing letters and phone calls they had received defaming them and some which threatened physical harm. The affidavits also described incidents at their headquarters involving attacks, threats, and assaults directed at their members. In general, the affidavits averred that public release of the group's donor lists would adversely affect membership. The trial court issued a protective order covering all information gained through discovery pertaining to the financial affairs of the plaintiffs, and the names and addresses of the members, contributors, clients, or donors. The court said the protective order was necessary to avoid the "chilling effect" that dissemination would have on a party's willingness to bring a case to court. Here, by contrast, Defendants have filed no affidavits setting forth any particularized and serious harm they are suffering because Plaintiff is discussing the discovery.

Defendants' reliance on Anderson v. Cryovac, Inc., 805 F.2d 1 (1st Cir. 1986), is also misplaced. In that case, residents of Woburn, Massachusetts sued Cryovac alleging it had contaminated the city's water supply and caused cancer and other illnesses among the residents. After three years of discovery, the district court issued protective orders a few months before trial that prohibited the parties from divulging information obtained through discovery except to public health and environmental officials, the parties' experts, and, with some limitations, to WGBH, the public broadcasting station. The court entered the orders because it became concerned that publicity surrounding the trial would make it difficult to obtain an impartial jury and conduct a fair trial. The Boston Globe intervened in the case and sought access to the discovery materials. The district court denied access and the Globe appealed.

The First Circuit discussed the Supreme Court's decision in Seattle Times Co. and said: "The Court considered 'whether the 'practice in question [furthers] an important or substantial

governmental interest unrelated to the suppression of expression’ and whether ‘the limitation of First Amendment freedoms [is] no greater than is necessary or essential to the protection of the particular governmental interest involved.’” Id. at 6, quoting Seattle Times Co., 467 U.S. at 32. It said that under Seattle Times Co., “the first amendment is not offended if three criteria are met: (1) there is a showing of good cause as required by Rule 26(c); (2) the restriction is limited to the discovery context; and (3) the order does not restrict the dissemination of information obtained from other sources.” Anderson. at 7, citing Seattle Times Co., 467 U.S. at 37. It added: “Protective discovery orders are subject to first amendment scrutiny, but that scrutiny must be made within the framework of Rule 26(c)’s requirement of good cause.” Id.

The First Circuit then reviewed the basis for the district court’s decision. It said the district court was concerned that the extensive publicity generated by the allegations made against the defendants, including the accounts appearing in the daily newspapers, could prevent the selection of an impartial jury. During the hearings on the motion for a protective order, there were specific instances of the publicity raised, and the district court took judicial notice of “quite heavy stuff” appearing in the newspapers. The First Circuit said: “Because it was faced with specific instances of massive and potentially harmful publicity, we find there was good cause for the district court to issue the protective order.” Id. at 8.

Here, there is absolutely no evidence that Plaintiff’s discussions of the contents of Defendants’ documents will taint the jury pool. There is no evidence of “massive and potentially harmful publicity.” Instead, all we have here is Plaintiff telling the Defendants that he knows what they have said and a few posts on social media.

In sum, Defendants are a City and members or former members of its City Council. Plaintiff sued them alleging they violated his First Amendment rights by refusing to let him make

comments about them, the mayor, and City affairs during the public comment period of a Council meeting. Now, Defendants again seek to prevent Plaintiff from exercising his First Amendment rights by commenting publicly about any and all of the discovery responses they have provided in this lawsuit. The only (factually-unsupported) arguments Defendants provide are that Plaintiff's comments are some kind of harassment and may possibly taint the jury pool. However, Defendants meet none of the factors set forth to justify such a protective order.

CONCLUSION

The Court should deny Defendants' Motion for a Protective Order.

Respectfully submitted,
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By his attorneys,

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CERTIFICATION

I hereby certify that on August 5, 2026, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system and served by email on attorneys for defendants. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons