

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON

**Patrick Clarke; Christine Bauknecht; Mary Ann Davis; Freda
Lorriaine Taylor v. Providence St. Joseph Health; Providence Health
& Services; Providence Health and Services—Washington d/b/a
Providence; Providence St. Mary Medical Center; and Providence
Medical Group d/b/a Providence Medical Group Southeast
Washington Neurosurgery, a/k/a PMG Neuroscience Institute, Walla
Walla a/k/a Neuroscience Institute d/b/a Providence**

Clarke v. Providence · No. 2:24-CV-0434-TOR · Decided January 12, 2026

SUMMARY

The United States District Court for the Eastern District of Washington partially denied Defendants’ Rule 26(c) motion for a protective order and partially granted Plaintiffs’ cross-motion to authorize use of discovery from companion cases. The court permitted Plaintiffs to use specified discovery from Estes, Batten, and Palmer concerning the related qui tam action, subject to redaction requirements and specificity for any additional materials.

CASE DETAILS

COURT	United States District Court for the Eastern District of Washington
JURISDICTION	United States District Court for the Eastern District of Washington
DECIDED	January 12, 2026
DOCKET	2:24-CV-0434-TOR
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 26(c) for a protective order concerning discovery, and plaintiffs cross-moved to authorize use of discovery from related cases. The court considered the motions without oral argument.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 26(c), the moving party must show good cause by demonstrating that discovery will cause particularized harm, annoyance, embarrassment, oppression, or undue burden or expense. For discovery sought by collateral litigants, the

	requesting party must demonstrate the relevance and general discoverability of the material in the collateral proceeding.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Patrick Clarke, Christine Bauknecht, Mary Ann Davis, Freda Lorriaine Taylor v. Providence St. Joseph Health, Providence Health & Services, Providence Health and Services—Washington d/b/a Providence, Providence St. Mary Medical Center, Providence Medical Group d/b/a Providence Medical Group Southeast Washington Neurosurgery, a/k/a PMG Neuroscience Institute, Walla Walla a/k/a Neuroscience Institute d/b/a Providence

TOPICS

discovery dispute civil procedure health law

PRACTICE AREAS

civil procedure discovery medical malpractice health law

QUESTIONS PRESENTED

1. Whether Providence established good cause under Federal Rule of Civil Procedure 26(c) for a protective order limiting plaintiffs' use of discovery from related cases.
2. Whether plaintiffs should be permitted to use discovery produced in *Estes*, *Batten*, and *Palmer* in this litigation.
3. What limitations should govern plaintiffs' use of discovery from the companion cases.

HOLDINGS

1. Providence did not establish good cause for the requested protective order because its assertions of burden, overbreadth, and disproportionality did not demonstrate the particularized harm or prejudice required by Rule 26(c).
2. Plaintiffs were permitted to use discovery produced in *Estes*, *Batten*, and *Palmer* concerning the *qui tam* action, subject to the same redaction requirements applicable in the related proceedings.
3. If plaintiffs seek additional materials or discovery, including materials from cases not addressed in the order, they must identify the relevant documents with specificity and explain why the materials are necessary.

KEY QUOTATIONS

“The burden to show good cause is on the movant of the motion by showing harm or prejudice will arise from the discovery.” (at 2)

“For collateral litigants, as an initial matter, ‘the litigant[s] must demonstrate the relevance of the protected discovery to the collateral proceedings and its general discoverability therein.’” (at 3)

“Moreover, the Ninth Circuit ‘‘strongly favors access to discovery materials’ for individuals engaged in other litigation because ‘[a]llowing the fruits of one litigation to facilitate preparation in other cases advances the interests of judicial economy by avoiding the wasteful duplication of discovery.’” (at 3)

“Similarly to Batten, if Plaintiffs wish to seek additional materials or discovery, including from cases not addressed in this Order, Plaintiffs must identify with specificity the relevant documents sought and explain why they are necessary.” (at 7)

FACTUAL BACKGROUND

Plaintiffs brought claims concerning allegedly unnecessary spine surgeries performed by Dr. Jason A. Dreyer against Providence entities. Related litigation concerning Providence and Dr. Dreyer generated discovery in Estes, Batten, and Palmer. Plaintiffs sought to use discovery from those matters to avoid duplicative discovery, while Providence argued that the request was overbroad, disproportionate, and implicated privilege and confidentiality concerns.

PROCEDURAL HISTORY

The case concerns claims arising from allegedly unnecessary spine surgeries performed by Jason A. Dreyer, D.O. In an earlier order, the court denied plaintiffs' request to use discovery from companion cases but indicated that it might reconsider. Defendants then moved for a protective order regarding ongoing document production, privilege logging, and use of companion-case discovery; plaintiffs cross-moved to use discovery from Estes, Batten, and Palmer. The court denied defendants' motion in part and granted plaintiffs' cross-motion in part.

DISPOSITION

other

CASES CITED

- Rivera v. NIBCO, Inc., 364 F.3d 1057, 1063-64 (9th Cir. 2004)
- Phillips ex rel. Estates of Byrd v. General Motors Corp., 307 F.3d 1206, 1211 (9th Cir. 2002)
- Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1131-32 (9th Cir. 2003)
- Fierro Cordero v. Stemilt AG Servs., LLC, 142 F.4th 1201, 1207 (9th Cir. 2025)
- Estes v. Providence Health & Services—Washington, et al., No. 4:21-cv-5042-TOR
- Batten, et al. v. Providence St. Joseph Health, et al., No. 2:23-cv-0097-TOR
- Palmer v. Dreyer et al., Spokane County Case No. 21-2-01299-32
- Isabel Lindsey and Charles Lindsey v. Jason A. Dreyer, DO, et al., Spokane County Case No. 23-2-04365-32
- Glenda Rae et al. v. MultiCare Health System et al., Spokane County Case No. 22-2-06780-8
- Caroline Angulo et al. v. Providence Health & Services—Washington et al., W.D. Wash. Case No. 2:22-cv-00915-JLR

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 6 7
PATRICK CLARKE, an individual; CHRISTINE BAUKNECHT, an NO. 2:24-CV-0434-TOR 8
individual; MARY ANN DAVIS, an individual; FRED A LORRIANE ORDER ON
DEFENDANTS' RULE 9 TAYLOR, an individual, 26(c) MOTION FOR PROTECTIVE ORDER
10 Plaintiffs, 11 v. 12 PROVIDENCE ST. JOSEPH HEALTH; PROVIDENCE HEALTH 13 &
SERVICES; PROVIDENCE HEALTH AND SERVICES – 14 WASHINGTON D/B/A
PROVIDENCE; PROVIDENCE ST. 15 MARY MEDICAL CENTER; AND PROVIDENCE
MEDICAL GROUP 16 D/B/A PROVIDENCE MEDICAL GROUP SOUTHEAST 17
WASHINGTON NEUROSURGERY, A/K/A PMG NEUROSCIENCE 18 INSTITUTE, WALLA
WALLA A/K/A NEUROSCIENCE 19 INSTITUTE D/B/A PROVIDENCE, 20 Defendants.

1 BEFORE THE COURT are Defendants' Rule 26(c) Motion for Protective 2 Order (ECF No. 66)
and Plaintiffs' Cross-Motion to Authorize Use of Companion 3 Case Discovery (ECF No. 68).
These matters were submitted for consideration 4 without oral argument.

The Court has reviewed the record and files herein and is 5 fully informed. For the reasons
discussed below, Defendants' Rule 26(c) Motion 6 for Protective Order (ECF No. 66) is DENIED
in part and Plaintiffs' Cross-Motion 7 to Authorize Use of Companion Case Discovery (ECF No.
68) is GRANTED in 8 part. 9 BACKGROUND 10 This case arises out of claims regarding
procedures for unnecessary spine 11 surgeries performed by Jason A. Dreyer, D.O. ("Dr.

Dreyer") that stem from a 12 multitude of related cases in the Eastern District of Washington
against Defendants 13 ("Providence"). ECF No. 1. Previously, this Court granted in part Plaintiffs'
14 Motion for Discovery and continued Plaintiffs' response, Providence's reply, and 15 the hearing
for Providence's Motion for Partial Summary Judgment. ECF No. 63. 16 Plaintiffs requested use
of discovery obtained in cases *Estes v. Providence Health 17 & Services – Washington, et al.*,
4:21-cv-5042-TOR ("Estes") and *Batten, et al. v. 18 Providence St. Joseph Health, et al.*, 2:23-cv-
0097-TOR ("Batten") to use for their 19 arguments in Providence's summary judgment motion.

ECF No. 50. The Court 20 expressed their weariness to proceed with normal discovery because of
1 Providence's history of court orders for compelling discovery. ECF No. 65 at 6. 2 However, the
Court decided to provide the parties the chance to proceed normally. 3 Id. The Court encouraged
the parties to make a proper effort to resolve the 4 discovery issues outside the court.

ECF No. 65 at 7. On October 16, 2025, a 5 Stipulated Motion for Protective Order was filed and
subsequently granted. ECF 6 Nos. 65, 70. 7 On October 31, 2025, Providence filed a Motion for
Protective Order. ECF 8 No. 66. Providence requests that they shall be allowed to continue
reviewing and 9 producing documents in response to Plaintiffs' requests and provide a privilege
log 10 by or on December 7, 2025.

ECF No. 66 at 11. At this point, Providence has not filed a privilege log. The second request states that Providence shall not be required to produce or stipulate to the use of all discovery produced in the companion matters but instead review the documents for responsiveness to discovery requests. ECF No. 66 at 11. DISCUSSION Under Federal Rule of Civil Procedure Rule 26(c), “A party or any person from whom discovery is sought may move for a protective order.” FED.

R. CIV. P. 26(c). In this motion, the movant must include a certification that he or she have acted in good faith to confer with the other parties to resolve the dispute outside court action. Id. In that case, “[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense[.]” FED.

R. CIV. P. 26. The burden to show good cause is on the movant of the motion by showing harm or prejudice will arise from the discovery. 4 *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1063 (9th Cir. 2004). If a court finds particularized harm will result from disclosure of information to the public, then it balances the public and private interests to decide whether a protective order is necessary.” *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1063–64 (9th Cir.

2004) 8 (quoting *Phillips ex rel. Estates of Byrd v. General Motors Corp.*, 307 F.3d 1206, 9 1211 (9th Cir. 2002)). 10 For collateral litigants, as an initial matter, “the litigant[s] must demonstrate 11 the relevance of the protected discovery to the collateral proceedings and its 12 general discoverability therein.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 13 1122, 1132 (9th Cir.

2003). Moreover, the Ninth Circuit “‘strongly favors access 14 to discovery materials’ for individuals engaged in other litigation because 15 ‘[a]llowing the fruits of one litigation to facilitate preparation in other cases 16 advances the interests of judicial economy by avoiding the wasteful duplication of 17 discovery.’” *Fierro Cordero v. Stemilt AG Servs., LLC*, 142 F.4th 1201, 1207 (9th 18 Cir.

2025) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1131 19 (9th Cir. 2003)). 20 Providence state the date of their meet and confer with Plaintiffs and provide 1 evidence of communications to show acts to confer. ECF No. 66 at 5; 67. 2 Providence requests that the Court grant a protective order under Federal Rule of 3 Civil Procedure Rule 26(c).

ECF No. 66 at 11. Providence argues Plaintiffs’ 4 request for Production Nos. 1 and 2 and their Stipulated Discovery Plan are 5 overboard and not specific to their needs for this case. ECF No. 66 at 7. 6 Additionally, they state that there is no presumption of discoverability for 7 companion matters. ECF No. 66 at 9. Plaintiffs respond that Providence fails to 8 show good cause under Rule 26(c).

ECF No. 68 at 10. Additionally, they argue 9 that this argument is barred by Collateral Estoppel, inconsistent with judicial 10 economy and this Court’s direction. ECF No. 68. at 11. 11 Providence

must show good cause. Providence states that good cause exists 12 because the discovery requested is overbroad and not proportional to their needs. 13 ECF No. 66 at 7.

Providence argues that Plaintiffs request allows “unlimited 14 access to a large volume of discovery” from seven other cases but does not specify 15 a connection between their claims and defenses. ECF No. 66 at 7. Providence 16 furthers that this request is overbroad and disproportionate because the discovery 17 in the other cases include matters not relevant to this case.

Id. Providence states 18 that Plaintiffs are not parties to cases such as *Estes*, *Batten*, *Palmer v. Dreyer et al.*, 19 *Spokane County Case. No. 21-2-01299-32 (“Palmer”)*, *Isabel Lindsey and Charles 20 Lindsey v. Jason A. Dreyer, DO, et al.*, *Spokane County Case. No. 23-2-04365-32 1 (“Lindsey”)*, *Glenda Rae et al. v. MultiCare Health System et al.*, *Spokane County 2 Case.*

No. 22-2-06780-8 (“Rae”) or *Caroline Angulo et al. v. Providence Health & 3 Services – Washington et al.*, *W.D. Wash. Case No. 2:22-cv-00915-JLR 4 (“Angulo”)*. ECF No. 66 at 8. Providence expressed willingness to discuss 5 “factual categories of documents from the Companion Matters to Produce on a 6 priority basis” as long as Plaintiffs reconsider their position on the matter.

ECF 7 No. 66 at 8. Providence also raises a concern of attorney-client privilege for 8 requests of documents showing specific crimes such as fraudulent concealment and 9 corporate negligence. ECF No. 66 at 8. Providence requests that, despite *Batten*, 10 they should be allowed to consider their position regarding privilege in this case. 11 ECF No. 66. 12 Plaintiffs’ respond that Providence did not show good cause because they 13 did not identify a concrete harm.

ECF No. 68 at 10. Plaintiffs’ filed Cross-Motion 14 to Authorize Use of Companion Case Discovery in their response to Providences’ 15 Motion for Protective Order. ECF Nos. 68; 66. Plaintiffs request that they may 16 use the discovery and deposition materials previously ordered for production or 17 permitted for use from *Estes* and *Batten*, including *Palmer*, to avoid duplicative 18 motions and lower the burden on the parties.

ECF No. 68 at 11. 19 In the court’s previous Order, the Court denied the use of *Batten* and *Estes* 20 but stated that it was open to reconsidering this request. ECF No. 63 at 7. 1 Notably, the Court recognizes that Plaintiffs request the use of only three cases: 2 *Batten*, *Estes*, and *Palmer*. ECF No. 68 at 11. 3 Providence alludes to the burden and the proportionality of the requests as a 4 harm.

ECF No. 66 at 7. The relevance of this discovery relates to similar issues 5 and allegations regarding Providence. As mentioned in the Court’s previous 6 Order, *Batten* and *Estes* are particularly informative on this matter. ECF No. 63 at 7 7.

As such, the Court will follow Batten's precedent. 8 Based on the history of this case, related matters, and to prevent prolonging 9 this case, the Court grants Plaintiffs' cross-motion in part and denies Providence's 10 Motion for Protective Order in part. Similarly, for Estes, Batten, and Palmer, 11 Plaintiffs are permitted to use discovery produced in these cases related to the qui 12 tam action subject to the same redaction requirements such as personally 13 identifying information of individuals other than Plaintiffs.

This should resolve 14 any concerns regarding confidential information regarding other individuals. 15 Similarly to Batten, if Plaintiffs wish to seek additional materials or discovery, 16 including from cases not addressed in this Order, Plaintiffs must identify with 17 specificity the relevant documents sought and explain why they are necessary. 18 // 19 // 20 ACCORDINGLY, IT IS HEREBY ORDERED: 2 1.

Defendants' Rule 26(c) Motion for Protective Order (ECF No. 66) is 3 DENIED in part. 4 2. Plaintiffs' Cross-Motion to Authorize Use of Companion Case 5 Discovery (ECF No. 68) is GRANTED in part. 6 The District Court Executive is directed to enter this Order and furnish copies to counsel. 8 DATED January 12, 2026. <> United States District Judge 11 12 13 14 15 16 17 18 19 20 ORDER ON DEFENDANTS' RULE 26(c) MOTION FOR PROTECTIVE