

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Contractor Management Services LLC v. Para Incorporated, et al.

No. CV-25-01645-PHX-DWL (D. Ariz. Feb. 27, 2026) · No. CV-25-01645-PHX-DWL · Decided February 27, 2026

SUMMARY

The United States District Court for the District of Arizona addresses the parties’ joint motion for entry of a protective order. The court grants the motion in part and denies it in part, rejecting proposed provisions that would place the burden on the challenging party to disprove a confidentiality designation and would apply a “compelling reasons” standard to requests for access to confidential materials.

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF ARIZONA 8 9 Contractor Management Services LLC, No. CV-25-01645-PHX-DWL 10 Plaintiff, ORDER 11 v. 12 Para Incorporated, et al., 13 Defendants. 14 15 The parties have jointly moved for the entry of a protective order. (Doc. 42.)

The 16 parties’ proposed order differs, in a number of ways, from the Court’s model protective 17 order. Although most of the parties’ proposed revisions are acceptable, two are not. 18 First, in ¶ 10, which specifies the process for objecting to a confidentiality 19 designation, the parties seek to add the following language: “On such a challenge, the 20 objecting party shall bear the burden of showing that the challenged designation is 21 improper.” (Doc.

42-1 at 8-9.) Although some courts appear to allow the parties to 22 stipulate as to who bears the burden proof in this scenario, see, e.g., Penn Eng’g & Mfg. 23 Corp. v. Peninsula Components, Inc., 2021 WL 4192038, *2 (E.D. Pa. 2021) (citing cases), 24 other courts do not. Biogen Int’l GmbH v. Mylan Pharmaceuticals, Inc., 2019 WL 25 13562242, *3 (N.D. W. Va. 2019) (declining to follow the provision in a “Stipulated 26 Protective Order [that] placed the burden on the party challenging a confidentiality 27 designation” because “[w]hen a party challenges the confidentiality designations of certain 28 documents, the designating party must justify each designation by demonstrating ‘good 1 || cause’ under Federal Rule of Civil Procedure 26(c), regardless of contrary provisions in a 2|| stipulated protective order”) (citations omitted).

The Court finds the latter line of cases 3 || persuasive, so the proposed language will not be added. 4 Second, in 4 11, which specifies the process for determining whether a party may || “be permitted to disclose Materials designated as Confidential Information to individuals 6 || not permitted by this Order to view such Materials,” the parties seek to add the following 7|| language:

“On such a motion, the requesting party shall bear the burden of showing that 8 || compelling reasons justify the requested access.” (Doc.

42-1 at 9.) The Court’s concern 9|| here is not with the allocation of the burden of proof, but with the standard of proof that || the parties seek to adopt. “Compelling reasons” is a term of art in this context governing 11 || whether the substantive standard for sealing has been met. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).

That standard does not map neatly onto a 13 || dispute over whether confidential information may be shown to a particular party, and the Court is wary of uncritically adopting a stipulated standard that will only result in confusion 15 || should a future dispute arise. 16 Accordingly, 17 IT IS ORDERED that the parties’ joint motion for protective order (Doc.

42) is 18 || granted in part and denied in part. The protective order, as modified, will separately issue. 20 Dated this 27th day of February, 2026. 21 Dominic W, Lanza 24 United States District Judge 25 26 27 28 -2-