

United States District Court
Central District of California
Western Division

DARREN THOMAS, *et al.*,
Plaintiffs,

v.

COUNTY OF LOS ANGELES, *et al.*,
Defendants.

CV 90-5217-TJH (Ex)

Order
(#1942)
JS-6

The Court has considered proposed Intervener Freddie Fuiava's renewed motion to intervene and to modify the Court's protective order, together with the moving and opposing papers.

The Court may permit anyone to intervene who has a claim or defense that shares a common question of law or fact with the main action. Fed. R. Civ. P. 24(b)(1)(B). A collateral litigant may file a motion to intervene and modify a protective order after the litigation from which the protective order arose has closed. *Beckman Indus., Inc. v. International Ins. Co.*, 966 F.2d 470, 472-73 (9th Cir. 1992).

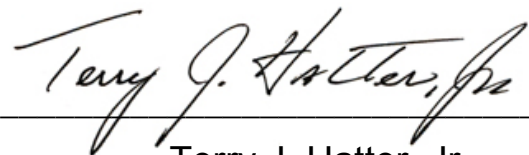
1 The Court must weigh two factors in evaluating a collateral litigant's request
2 for modification of a protective order. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331
3 F.3d 1122, 1132-33 (9th Cir. 2003). First, the Court must examine the relevance
4 of the protected material to the collateral proceedings. *Foltz*, 331 F.3d at 1132
5 (“[R]elevance hinges on the degree of overlap in facts, parties, and issues between
6 the suit covered by the protective order and the collateral proceedings.”). Second,
7 the Court must weigh the interests of the party opposing modification against judicial
8 policy limiting duplicative discovery. *Foltz*, 331 F.3d at 1133.

9 Fuiava has failed to articulate how access to the requested reports will be
10 relevant to his collateral litigation featuring self-defense. Instead of explaining how
11 the reports will aid his cause, Fuiava simply lists the reports he wants to discover
12 and then makes a conclusory statement that those reports relate to his collateral
13 action. Without a sufficient explanation, this Court cannot evaluate the relevance
14 of the reports requested, as called for under *Foltz*.

15 As to the second factor, the County of Los Angeles asserts that the state court
16 has already determined that the reports of the slain deputy were relevant and that
17 other Sheriff's department reports were irrelevant. Weighing the County's argument
18 for maintaining the protective order against the judicial policy limiting duplicative
19 discovery, as called for under the second *Foltz* factor, the County's position prevails.

20 It is Ordered that the renewed motion to intervene to modify the protective
21 order be, and hereby is, Denied.

22
23 Date: February 11, 2009



24 Terry J. Hatter, Jr.
25 Senior United States District Judge
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