

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

EQUAL EMPLOYMENT )  
OPPORTUNITY COMMISSION, *et* )  
*al.*, )  
 )  
Plaintiffs, )  
 )  
v. ) CAUSE NO. 3:04-cv-623 RM  
 )  
PRODESIGN, LLC, )  
 )  
Defendant. )

**ORDER**

Plaintiff Equal Employment Opportunity Commission, Plaintiff-Intervenor Robbie Caldwell, and Defendant, Prodesign LLC, filed a Motion for Entry of a Stipulated Protective Order on March 1, 2005, requesting that this Court issue a protective order covering various information in the underlying litigation. For the following reasons, this Court **DENIES** parties' motion [Doc. No. 31]. The parties may resubmit a proposed protective order which comports with Seventh Circuit precedent for this Court's consideration.

**I. APPLICABLE STANDARDS**

When granting a proposed protective order, this Court must independently determine whether "good cause" exists to seal the requested information from the public record. Fed.R.Civ.P. 26(c); Citizens First National Bank of Princeton v. Cincinnati Insurance Co., 178 F.3d 943, 944 (7th Cir.1999). In doing so, this Court must not grant parties *carte blanche* to seal or protect whatever they desire. Citizens, 178 F.3d at 944; See also Pierson v. Indianapolis Power & Light Co., 205 F.R.D. 646, 647 (S.D. Ind. 2002) ("Independent and careful evaluations of protective orders are especially important because '[t]he judge is the primary representative of

the public interest in the judicial process....”) (quoting Citizens, 178 F.3d at 945). In other words, this Court cannot serve as a rubber stamp whenever parties wish to seal public records, but must review all requests to seal documents in light of the public interest in the judicial process. Citizens, 178 F.3d at 945 (citing In re Krynicki, 983 F.2d 74 (7th Cir.1992); Miller, Arthur M., Confidentiality, Protective Orders, and Public Access to the Courts, 105 Harv. L.Rev. 427, 492 (1991)).

When reviewing an agreed protective order seeking to seal documents produced in discovery, this Court must ensure that “(1) the information sought to be protected falls within a legitimate category of confidential information, (2) the information or category sought to be protected is properly described or demarcated, (3) the parties know the defining elements of the applicable category of confidentiality and will act in good faith in deciding which information qualifies thereunder, and (4) the protective order explicitly allows any party and any interested member of the public to challenge the sealing of particular documents.” Pierson, 205 F.R.D. at 647 (citing Citizens, 178 F.3d at 946). This Court may issue a protective order in this case pursuant to its referral order and 28 U.S.C. § 636(b)(1)(A).

## **II. ANALYSIS**

The parties’ proposed order fails to satisfy the last prong of the above standard because it fails to explicitly state that any party and any interested member of the public may challenge the sealing of a particular document. Parties motion simply states that:

All transcripts, exhibits, discovery responses, and any other documents filed with the Court which have been designated as CONFIDENTIAL INFORMATION shall be filed in a sealed envelope bearing the title of this action with an indication of the general nature of its contents and a statement substantially in the following form...This provision shall not be deemed to prevent additional copies of any pleading or paper from being hand-delivered to the Court’s chambers,

provided, however, such copies comply with the requirements set forth herein.  
(Stip. Prot. Order ¶ 8).

The parties' proposed order fails to mention that the parties and members of the public have a right to challenge the sealing of a document. As court proceedings contain public information, and because this Court serves as the primary representative of the public interest in the judicial process, it must comply with the Seventh Circuit's strict requirements for granting protective orders. See Pierson, 205 F.R.D. at 647. Therefore, for the proposed order to comply with Seventh Circuit standards, it must contain explicit language that allows a party or any interested member of the public to challenge the sealing of particular documents.

### **III. CONCLUSION**

Because the parties' Motion for Entry of a Stipulated Protective Order does not contain a provision which allows a party or a member of the public to challenge the sealing of particular documents, this Court **DENIES** parties' motion [Doc. No. 31]. The parties may resubmit their proposed order in light of the standards set forth in this order and the citations herein.

**SO ORDERED.**

Dated this 10th Day of March, 2005.

s/Christopher A. Nuechterlein  
Christopher A. Nuechterlein  
United States Magistrate Judge