

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KENT MAYNARD, JR.,

Plaintiff,

vs.

THE CITY OF CHICAGO, a Municipal
Corporation, and Chicago Police Officer
CARMEN MOSTEK (Star #8664),

Defendants.

Case No. 1:24-cv-03612

District Judge Sunil R. Harjani

Magistrate Judge Young B. Kim

**DEFENDANTS' RESPONSE TO PLAINTIFF'S OBJECTIONS
TO AND APPEAL FROM PORTION OF
MAGISTRATE JUDGE'S AUGUST 26, 2026 ORDER**

Defendants Carmen Mostek and the City of Chicago, pursuant to this Court's order of September 10, 2026 (Dkt. 201), respond in opposition to Plaintiff's Objections to and Appeal from a Portion of Magistrate Judge Kim's August 26, 2026 Order (Dkt. 200), and in support thereof state as follows:

Introduction

Plaintiff won his motion. The Magistrate Judge granted Plaintiff's request to de-designate the COPA materials, permitting their unrestricted use in this litigation. Plaintiff now appeals not because his motion was denied, but because the Court imposed a single, sensible limitation: Plaintiff may not exploit discovery as a vehicle for extrajudicial publicity while a jury trial and administrative proceeding remain pending.

This case involves an April 21, 2024 incident in which Plaintiff's dog escaped from his home and attacked Defendant Officer Carmen Mostek's dog near the intersection of 29th Street

and Normal Avenue in Chicago. Dkt. 153 at 1-3. Mostek, who was off duty at the time, discharged her firearm at Plaintiff's dog. *Id.*

During discovery, the City produced the Civilian Office of Police Accountability ("COPA") Final Summary Report ("FSR") concerning this incident. The FSR details the City's internal investigation, including evidence gathered, an assessment of whether Mostek violated any City General or Special Orders or applicable state or constitutional laws (including the same legal violations at issue here), and recommended discipline. The City also produced the Superintendent's concurrence and non-concurrence letter regarding COPA's recommended charges and discipline to file against Defendant Mostek before the Chicago Police Board or Arbitrator. The City marked the FSR and the Superintendent's materials (collectively, the "COPA Materials") as "Confidential Pursuant to Protective Order."

On May 14, 2026, Plaintiff moved to de-designate the COPA Materials. Dkt. 178. On August 26, 2026, the Magistrate Judge granted the motion but ordered that "Plaintiff must limit his use of COPA Documents for purposes of presenting evidence at his upcoming trial and may not use them for any other purpose." Dkt. 197 at 9. Plaintiff now appeals that use restriction. Dkt. 200.

Plaintiff's appeal is without merit. The Magistrate's use restriction was a reasonable exercise of the Court's broad discretion over discovery matters. Because Plaintiff has not demonstrated that the August 26, 2026 Order is clearly erroneous or contrary to law, this Court should deny Plaintiff's objections and affirm the Order in its entirety.

Standard of Review

Under Federal Rule of Civil Procedure 72(a), a district court reviews a magistrate judge's order on a nondispositive matter and may "modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). This is an "extremely deferential" standard, and a finding is clearly erroneous only when the reviewing court is left with a "definite and firm conviction that a mistake has been committed." *Anderson v. City of Bessemer City*, 470 U.S. 564, 573 (1985); *Pinkston v. Madry*, 440 F.3d 879, 888 (7th Cir. 2006). An order is contrary to law only if it "fails to apply or misapplies relevant statutes, case law, or rules of procedure." *Tompkins v. R.J. Reynolds Tobacco Co.*, 92 F. Supp. 2d 70, 74 (N.D.N.Y. 2000). "The district court may not reverse the magistrate judge's decision simply because it would have arrived at a different conclusion." *Estate of Belbachir v. United States*, No. 08-cv-50193, 2011 U.S. Dist. LEXIS 88075, at *2 (N.D. Ill. Aug. 9, 2011). As the Seventh Circuit colorfully explained, a decision will not be reversed for "clear error" unless it "strikes [the reviewing court] as wrong with the force of a 5-week-old, unrefrigerated, dead fish." *S Indus., Inc. v. Centra 2000, Inc.*, 249 F.3d 625, 627 (7th Cir. 2001).

Argument

I. The Use Restriction Was Within the Magistrate Judge's Broad Discretion

Federal courts possess broad inherent authority to manage dissemination of discovery materials, and the Magistrate Judge's use restriction was a measured exercise of that discretion. The Supreme Court and Seventh Circuit have consistently recognized that discovery materials are not public components of civil litigation and that courts may restrict their extrajudicial use. Because Plaintiff has not shown that the restriction is clearly erroneous or contrary to law—the highly deferential standard applicable here—his appeal should be denied.

Magistrate judges possess “broad discretion over pretrial discovery rulings.” *Thermal Design, Inc. v. Am. Soc’y of Heating*, 755 F.3d 832, 837 (7th Cir. 2014). Discovery rulings are entitled to substantial deference. *Rennie v. Dalton*, 3 F.3d 1100, 1110 (7th Cir. 1993). The Supreme Court has recognized that courts have broad authority to manage dissemination of materials obtained through discovery. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33–37 (1984). In *Seattle Times*, the Court held that “pretrial depositions and interrogatories are not public components of a civil trial” and that courts may restrict the dissemination of discovered information. *Id.* at 33. The Seventh Circuit has likewise confirmed that “pretrial discovery . . . is usually conducted in private.” *Bond v. Utreras*, 585 F.3d 1061, 1074–75 (7th Cir. 2009).

Plaintiff contends the Magistrate Judge imposed the restriction without a formal “good cause” finding under Rule 26(c). This misconstrues the Magistrate Judge’s action. He was not entering a new protective order; he was imposing a reasonable condition as part of the order granting Plaintiff’s de-designation motion. Courts routinely impose such conditions when modifying protective orders under their inherent authority to manage discovery. *See Jepson, Inc. v. Makita Elec. Works, Ltd.*, 30 F.3d 854, 858 (7th Cir. 1994) (affirming broad discretion of district courts over protective orders). Neither Rule 26(c) nor *Seattle Times* requires a formal evidentiary hearing before attaching reasonable conditions to discovery-related relief.

Good cause independently supports the restriction. The COPA Materials relate directly to a pending disciplinary matter against Officer Mostek and contain COPA’s conclusions on whether she violated City General Orders, Special Orders, and constitutional standards—the same issues the jury will decide at the March 1, 2027 trial. Public dissemination risks prejudicing both Mostek’s administrative hearing and her right to an impartial jury. *See Coffie v. City of Chi.*, No. 05 CV 6745, 2006 WL 1069132, at *2–3 (N.D. Ill. Apr. 21, 2006); *Lane v. Salgado*, No. 13

CV 3764, 2014 WL 889306, at *2-6 (N.D. Ill. Mar. 5, 2014). This risk is not speculative:

Plaintiff has publicized this case through personal websites¹ and media outlets², and is currently posting about this appeal on his website.³

Plaintiff's reliance on *Seattle Times* is misplaced. He argues that *Seattle Times* authorized restrictions only "on a particularized showing of good cause." See Dkt. 200 at 3. But *Seattle Times* broadly affirmed trial courts' power to restrict dissemination of discovery materials, recognizing that "[m]uch of the information that surfaces during pretrial discovery may be unrelated, or only tangentially related, to the underlying cause of action" and that "restraints placed on discovered, but not yet admitted, information are not a restriction on a traditionally public source of information." 467 U.S. at 33. The Magistrate Judge's restriction is a measured application of that authority—permitting full litigation use while preventing extrajudicial dissemination of sensitive investigative materials.

Plaintiff also argues that Defendants "did not request" the restriction. See Dkt. 200 at 2. But courts may fashion appropriate orders to serve justice and protect legitimate interests, regardless of the precise relief requested. Throughout the de-designation briefing, Defendants emphasized the sensitive nature of the COPA Materials and the risks of public disclosure. The Magistrate Judge was entitled to consider those arguments in crafting an order that granted Plaintiff's requested relief while imposing a reasonable limitation.

¹ <https://justiceforaggie.com/> (retrieved Sept. 17, 2026).

² <https://www.cbsnews.com/chicago/news/accountability-off-duty-cpd-officer-killed-his-dog/>

³ <https://justiceforaggie.com/court-case-record> (retrieved Sept. 17, 2026).

II. The Use Restriction Is Appropriately Tailored

The Order permits Plaintiff to use the COPA Materials “for purposes of presenting evidence at his upcoming trial.” Dkt. 197 at 9. Plaintiff argues this language “could prohibit” use in pleadings, motion practice, witness preparation, expert preparation, settlement proceedings, motions *in limine*, and the proposed final pretrial order. Dkt. 200 at 3-4. This reading is unreasonably cramped.

The phrase “presenting evidence at trial” naturally encompasses all activities tied to presenting evidence: motions *in limine*, witness and expert preparation, and the proposed final pretrial order.⁴ Settlement discussions involving evidence are similarly covered. The restriction does not impair Plaintiff’s litigation—it prevents him from using discovery for extrajudicial publicity, precisely the concern *Seattle Times* addresses.

If Plaintiff perceives genuine ambiguity in the Order’s scope, the proper remedy is a motion for clarification before the Magistrate Judge—not an appeal seeking to vacate the restriction entirely. Plaintiff has not sought clarification. Instead, he asks this Court to overturn the restriction based on hypothetical concerns the Order’s plain language addresses. That relief is not warranted under the deferential Rule 72(a) standard.

Conclusion

The Seventh Circuit has recognized that “there is a difference between the public’s interest in evidence presented at a public trial and materials exchanged between the parties during the discovery process.” *Bond*, 585 F.3d at 1074–75. The Magistrate Judge’s restriction reflects this distinction. Regardless of whether the COPA Materials qualify as “confidential” under Illinois FOIA—a question the Magistrate Judge resolved in Plaintiff’s favor—a federal

⁴ Defendants reserve the right to object to Plaintiff’s use of the COPA Materials at trial, but for purposes of this Response, the Magistrate Judge’s Order is not restricting Plaintiff from proposing to use these materials at trial.

court retains independent authority under the Federal Rules and *Seattle Times* to manage dissemination of discovery materials. The Order ensures Plaintiff retains full use of the COPA Materials for litigation while preventing extrajudicial dissemination. That balance is neither clearly erroneous nor contrary to law.

For these reasons, Defendants respectfully request that this Court deny Plaintiff's objections and affirm the Magistrate Judge's August 26, 2026 Order.

Dated: September 17, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 17, 2026, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day and was served upon all counsel of record via the Court's CM/ECF system.

/s/ Michael C. Stephenson