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CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Plaintiff,
v.

et al.,
Defendants.

NO. _____

ORDER RE: PLAINTIFF'S MOTION FOR
PROTECTIVE ORDER

INTRODUCTION

Plaintiff _____ ("plaintiff" or "____") filed this action on _____ 2001,
against: (1) _____ (2) _____ (3) _____ (4) _____
_____ (5) _____ (6) _____ (7) _____
_____ (8) _____ and (9) _____ (collectively, "defendants" or _____
_____). Default has been entered as to five of the nine defendants.¹ Plaintiff alleges
that the _____ family, an _____ family, falsely imprisoned her in their residences, forced
her to perform various household duties without pay, repeatedly and consistently subjected her
to severe physical, sexual, and emotional abuse, and trafficked her to _____ the United
States against her will. (Complaint at ¶¶ 16-19; Plaintiff's Motion for Protective Order ("Plaintiff's

¹ Those defendants are: _____

SEARCHED

Motion") at 4). Plaintiff alleges claims for involuntary servitude under the Thirteenth Amendment, failure to pay minimum wage and overtime under the Fair Labor Standards Act, 29 U.S.C. §206, et seq., and a number of state statutory labor and common law claims.

On [REDACTED] 2003, counsel for the four appearing defendants – [REDACTED] a/k/a [REDACTED] [REDACTED] and [REDACTED] – took plaintiff's deposition. During the deposition, defense counsel asked plaintiff several questions that implicated her whereabouts as well as the identities and contact information for seven potential witnesses who are victims of trafficking. Plaintiff's counsel objected and instructed plaintiff not to answer some of the subject questions. After meet and confer discussions that took place on and off the record, counsel for the parties agreed to suspend the deposition to allow plaintiff to seek a protective order. (Plaintiff's Motion at 7).

Plaintiff subsequently filed the instant Motion for Protective Order, seeking an order preventing defendants from obtaining the following information from plaintiff: (1) her address, telephone numbers, names of her employers, name of her educational institution and other information that would enable defendants to determine plaintiff's whereabouts; and (2) the identities and contact information of non-party victims of trafficking, including the [REDACTED] individuals discussed in plaintiff's papers who are (a) victims of trafficking and clients of the [REDACTED] [REDACTED];² (b) who might have second-hand knowledge of plaintiff's allegations in the Complaint; and (c) who are still afraid of retaliation by their former traffickers. (Plaintiff's Reply Memorandum ("Plaintiff's Reply") at 10).

DISCUSSION

I. STANDARD OF REVIEW

Rule 26(c) of the Federal Rules of Civil Procedure permits a court to make "any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or

² [REDACTED] is a [REDACTED] based non-profit organization whose mission is to assist persons trafficked for the purpose of forced labor and slavery-like practices and to work toward ending all instances of such human rights violations. . . . [Plaintiff] and the non-parties whose information is sought are all [REDACTED] clients who receive case management and other [REDACTED] services." [REDACTED] Amicus Brief in Support of Plaintiff's Motion for Protective Order ("Amicus Brief") at 2-3).

1 undue burden or expense, including one or more of the following: (1) that the disclosure or
2 discovery not be had, (2) that the disclosure or discovery may be had only on specified terms and
3 conditions, including a designation of the time or place, (3) that the discovery may be had only by
4 a method of discovery other than that selected by the party seeking discovery, (4) that certain
5 matters not be inquired into, or that the scope of the disclosure or discovery be limited to certain
6 matters[.]” A court “may be as inventive as the necessities of a particular case require in order
7 to achieve the benign purposes of the rule.” 8 Wright, Miller & Marcus, Federal Practice and
8 Procedure, Civil § 2036, at 489 (2nd ed. 1994).

9 A good cause analysis involves balancing the party’s burden of production and privacy
10 interests against the opposing party’s and the public’s right to obtain information. See Seattle
11 Times Co. v. Rhinehart, 467 U.S. 20, 34-36, 104 S.Ct. 2199, 2208-09 (1984). “Legitimate
12 interests in privacy are among the proper subjects of [Fed. R. Civ. P. 26(c)’s] protection.” Pearson
13 v. Miller, 211 F.3d 57, 72 (3rd Cir. 2000). “It is appropriate for courts to order confidentiality to
14 prevent the infliction of unnecessary or serious pain on parties who the court reasonably finds are
15 entitled to such protection.” Pansy v. Borough of Stroudsburg, 23 F.3d 772, 787 (3rd Cir. 1994);
16 Pearson, 211 F.3d at 72.

17 In conducting the balancing test and determining whether good cause has been
18 established, the court looks at the following non-mandatory, non-exhaustive factors:

19 the requester’s need for the information from this particular source, its
20 relevance to the litigation at hand, the burden of producing the sought-after
21 material; and the harm which disclosure would cause to the party seeking to
22 protect the information.

23 Burka v. United States. Dep’t of HHS, 87 F.3d 508, 517 (D.C. Cir. 1996); Phillips v. General
24 Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002) (“For good cause to exist, the party seeking
25 protection bears the burden of showing specific prejudice or harm will result if no protective order
26 is granted.”).

27 When discovery is sought from non-parties, the standard for obtaining a protective order
28 is reduced because there “appear to be quite strong considerations indicating that discovery

1 would be more limited to protect third parties from harassment, inconvenience, or disclosure of
2 confidential documents." Dart Indus. Co., Inc. v. Westwood Chem. Co., Inc., 649 F.2d 646, 649
3 (9th Cir. 1980) (internal quotations omitted); Exxon Shipping Co. v. United States Dept. of Interior,
4 34 F.3d 774, 779 (9th Cir. 1994) (non-parties are afforded "special protection against the time and
5 expense of complying with subpoenas"); Laxalt v. McClatchy, 116 F.R.D. 455, 458 (D. Nev. 1986)
6 ("The rule is thus well established that nonparties to litigation enjoy greater protection from
7 discovery than normal parties").

8 II. PLAINTIFF'S MOTION FOR PROTECTIVE ORDER.

9 A. Defendants' Need For And The Relevance Of Information Relating To The
10 Whereabouts Of Plaintiff And The Non-Party Witnesses.

11 In the criminal context, despite the Sixth Amendment's Confrontation Clause guarantee
12 that provides a criminal defendant with the right to face those who testify against him or her and
13 the right to conduct cross-examination, see, e.g., Pennsylvania v. Ritchie, 480 U.S. 39, 51, 107
14 S.Ct. 989, 998 (1987), it is well settled that there is no absolute right to the address or phone
15 number of a witness or party. Several cases in the Ninth Circuit have approved the withholding
16 of a witness' or party's address where there is a showing of harassment, humiliation, or danger.
17 For example, in United States v. Cosby, 500 F.2d 405 (9th Cir. 1974), the Ninth Circuit rejected
18 the appellant's claim that he should have been permitted to inquire into the specific address of
19 the informant who testified against him. Id. at 407. The Ninth Circuit noted that the Supreme
20 Court's decision in Smith v. Illinois, 390 U.S. 129, 88 S.Ct. 748 (1968), "does not establish a rigid
21 rule of disclosure, but rather discusses disclosure against a background of factors weighing
22 conversely, such as personal safety of the witness." Id. at 407.

23 Similarly, in United States v. Rangel, 534 F.2d 147 (9th Cir.), cert. denied, 429 U.S. 854,
24 97 S.Ct. 147 (1976), the Ninth Circuit rejected an appellant's claim that the informant who testified
25 against him should have been required to divulge his true name, home address, and phone
26 number. Id. at 148. Citing Smith and Cosby, supra, the Ninth Circuit held that "the government
27 made an adequate representation that the informant's life had been threatened, causing him to
28 relocate his family." Id.; see also Clark v. Ricketts, 958 F.2d 851, 854-55 (9th Cir. 1991)

1 (defendant not permitted to ask witness' name and address at trial; defense was provided with
2 name and felony record prior to trial); Roviaro v. U.S., 353 U.S. 53, 62, 77 S.Ct. 623, 628-29
3 (1957) (court must balance defendant's asserted need against government interest in considering
4 crime charged, the possible defenses, the possible significance of the informer's testimony, and
5 other relevant factors in determining whether to order disclosure).

6 Other circuits have also declined to require the disclosure of addresses, place of
7 employment, and even names in cases where a witness can show a reasonable concern for his
8 or her safety. See, e.g., McGrath v. Vinzant, 528 F.2d 681, 684-85 (1st Cir. 1976) (upholding
9 withholding of victim's current address in a rape prosecution); United States v. Bower, 575 F.2d
10 499, 502-03 (5th Cir. 1978) (upholding protective order preventing disclosure of informant's
11 current address); United States v. McKinley, 493 F.2d 547, 550-51 (5th Cir. 1974) (refusal to allow
12 defense to inquire as to witness' residence and other aliases did not thwart effective cross-
13 examination where defense permitted to otherwise place witness in proper setting); Caldwell v.
14 Minnesota, 536 F.2d 272, 273-74 (8th Cir. 1976) (upholding court's sustaining of objections to
15 questions relating to current address and specific place of employment); United States v.
16 Daddano, 432 F.2d 1119, 1128 (7th Cir. 1970), cert. denied, 402 U.S. 905, 91 S.Ct. 1366 (1971)
17 (upholding trial court's restriction of cross-examination to exclude identity of witness' employment
18 and where he was living); United States v. Alston, 460 F.2d 48, 52 (5th Cir.), cert. denied, 409
19 U.S. 871, 93 S.Ct. 200 (1972) ("We think that a reasonable interpretation of this area of exception
20 . . . to the usual requirement that the witness divulge background information would include an
21 instance in which the physical safety of the witness or his family might be endangered by
22 disclosure"); United States v. Palermo, 410 F.2d 469, 472 (7th Cir. 1969) ("This Court agreed with
23 Justice White that where there is a threat to the life of the witness, the right of the defendant to
24 have the witness' true name, address, and place of employment is not absolute."); United States
25 v. Ford, 21 F.3d 759, 764 (7th Cir. 1994) (defendant precluded from cross-examining witness in
26 a witness protection program on former identity).

27 The rule that there is no absolute right to the address or other identifying information of a
28 witness or party is equally, if not more, applicable to civil cases in that criminal defendants, as

1 | noted earlier, have additional constitutional guarantees stemming from the Confrontation Clause
2 | of the Sixth Amendment. See M.L.B v. S.L.J., 519 U.S. 102, 139-40, 117 S.Ct. 555, 575 (1996)
3 | (fewer constitutional protections in civil cases than in criminal cases) (Thomas, J. dissenting, citing
4 | examples). Here, plaintiff and the non-party witnesses clearly have a privacy interest in their
5 | home address and telephone numbers and other information relating to their whereabouts. See
6 | United States Dept. of Defense v. Federal Labor Relations Authority, 510 U.S. 487, 501, 114 S.Ct.
7 | 1006, 1016 (1994) (privacy interest in nondisclosure of one's home address is "far from
8 | insignificant"); Planned Parenthood Golden Gate v. Superior Court, 83 Cal.App.4th 347, 359
9 | (2000) ("Courts have frequently recognized that individuals have a substantial interest in the
10 | privacy of their home").

11 | In addition, as victims of trafficking in persons and involuntary servitude, plaintiff and the
12 | other [REDACTED] clients have legitimate privacy rights in their names and contact information. (See
13 | Declaration of [REDACTED] in Support of Plaintiff [REDACTED] Motion for Protective Order
14 | [REDACTED] Decl.") at ¶¶ 13-16; Declaration of [REDACTED] in Support of Plaintiff [REDACTED]
15 | [REDACTED] Motion for Protective Order (" [REDACTED] Decl.") at ¶¶ 9-10). The Trafficking Victims
16 | Protection Act of 2000 ("Trafficking Act"), 22 U.S.C. § 7101, et seq., was enacted to "combat
17 | trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly
18 | women and children, to ensure just and efficient punishment of traffickers, and to protect their
19 | victims." 22 U.S.C. § 7101(a). The Trafficking Act recognizes the need of trafficking victims to
20 | maintain confidentiality regarding their identities and contact information. For example, the
21 | Trafficking Act requires the federal government to protect trafficking victims in the custody of the
22 | government by:

- 23 | (i) taking measures to protect trafficked persons and their family members
24 | from intimidation and threats of reprisals and reprisals from traffickers and
25 | their associates; and
26 | (ii) ensuring that the names and identifying information of trafficked persons
27 | and their family members are not disclosed to the public.

28 | Id. at § 7105(c)(1)(C)(i) & (ii).

1 The Trafficking Act recognizes the critical importance of protecting identifying information
2 about victims of traffickers. Although plaintiff and the [REDACTED] clients are not in the custody of the
3 federal government, there is no reason why the Trafficking Act cannot assist a court in making a
4 determination as to whether certain information should be withheld. The Trafficking Act
5 recognizes that victims of trafficking are entitled to special protections, for most trafficking victims
6 have been held captive, physically beaten, sexually abused and psychologically intimidated.
7 Assuming a victim can make a reasonable showing that she qualifies as a victim of trafficking,
8 there is no reason why the victim should be denied protections that will ensure her and her
9 family's safety and security. Of course, the court must balance the opposing party's need for
10 discovery and fashion an appropriate protective order.

11 The court is convinced that plaintiff and the non-party witnesses qualify as victims of
12 trafficking in persons and involuntary servitude. (Declaration of Plaintiff [REDACTED] in
13 Support of Her Motion for Protective Order ([REDACTED] Decl.") at ¶¶ 5-40; [REDACTED] at ¶¶ 13-16;
14 [REDACTED] Decl. at ¶¶ 4-10; Declaration of [REDACTED] in Further Support of Plaintiff [REDACTED]
15 [REDACTED] Motion for Protective Order ([REDACTED] Supp. Decl.") at ¶¶ 3-7). Trafficking in persons
16 is a modern form of slavery that violates domestic and international law. See, generally,
17 Trafficking Act, supra; Protocol to Prevent, Suppress and Punish and Trafficking in Persons,
18 Especially Women and Children, G.A. Res. 25, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N.
19 Doc. A/55/49 (Vol. 1) (2001). Likewise, involuntary servitude is a modern form of slavery that
20 violates domestic and international law. See 18 U.S.C. § 1584;³ Universal Declaration of Human
21

22
23 ³ Title 18 U.S.C. § 1584 provides:

24
25 Whoever knowingly and willfully holds to involuntary servitude or sells into
26 any condition of involuntary servitude, any other person for any term, or brings
27 within the United States any person so held, shall be fined under this title or
28 imprisoned not more than 20 years, or both. If death results from a violation of this
section, or if the violation includes kidnapping or an attempt to kidnap, aggravated
sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to
kill, the defendant shall be fined under this title or imprisoned for any term of years
or life, or both.

1 | Rights, G.A. Res. 217A(III), U.N. GAOR, 3d Sess., pt. 1, at 71m U.N. Doc. A/810 (1948) ("No one
2 | shall be held in slavery or servitude, slavery and slave trade shall be prohibited in all their forms").

3 | In addition, during oral argument, plaintiff's counsel indicated that plaintiff was recently
4 | granted a T-visa pursuant to the Trafficking Act. To be eligible for a T-visa, the Attorney General
5 | must determine that the applicant: (1) has been a victim of a severe form of trafficking; (2) is
6 | physically present in the United States or a port of entry; and (3) has complied with any
7 | reasonable request for assistance in the investigation and prosecution of acts of trafficking. 8
8 | U.S.C. § 1101(a)(15)(T). Thus, it appears that plaintiff is covered by the Trafficking Act and
9 | entitled to its protections.

10 | While it is clear that plaintiff and the non-party witnesses, as victims of trafficking, have a
11 | strong interest in protecting their identifying information, it is not clear that there is an overriding
12 | justification for defendants to have such information. Plaintiff is represented by counsel, so there
13 | is no legitimate reason for defendants to approach or call her at her home. Similarly, defendants
14 | have not articulated any basis as to why they need the information relating to plaintiff's employers
15 | which consist of two private homes, where she is a housekeeper. (██████ Decl. at ¶ 41). Plaintiff's
16 | employers are individuals who have their own privacy interests in their home addresses. Finally,
17 | defendants do not put forth any reason as to why they need the name of plaintiff's educational
18 | institution.

19 | With respect to the non-party victims of trafficking, there also does not appear to be any
20 | legitimate need for information relating to their identities or location.⁴ Defendants' sole purported
21 | reason for needing such information is that they need to locate potential witnesses and "interview
22 | potential witnesses outside the presence of Plaintiff's counsel." (Defendants' Opposition at 6-7).

24 | ⁴ Defendants cited no authority to support their assertion that plaintiff has no standing to seek
25 | a protective order on behalf of the non-parties. (See Defendants' Opposition at 8). In any event,
26 | such an assertion is meritless because courts routinely grant protective orders to limit disclosure
27 | of non-party information on the basis of a motion filed by a party or subpoenaed witness. See,
28 | e.g., ICG Communications, Inc. v. Allegiance Telecom, 211 F.R.D. 610, 614 (N.D. Cal. 2002)
(protective order granted to limit defendant company's disclosure of information regarding its non-
party customers to protect their privacy interests); Wallman v. Tower Air, Inc., 189 F.R.D. 566,
568-69 (N.D. Cal. 1999) (protective order granted to limit defendant airline's disclosure of
passenger lists to protect the privacy interests of non-party passengers).

1 Defendants cite no authority to support such a contention. In fact, absent the consent of the non-
2 party witnesses, defendants do not have a right to speak to them, irrespective of whether
3 plaintiff's counsel is present. Under the circumstances, it seems fairly certain that the non-party
4 witnesses would not consent to speak to defendants. Thus, defendants' only recourse is to utilize
5 formal discovery procedures to speak with the non-party witnesses.

6 Plaintiff's counsel and [REDACTED] have proposed a reasonable arrangement that will not unduly
7 interfere with defendants' ability to present their defense. [REDACTED] has agreed to provide the
8 identities of the non-party individuals by way of pseudonyms and accept service by mail on their
9 behalf of any deposition subpoenas. ([REDACTED] Decl. at ¶ 17). This sort of arrangement has been
10 approved by courts to protect the privacy interests of non-party witnesses. See, e.g., Planned
11 Parenthood Golden Gate, 83 Cal.App.4th at 370 (Planned Parenthood allowed to use
12 pseudonyms to identify potential third party witnesses and to offer its own address and phone
13 number instead of disclosing address and phone numbers for third party staff and volunteers).

14 B. Whether Plaintiff And The Non-Parties Would Be Harmed By The Disclosure Of
15 The Subject Information.

16 Even assuming defendants had established a need and relevance for information relating
17 to the whereabouts of plaintiff and the non-party witnesses, the court is persuaded that plaintiff
18 and the non-parties have established that they will be harmed if no protective order is granted.
19 First, as victims of traffickers, see supra at 1-2, plaintiff and the non-parties are particularly
20 vulnerable to threats of physical harm. See 22 U.S.C. § 7101(b)(5) ("Traffickers often transport
21 victims from their home communities to unfamiliar destinations, including foreign countries away
22 from family and friends . . . leaving the victims defenseless and vulnerable"). Given plaintiff's
23 allegations that defendants committed heinous criminal acts against her, over a 17-year period,
24 plaintiff has no reason to believe that defendants' violent propensities have changed since her
25 escape less than three years ago. Plaintiff has established that she continues to be fearful of
26 retaliation and/or recapture by defendants. (See [REDACTED] Decl. at ¶¶ 42-46).

27 Likewise, the non-party witnesses are fearful that their traffickers will track them down and
28 harm them in retaliation. As the Executive Director of [REDACTED] stated:

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1 These clients are at extremely vulnerable stages of their lives while they, with
2 the assistance of ██████ attempt to overcome unimaginable obstacles and
3 heal from the past physical, psychological, and emotional abuse. Knowledge
4 that their whereabouts may be disclosed to the general public, including their
5 traffickers, would seriously jeopardize their safety and well-being as well as
6 their recovery and mental health.

7 ██████ Decl. at ¶ 16; see also ██████ Supp. Decl. at ¶ 7). Further, the court is persuaded that both
8 plaintiff and the non-parties will suffer severe emotional distress and anxiety if information
9 regarding their whereabouts is disclosed. (Id.; ██████ Decl. at ¶¶ 42-46; ██████ Decl. at ¶¶ 4-8).

10 As victims of trafficking, plaintiff and the non-parties carefully guard their names and
11 contact information because they fear that they will be retaliated against or recaptured by their
12 traffickers and former employers. Both the mental health and physical safety of plaintiff and the
13 non-parties could be endangered if defendants were allowed discovery of their names and contact
14 information. Given that the injury that must be shown under Rule 26(c) "need be no more than
15 'embarrassment,'" Pearson, 211 F.3d at 73, plaintiff and the non-parties' concerns relating to
16 retaliation and serious emotional distress clearly warrant the granting of a protective order.

17 Second, plaintiff, the non-parties and the public interest would be harmed if the court
18 ordered disclosure of identifying information because it would discourage trafficking victims from
19 reporting future abuses or pursuing their rights in court. The Trafficking Act recognizes the
20 importance of ensuring that victims of trafficking are able to assist the government in prosecuting
21 individuals for trafficking in persons by prohibiting the disclosure of a victim's identifying
22 information. See 22 U.S.C. § 7105(c)(1)(C). Plaintiff simply attempts to accomplish the same
23 result in a private, civil suit.

24 In similar, though arguably less egregious circumstances, involving employees who have
25 sued their employers, the Supreme Court has recognized that fear of employer reprisals will
26 frequently chill employees' willingness to challenge employers' violations of their rights. See
27 Mitchell v. Robert De Mario Jewelry, Inc., 361 U.S. 288, 292, 80 S.Ct. 332, 335 (1960) ("it needs
28 no argument to show that fear of economic retaliation might often operate to induce aggrieved

employees quietly to accept substandard conditions”); see also Does I Thru XXIII v. Advanced Textile Corp., 214 F.3d 1058, 1070-71 (9th Cir. 2000) (foreign guest worker plaintiffs who could be deported and imprisoned in China faced “greater threat[s] of retaliation than the typical [FLSA] plaintiff”). The fear of employer reprisals and the strong likelihood that such reprisals will chill an employee’s willingness to challenge his or her employer’s violations of his or her rights has resulted in several courts granting protective orders for a variety of identifying information. See, e.g., Rivera v. Nibco, Inc., 204 F.R.D. 647, 649-51 (E.D. Cal. 2001) (granting protective order to deny discovery of plaintiffs’ birthplace and employment status); Liu v. Donna Karan Int’l, Inc., 207 F.Supp.2d 191, 193 (S.D.N.Y. 2002) (denying discovery of plaintiff’s immigration status because such discovery would present a “danger of intimidation [that] would inhibit plaintiffs in pursuing their rights”); Flores v. Albertsons, Inc., 2002 WL 1163623, *5-6 (C.D. Cal. 2002) (upholding Magistrate Judge’s decision to deny discovery of immigration status of employee class members because, among other things, disclosure would result in class members withdrawing from suit and facing termination and/or potential deportation); Topo v. Dhir, 210 F.R.D. 76, 79 (S.D.N.Y. 2002) (granting protective order barring inquiry into plaintiff’s immigration status). Indeed, courts have held that when it is necessary to protect a person from harassment, injury, ridicule or personal embarrassment, a party may conceal his or her identity through the use of a pseudonym. See, e.g., United States v. Doe, 655 F.2d 920, 922 n. 1 (9th Cir. 1981) (using pseudonyms in opinion because appellant, a prison inmate, “faced a serious risk of bodily harm” if his role as a government witness were disclosed); Does I Thru XXIII, 214 F.3d at 1068 (a party may preserve her anonymity during a lawsuit when the party’s need for anonymity outweighs prejudice to the opposing party and the public’s interest in knowing the party’s identity); Doe v. Madison School Dist. No. 321, 147 F.3d 832, 834 n. 1 (9th Cir. 1998), vacated on other grounds, 177 F.3d 789 (9th Cir. 1999) (en banc) (plaintiff filed case as “Jane Doe” because she feared retaliation by the community); Doe v. Immigration and Naturalization Service, 867 F.2d 285, 286 n. 1 (6th Cir. 1989) (use of pseudonym in asylum case to protect petitioner’s family, who remained in China, from possible reprisals).

1 Here, plaintiff is pursuing this case using her true name. The only information she seeks
2 to protect is that relating to her whereabouts. Unlike plaintiff, the non-parties – who have greater
3 protections from discovery than parties – seek to protect not only their identity, but also
4 information relating to their whereabouts. As noted earlier, both plaintiff and the non-party
5 witnesses have established that they are vulnerable to retaliation. See supra at 7-8. In addition,
6 the discovery defendants seek from the non-parties is only marginally relevant because the non-
7 parties do not have any first-hand knowledge of the facts underlying plaintiff's claims. Any
8 information they may have of relevant facts is hearsay and probably inadmissible. In any event,
9 the discovery proposal put forth by plaintiff to allow defendants to depose the non-parties using
10 pseudonyms is more than adequate to enable defendants to prepare their defense.

11 Finally, defendants' efforts to limit plaintiff's allegations to the four defendants who
12 appeared in this action is unpersuasive. (See Defendants' Opposition at 5). The other five
13 defendants – [REDACTED] – were
14 properly served and are a part of this action. According to plaintiff, the defaulting defendants
15 include: (1) defendants' mother [REDACTED] who consistently and severely abused plaintiff
16 physically and emotionally ([REDACTED] Decl. at ¶¶ 10-11 & 20-21); (2) defendants' older brother, [REDACTED]
17 [REDACTED] who raped plaintiff numerous times over a 10-year period (id. at ¶ 6); and (3) defendants
18 older brother, [REDACTED] who also raped plaintiff several times in the 1990s. (id. at ¶ 23).
19 The fact that the other five defendants chose not to respond to the Complaint is insufficient to
20 eliminate plaintiff's legitimate fear of retaliation. Given plaintiff's allegations, it is reasonable to
21 conclude that defendants may have vindictive motives to punish plaintiff for escaping their
22 captivity and/or for filing the instant lawsuit against them. Further, it is not necessary for plaintiff
23 (or the non-party witnesses) to prove that her former traffickers intend to carry out any sort of
24 retaliation. All that is required is that a person's fear of retaliation is reasonable in light of the
25 allegations of trafficking. Here, plaintiff's fear of retaliation is reasonable and commonly shared
26 by other victims of trafficking and slavery. ([REDACTED] Decl. at ¶¶ 5-40; [REDACTED] Decl. at ¶¶ 7-12).

27 Even assuming the other five defendants were not parties to this case, that would not
28 prevent this court from issuing a protective order. "A district court with subject-matter jurisdiction

1 over a case has the power to issue orders relating to third parties." Does I Thru XXIII, 214 F.3d
2 at 1070-71 (court had authority to issue order to protect plaintiffs from threatened injury from third
3 parties such as Chinese government and employee recruiting agencies).

4 **CONCLUSION**

5 "Rule 26(c) provides district courts with the power to formulate a detailed solution that
6 reflects the concerns of particular individual disputes." Pearson, 211 F.3d at 73. Under the
7 circumstances, the court is persuaded that plaintiff has established good cause for the granting
8 of a protective order for her and the non-party witnesses. With respect to plaintiff, the lawsuit
9 concerns allegations that took place between [REDACTED] and defendants have not articulated
10 any basis as to why they need information relating to plaintiff's current whereabouts. Further,
11 plaintiff has established that there is a possibility that she might be harmed if the information was
12 disclosed. Finally, plaintiff established that she would suffer serious emotional distress if her
13 whereabouts were disclosed. Defendants are free to inquire into plaintiff allegations by deposing
14 her and utilizing the other discovery devices. From this investigation, defendants will be able to
15 conduct a thorough investigation of plaintiff's life.

16 With respect to the non-party witnesses, none of them have any first-hand knowledge of
17 any of the facts underlying plaintiff's Complaint. Further, as with plaintiff, it has been established
18 that they might be harmed and/or suffer severe emotional distress if information relating to their
19 identity or whereabouts is disclosed. Nevertheless, plaintiff has offered to provide defendants'
20 counsel access to the non-parties in a manner that will enable them to maintain their
21 confidentiality. Given that defendants have no right to speak to the non-parties, their refusal to
22 take CAST up on its offer is unreasonable. In any event, the court will allow defendants to depose
23 the non-parties in a manner that protects their identity. Defendants may not ask the witnesses
24 any questions that would elicit any information identifying the non-parties or their residence.

25 Based on the foregoing, IT IS ORDERED THAT:

- 26 1. Plaintiff's Motion for Protective Order (**Document No. [REDACTED]**) is granted.
27 2. Defendants may not seek plaintiff's address, telephone numbers, names of her
28 employers, places of employment, name of her educational institution, location of educational

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1 institution, and other information that would enable defendants to determine plaintiff's
2 whereabouts.

3 3. Defendants may not seek the names, addresses, telephone numbers, names of
4 employers, places of employment, names and places of educational institutions, of non-party
5 individuals who: (a) are victims of trafficking and clients of the [REDACTED]
6 [REDACTED] (b) might have second-hand knowledge of plaintiff's allegations in the Complaint; and
7 (c) are still afraid of retaliation by their former traffickers.

8 4. Any discovery defendants wish to conduct with respect to the non-parties shall be done
9 through [REDACTED] All discovery of the non-parties shall be done using pseudonyms (e.g., Jane Doe
10 I, II, etc.).

11 Dated this [REDACTED] day of [REDACTED] 2003.

12 [REDACTED]
13 [REDACTED]
14 United States Magistrate Judge

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