DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

KATHERINE WILLETT,

Plaintiff/Counter-Defendant,

v.

CHRISTOPHER DAHLBERG,

Defendant/Counter-Plaintiff.

1:24-cv-00024-MEM-EAH

TO: Lee J. Rohn, Esq.
David J. Cattie, Esq.

ORDER

THIS MATTER comes before the Court on the Motion for Protective Order, filed on July 15, 2025 by Attorney Lee Rohn on behalf of Plaintiff/Counter-Defendant Katherine Willett. Dkt. No. 78. Attorney David J. Cattie, on behalf of Defendant/Counter-Plaintiff Christopher Dahlberg, filed an Opposition on July 15, 2025, Dkt. No. 79, and Willett filed a Reply on July 22, 2025, Dkt. No. 81. For the reasons that follow, the Court will deny the Motion for Protective Order.

BACKGROUND

I. Prior Filings

In a July 2, 2025 Order that granted in part and denied in part Willett's Renewed Motion for Entry of Confidentiality and Protective Order, the Court set out the procedural history of this case. Dkt. No. 73. Accordingly, the Court will include only the background necessary to place the instant motion in context.

Plaintiff Katherine Willett filed an Amended Complaint in October 2024, Dkt. No. 7. She alleged that, in 2022, Dahlberg pushed, hit, and threatened her; he slammed her to the

ground and refused to let her get up, which caused a spinal injury requiring multiple surgeries. *Id*. ¶ 5. As a result of Dahlberg's actions, Willett incurred medical expenses, permanent injuries, post-traumatic stress disorder, sleep loss, anxiety, chronic pain, loss of income, economic losses, fear, mental anguish and loss of enjoyment of life. *Id.* ¶ 11. Willett alleged claims for assault (Count I); trespass (Count II); intentional infliction of emotional distress (Count III); false imprisonment (Count IV); trespass to chattels (Count V); conversion (Count VI); and battery (Count VII). *Id*. at 4-5.

In November 2024, Dahlberg filed an answer and counterclaims. Dkt. No. 9. He alleged that the parties were married from June 2009 until February 2024. *Id.* ¶ 6. The Superior Court entered a restraining order against Willett—a licensed medical provider—in February 2023 for stalking and harassing him. *Id.* ¶¶ 7, 8. Dahlberg further alleged that Willett had experienced mental and psychological issues for years, including bipolar disorder, *id.* ¶¶ 9, 10, and that she admitted to him that she lied on her Virgin Islands medical license application and falsified licensure documents in the Virgin Islands, South Carolina, North Carolina, and Florida by denying her mental health issues and denying that she was taking medication for those issues. *Id.* ¶¶ 15, 17-19, 26. Dahlberg alleged that Willett's bipolar disorder involved hypersexual activity; she would engage in extramarital affairs with men and women and taunt Dahlberg about them to harm him mentally and emotionally. *Id*. ¶¶ 27-30. He also alleged that Willett stole sums of money from his bank account, *id*. ¶¶ 38-41, and that her abusive treatment of him caused severe psychological trauma, *id.* ¶ 45. The court granted temporary custody of the couple's minor children to Willett and visitation to

Dahlberg, but the children had to flee the Virgin Islands to escape her abuse and now reside exclusively with Dahlberg. *Id*. ¶¶ 45-47. He alleged counterclaims for abuse of process (Count I); conversion (Count II); and intentional infliction of emotional distress (Count III). *Id*. at 8-10. Willett filed an answer to the counterclaims on January 30, 2025. Dkt. No. 17. The Court denied Willett's Motion to Amend the Complaint on April 30, 2025. Dkt. No. 43.

On March 14, 2025, Plaintiff filed a Motion for Entry of Confidentiality and Protective Order, Dkt. No. 29, which the Court denied without prejudice on April 29, 2025 after determining that the record was "insufficient to assess Willett's motion." Dkt. No. 41 at 11. Willett filed her Renewed Motion for Entry of Confidentiality and Protective Order ("Renewed Motion") on May 9, 2025. Dkt. Nos. 46, 47. Dahlberg filed an Opposition. Dkt. No. 67. Plaintiff did not file a Reply by the deadline set by the Court. *See* Dkt. No. 66.

The main point of contention in the Renewed Motion concerned third-party access to confidential information—in particular, whether Dahlberg could provide Willett's medical records to the Virgin Islands Board of Medical Examiners ("VIBME"). Dahlberg raised that issue generally in connection with a damages theory he intended to pursue. Dkt. No. 67 at 5, 7. The Court held that Willett had shown good cause for protection against that third-party access:

> She has articulated a specific harm she would suffer if her medical records were shared with the VIBME: at the very least, the tainting of her professional reputation before her peers in the small medical community of the Virgin Islands. Whatever her medical records contain, the spectre of any person's medical records being shared gratuitously with people who are not parties to litigation would be embarrassing at the very least. But added to that, sharing such intimate details with peers, who also happen to be members of the licensing body that has a say over one's professional status would be even more concerning. And given

> the fact that, at least to the Court's knowledge, the VIBME does not have an open or ongoing investigation into Willett's licensure or even any complaint about her practice of medicine before them, and where they have not affirmatively sought those records, providing them access to those records could certainly have the possibility of tainting Willett's reputation. Further, because the records would be provided outside of the VIBME's normal procedures of receiving complaints and conducting investigations, the uncertainty of VIBME's possible response and any possible repercussions resulting from such access would be, in the Court's view, "oppressive."

Dkt. No. 73 at 15-16. The Court further engaged in the balancing analysis required by *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 787 (3d Cir. 1994), that supported its conclusion, *id.* at 16-20 and granted the Protective Order in part, including Willett's request that her medical records produced in discovery could not be shared with the VIBME.

II. The Instant Motion, Opposition, and Reply

In her second motion for a protective order, Willett sets forth eight Requests for Admission propounded by Dahlberg that she seeks protection from on the grounds that they are "irrelevant and seek to obtain confidential information not associated with this case and propounded for shear [sic] harassment and in bad faith." Dkt. No. 78 at 2. In one paragraph, she generally asserts that the Court's July 2, 2025 Order that granted in part the protective order "specifically noted" that Willett's licensing as a medical doctor was not an issue in any of the causes of action or counterclaims, and the Court "found" that Dahlberg's theory on damages that he did not owe loss of income because Willett should never have been licensed was "counterfactual." *Id*. at 4.

In his Opposition, Dahlberg asserts that Willett seeks a second protective order so that she can avoid responding to his discovery demands that will undermine her claims. Dkt.

No. 79 at 1. In summarizing the standard for issuance of protective orders, Dahlberg focuses on the fact that the proponent must show good cause—a "particularized need for protection" that specifically demonstrates that "disclosure will cause a clearly defined and serious injury," *McNamara v. Hess Corp.,* No. 20-cv-0060, 2021 WL 4204335, at *2 (D.V.I. Sept. 15, 2021) (internal quotation marks omitted)—and seven factors a court should consider in granting such an order, quoting *Shingara v. Skiles*, 420 F.3d 301, 306 (3d Cir. 2005). *Id*. at 2-3. Willett's lawsuit specifically references her alleged physical and mental health issues, and the scope of discovery is broad. *Id*. at 3-4. Willett failed to assess the factors necessary for a protective order and referred to undefined embarrassment in responding as well as objecting that the requests for admission were not relevant. *Id.* at 4-5. Consequently, she did not carry her burden to support a protective order. *Id*. at 5.

For ease of reference, the Court will provide the actual requests for admission ("RFA"), Willett's arguments, and Dahlberg's responses.

A. RFA 1

Request for Admission 1: Admit that you received treatment at Three Rivers Behavioral Health in South Carolina prior to October 2, 2022. Dkt. No. 78-1.

Willett characterizes this request as seeking information whether "in Plaintiff's lifetime, she ever received treatment at Three Rivers . . . before 2022, when Plaintiff applied for her medical license in the Virgin Islands." Dkt. No. 78 at 3. She does not make any specific argument concerning why she should be granted protection from this Request.

Dahlberg observes that Willett misrepresents the language of this RFA, which did not ask if she was treated before 2022 "when Plaintiff applied for her medical license in the Virgin Islands." Dkt. No. 79 at 5. The October 2, 2022 date included in the RFA was the day Willett contends she was assaulted and injured, physically and mentally, by Dahlberg. *Id*. at 6 (citing Dkt. No. 1-1 ¶ 4). Dahlberg explains that Willett's history of serious pre-existing mental health issues is discoverable against her claims that he caused her mental anguish and emotional injuries.

B. RFAs 5, 7, 10

Request for Admission 5: Admit that you had been diagnosed with bi-polar disorder prior to October 2, 2022.

Request for Admission 7: Admit that you had been treated for depression prior to October 2, 2022.

Request for Admission 10: Admit Lamotrigine is used for the treatment of bi-polar disorder.

Willett asserts that, regarding RFA 5, a diagnosis of bipolar disorder is not a claim in this case; that RFA 7 inquires if she was "ever treated for depression with no time period"[1]; and RFA 10 asks if Lamotrigine can be used to treat for bipolar disorder, which is irrelevant, but the RFA does not attempt to find out why it was prescribed for Willett. Dkt. No. 78 at 3.

[1] Here, too, Willett makes no specific argument concerning why she should be granted protection from this request.

Dahlberg lumps these three RFAs together and states that he is seeking confirmation that Willett was diagnosed with bipolar disorder and depression at any time in her life. Dkt. No. 79 at 7. He asserts that her only objection is that she is not claiming Dahlberg caused the bipolar disorder so he should not be able to inquire about her bipolar disorder history; she provides no basis for objecting to the inquiry about her depression; and her objection to RFA 10 was that Dahlberg did not also ask why the drug was prescribed. *Id.* But since she claimed Dahlberg caused her post-traumatic stress disorder, anxiety, and mental anguish, her history of serious pre-existing mental health issues is relevant and discoverable as part of his defense; whether her bipolar disorder could account for her assertions of PTSD and emotional injuries is a fair area of discovery. *Id*. Lamotrigine has emerged in the treatment of bipolar disorder. *Id*. at 7-8. If Willett wants to argue to a jury that Lamotrigine is used to treat something other than bipolar disorder, she can do so, but she cannot avoid the requested admissions, and she failed to carry her burden on objections to RFAs 5, 7, and 10.

C. RFAs 3, 6, 8

Request for Admission 3: Admit that in your initial application to the Virgin Islands Board of Medical Examiners you failed to disclose that you were treated at Three Rivers Behavioral Health in South Carolina.

Request for Admission 6: Admit that in your initial application to the Virgin Islands Board of Medical Examiners you failed to disclose that you had been previously treated for bi-polar disorder.

Request for Admission 8: Admit that in your initial application to the Virgin Islands Board of Medical Examiners you failed to disclose that you had been previously treated for depression.

Willett states that RFA 3 attempts to seek an admission that she failed to disclose treatment at Three Rivers to the VIBME, which assumes there was a requirement to do so when there was not; that RFA 6 attempts to seek an admission that she failed to disclose a bi-polar diagnosis to VIBME when there was no requirement to do so; and RFA 8 attempts to get her to admit she failed to disclose depression to the VIBME when there was no requirement she do so.[2] Dkt. No. 78 at 3.

Dahlberg lumps his objections to RFAs 3, 6, and 8 together. Dkt. No. 79 at 8-11. He argues that Willett contends that these RFAs are improper based on the Court's July 2, 2025 Protective Order, but that Protective Order only prohibited Dahlberg from sharing her medical records with the VIBME. *Id.* at 8. Willett now seeks to broaden that Order to preclude inquiries from her application for licensure. But nothing in that Order precluded Dahlberg from obtaining admissions that Willett made misrepresentations on that application. *Id.* at 8-9. She had conceded that Dahlberg could obtain information and share it with an expert who could opine on whether Willett could maintain her license, and whether she withheld information would bear on that opinion. *Id.* at 9 (citing Dkt. No. 47 at 7). In addition, whether

[2] Willett did not attach a copy of the of the VIBME application form to his opening brief; she attached it only to her reply brief. Dkt. No. 81-1.

she lied on her application would go to her credibility and be fodder for possible impeachment. *Id.* at 9, 10, 11. She failed to sustain her burden as to RFA 3, 6, and 8. *Id*. at 11.

D. RFA 14

Request for Admission 14: Admit that at least two of your children have accused you of physically abusing them since October 2, 2022.

Willett characterizes this RFA as asking her to admit that at least two of her children accused her of physically abusing them since she received her medical license, which is "completely irrelevant" to the case. Dkt. No. 78 at 3-4. She adds that the custody case has been settled—each parent has custody of two of the four children with liberal visitation—and this resolution is "hardly the actions of a father who believes his wife was physically abusing the children." *Id*. at 4.

Dahlberg again accuses Willett of misrepresenting the subject of the RFA: it does not ask if two of the children accused her of physical abuse since she received her medical license, but whether they have so accused her since October 2, 2022. Dkt. No. 78 at 12. Dahlberg explains that, given Willett's claim that her injuries affected her physical abilities and ability to earn income, the question of whether she was physically abusing the children is relevant to those injury claims because if she was capable of abusing the children, that would undercut her claims of injury or the extent of her injury. *Id.* While a child-abusing mother would be embarrassed by her children accusing her of physical abuse, such self-imposed embarrassment would not necessitate a protective order, and she did not articulate grounds for a protective order. *Id*. at 13.

E. Reply

In her Reply to Opposition to Motion for Second Protective Order, Willett argues that the July 2, 2025 Protective Order serves as the "law of the case" and therefore she is compelled to move for protection "each time" Dahlberg attempts to "advance his retaliatory claims and actions and to undermine the Court's orders by requesting discovery that has been ruled impermissible." Dkt. No. 81 at 1. She critiques Dahlberg's citation to *Shingara v. Skiles*, which set out seven factors courts evaluate when determining whether to grant a protective order, by stating that they were neither mandatory or exhaustive, quoting *Glenmede Tr. Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995). She distinguishes the three Third Circuit cases cited by Dahlberg that discuss the good cause balancing test for granting a protective order by noting that two of the cases involved individuals in public office and the third involved a party not articulating a serious injury if a protective order was not issued. *Id*. at 2-3.

Observing that "even if the Court were to entertain the application" of the seven *Pansy* factors, they supported the issuance of another protective order. *Id*. at 3. As to the first factor, "whether disclosure will violate any privacy interests," Willett asserts that admissions regarding her mental health treatment and diagnoses—RFAs 1, 3, 5, 7, and 10—are not proper because there are no personal injury claims in this case and the RFAs have no temporal limitation prior to 2022 such that they arguably include time from the day she was born. These RFAs are overbroad and the Court must "take seriously Willett's privacy requests in not disclosing information wholly unrelated to the case." *Id*. As to RFAs 6 and 8

(failure to disclose diagnoses to VIBME), her medical records are confidential and are entitled to privacy protection. *Id*. As to RFA 14, the "existence of any alleged child maltreatment is private," and "many laws. . . evidence this protection." *Id*. at 4. She cites 5 V.I.C. § 2540 that reports of child abuse shall be confidential, asserting that well-established privacy interests protect her and her minor children. *Id*.

As to whether the information is being sought for a legitimate or improper purpose, Willett contends that Dahlberg is continuing his pattern of abuse by countersuing her and hurling all sorts of allegations that are not even tangentially related to his claims in order to further punish Willett and shirk responsibility for his abusive behavior. *Id*. She adds that "[w]hen this Court determined that Willett's licensing as a medical doctor is not an issue in any of the causes of action in the Complaint or Counterclaims and that Dahlberg's damages argument is unpersuasive, the Court recognized that Dahlberg does not seek to use the requested information related to the [VIBME] for an allowable purpose." *Id.* (citing Dkt. No. 73 at 17). RFAs 3, 6, and 8, concerning the VIBME are clearly not legitimate or proper. *Id.* at 5. She cites district court cases from 1959 and 1960 regarding vague and broad requests for admissions, and distinguishes *Estate of Gifford by Gifford v. Operating Engineers 139 Health Benefit Fund,* 678 F. Supp. 3d 1046, 1049 (E.D. Wis. 2023), cited by Dahlberg, since there, the party's medical condition was at issue; here, RFAs asking about bipolar disorder or depression are vague, have no temporal limitation, and are beyond what should be allowable*. Id.* at 6.

Willett argues that although Dahlberg asserts that her answers on her medical licensure application go to her credibility, the application does not ask what he says it says: there is no question asking the applicant to provide any medical diagnoses, treatment or drug use unless their existence compromised the applicant's ability to practice. *Id.* (citing attached questionnaire, Dkt. No. 81-1). Any admission is therefore rife with the possibility of misrepresentation because the request is flawed, which applies to RFAs 3, 6, and 8. In addition, the Court ruled that discovery into these matters is impermissible. *Id.* Further, whether two of the parties' children claimed Willett was physically abusive, RFA 14, is "wholly irrelevant" and therefore objectionable. *Id*. at 7. Dahlberg's theory (that if she had the physical capability to abuse the children, she could have worked) is untenable. He did not ask if she continued to work or drive a car to undermine her claims of physical injury—he meant to cause her embarrassment and muddle the issues in the case. *Id.*

As to whether disclosure of the information would cause embarrassment, Willett quotes at length the July 2, 2025 Order regarding the sharing of Willett's medical records with the VIBME, where no open investigation into Willett was ongoing, where the VIBME did not request the records, and where providing them to her peers at the licensure board could taint her reputation. *Id*. at 8. RFA 14 regarding child abuse would cause embarrassment because such an allegation, whether true or false, would seriously impact Willett's reputation in the community. *Id.* As to whether confidentiality was being sought over information important to public health and safety, Willett again cites the July 2, 2025 Order noting that

neither party was a public figure, and none of the causes of action involve her licensure. *Id*. at 8-9. Dahlberg has not argued that RFA 14 is important to public health and safety. *Id*. at 9.

As to whether sharing of information among litigants will promote fairness and efficiency, the RFAs are tools for abuse: even though Dahlberg believes Willett suffered from mental infirmities, he engaged in abuse against her and now seeks admissions in support of his theory that the effects from his abusive behavior are inconsequential because his victim at any time in her life was depressed, had a mental health diagnosis, or was taking medication for bi-polar disorder. RFAs 1, 5, 7, 10. These requests move the parties and Court away from the pertinent issues of the case. *Id.* at 9-10.

As to whether a party benefitting from the order of confidentiality is a public entity or official, Willett is not a public official. *Id*. at 10. Finally, whether the case involves issues important to the public, public health and safety are not at issue in this case, Willett is not a public official and Dahlberg has not articulated a public interest. *Id.*

DISCUSSION

I. Applicable Standard

Federal Rule of Civil Procedure 26, governing discovery, provides in pertinent part that "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). "It is well recognized that the federal rules allow broad and liberal discovery." *Pacitti v. Macy's,* 193 F.3d 766, 777 (3d Cir. 1999).

Federal Rule of Civil Procedure 36 governs requests for admission. *Shelton v. Fast Advance Funding,* LLC, 805 F. App'x 156, 158 (3d Cir. 2020). It provides, in pertinent part:

> A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to: (A) facts, the application of law to fact, or opinions about either; and (B) the genuineness of any described documents.

Fed. R. Civ. P. 36(a)(1)(A)-(B).

Rule 26(c) permits a party to move for a protective order to shield it from "annoyance, embarrassment, oppression or undue burden or offense," and provides various ways the court may limit the disclosure of such information during the discovery process. Fed. R. Civ. P. 26(c)(A)-(G). In order to show that the information qualifies for protection, the moving party must show good cause. *Pansy*, 23 F.3d at 786 ("good cause must be demonstrated to justify the order."). Good cause means "that disclosure will work a clearly defined and serious injury to the party seeking disclosure. The injury must be shown with specificity." *Id.* (internal quotation marks omitted); *see also id*. at 786-87 (proponent of the protective order shoulders "[t]he burden of justifying the confidentiality of each and every document sought to be" covered by a protective order). '"Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning' do not support a good cause showing." *Id.* (quoting *Cipollone v. Liggett Grp., Inc.,* 785 F.2d 1108, 1121 (3d Cir. 1986). In assessing whether good cause exists, "federal courts have generally adopted a balancing process" that "balance[s] the requesting party's need for information against the injury that might result if uncontrolled disclosure is compelled." *Id*. at 787 (internal quotation marks omitted). Courts consider a number of factors when engaged in the good cause balancing process:

> (1) the interest in privacy of the party seeking protection; (2) whether the information is being sought for a legitimate purpose or an improper purpose; (3) the prevention of embarrassment, and whether that embarrassment would be particularly serious; (4) whether the information sought is important to public health and safety; (5) whether sharing of the information among litigants would promote fairness and efficiency; (6) whether the party benefitting from the order of confidentiality is a public entity or official; and (7) whether the case involves issues important to the public.

Arnold v. Pa. Dep't of Transp., 477 F.3d 105, 108 (3d Cir. 2007). "The District Court is best situated to determine what factors are relevant to any given dispute," *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.,* 924 F.3d 662, 671 (3d Cir. 2019) (internal quotation marks omitted), and has "broad discretion over the scope of a protective order." *RIG Consulting, Inc. v. Rogers*, No. 23-cv-1286, 2024 WL 4608354, at *4 (W.D. Pa. Oct. 29, 2024).

II. Application

The instant motion stands in stark contrast to Willett's Renewed Motion for Entry of a Protective Order, Dkt. No. 46, where the Court concluded that she *did* articulate good cause to warrant the relief she sought against permitting a third party (the VIBME) from being given access to her confidential medical records produced in discovery. Here, however, Willett has not carried her burden to show that good cause supports her request for relief regarding the RFAs.

A. Failure to Carry Her Burden

Willett set out, in her four-page opening brief, the standard a court applies when determining whether to issue a protective order—that good cause must be shown with specificity, disclosure would cause a "clearly defined and serious injury," and "broad allegations of harm, unsubstantiated by specific examples, will not suffice." Dkt. No. 78 at 1-

2. However, her truncated argument does not apply that standard. She claims, in conclusory fashion, that the RFAs are irrelevant and are propounded "for shear [sic] harassment and in bad faith," *id.* at 2, but made no attempt to support or otherwise explain these assertions.[3] She did not articulate how questions related to whether or not she received treatment for certain diagnoses, whether or not she disclosed those treatments on her initial application to the VIBME, or whether or not two of her children accused her of physical abuse, were irrelevant, harassing, and in bad faith, and would cause her a "clearly defined and serious injury." *Pansy*, 23 F.3d at 786. She has provided only "broad allegations of harm" which are insufficient to sustain her burden for the Court to issue a protective order. *See Pontes v. Rowan Univ.*, No. 18-cv-17317, 2024 WL 3507737, at n.4 (D.N.J. July 23, 2024) (noting that "Plaintiff's arguments are entirely conclusory and lack the specificity required to state good cause for a protective order."); *Huahai US Inc. v. Zhou*, No. 22-cv-2346, 2023 WL 5346619, at * 6 (D.N.J. Aug. 21, 2023) (concluding that plaintiff's showing of harm was unspecific and broad, that plaintiff made no showing of specific examples of harm or an articulated

[3] *See, e.g., McCurdy v. Wedgewood Capital Mgmt. Co., Inc.*, No. 97-4304, 1998 WL 946185, at *9 (E.D. Pa. Nov. 16, 1998) ("A party seeking a protective order on the ground that the documents sought are irrelevant must demonstrate to the court that the requested documents either do not come within the broad scope of relevance defined pursuant to [Federal Rule of Civil Procedure] 26(b)(1) or else are of such marginal relevance that the potential harm occasioned by discovery would outweigh the ordinary presumption in favor of broad disclosure.") (internal quotation omitted). Mere conclusory characterizations of requests as "irrelevant" (or as harassment or in bad faith) is insufficient. *Cf. Fogal v. Kijakazi*, 21-cv-0034, 2023 WL 3821562, at *7 (W.D. Pa. June 5, 2023) ("conclusory argument, provided without additional support or explanation, is clearly insufficient to satisfy the burden" borne by plaintiff); *Ramirez v. City of Newark*, No. 11-cv-1150, 2012 WL 13187039, at *5 (D.N.J. June 14, 2012) (party's argument "is a mere conclusory statement and is insufficient to sustain this motion").

reasoning for a protective order, and denied the motion); *McNamara,* 2021 WL 4204335, at *4 (denying motion for protective order because party failed to articulate with specificity the injury it would suffer by addressing requested discovery); *ELF Atochem N. Am., Inc. v. United States*, 882 F. Supp 1499, 1503 (E.D. Pa. 1995) (denying request for protective order because party "has not adequately given . . . specific examples or articulated reasons sufficient to justify a particular need for a protective order[.]") (internal quotation marks omitted). Willett has failed to carry her burden, warranting denial of the motion.

B. The July 2, 2025 Order

Beyond Willett's failure to carry her burden to explain how the RFAs were not relevant, were made in bad faith and for purposes of harassment, she appears to be relying on the Court's July 2, 2025 Order to shield her from answering the RFAs at issue here. In a short paragraph at the end of her opening brief, she cites that Order as providing that Willett's licensing was not at issue in any causes of action, that Dahlberg's theory of damages regarding loss of income was counterfactual, that Dahlberg's attempt to "provide information" to the VIBME was for an improper purpose, and that information as to Plaintiff's "prior medical conditions may not be provided to the VIBME." Dkt. No. 78 at 4. While Willett cites certain provisions of the July 2, 2025 Order in her opening brief, she does not explicitly argue that that Order covers the RFAs at issue here, thereby excusing her from having to answer them.

Willett makes that explicit argument in her reply brief, where she contends that the July 2, 2025 Order serves as the law of the case: the "scope of discovery" in which Dahlberg

seeks to engage (apparently in reference to the VIBME) is "clearly for an improper purpose," Dkt. No. 81 at 1, 2; the Order "determined" that Willett's licensing was not at issue in any of the causes of action or counterclaims[4] and his damages argument was "unpersuasive," *id*. at 5; the Court ruled "that discovery into those matters [licensing with the VIBME] is impermissible," *id*. at 6; providing medical records to the VIBME could cause embarrassment, *id*. at 7-8; and the Court had already "spoken to" some of the *Pansy* factors, *id*.at 8-9.

The July 2, 2025 Order had a very limited purpose: it prevented Dahlberg from sharing Willett's medical records produced in discovery with the VIBME. The reasoning in support addressed only that issue: it did not purport to, nor did it, address the "scope of discovery" in this case or address the propriety of any other discovery requests that might refer to the VIBME,[5] Willett's alleged diagnoses, or alleged child abuse. It did not purport to make any "findings" concerning Dahlberg's theories of damages—i.e., that certain inquiries in discovery were not permitted. Thus, the July 2, 2025 Order could not serve as the law of the case on any other discovery issue other than the specific issue addressed, given that the

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[4] Dahlberg argues that the RFA inquiries concerning licensing relate to credibility matters, which is a proper area for discovery inquiries. Dkt. No. 79 at 3-4, 9, 10. This is a valid point for consideration. *See Vitalis v. Sun Constructors, Inc.*, No. 05-cv-0101, 2020 WL 4912298, at *13 (D.V.I. Aug. 20, 2020) ("Documents which might reasonably provide—or lead to the discovery of—admissible evidence regarding the declarants' knowledge, credibility and biases would clearly be relevant."); *cf. Johnson v. Wetzel*, No. 16-cv-863, 2016 WL 4158800, at *6 (M.D. Pa. Aug. 5, 2016) (holding that the "broad and liberal discovery philosophy espoused by Rule 26(b)(1)" supported motion to compel certain evidence that bore upon credibility inquiries, and such evidence was "relevant and discoverable").

[5] For example, asking for an admit or deny response to a RFA about a purported medical condition would not be providing information about prior medical conditions (much less medical records) to the VIBME, as Plaintiff argues. Dkt. No. 78 at 4.

law of the case "prevents reconsideration of legal issues *already decided* in earlier stages of a case." *Home Depot USA, Inc. v. Lafarge N. Am., Inc.*, 59 F.4th 55, 61 (3d Cir. 2023) (internal quotation marks omitted). Consequently, the July 2, 2025 Order does not inoculate Willett from having to respond to the RFAs here, and the Court rejects Willett's efforts to point to the July 2, 2025 Order as protecting her from so responding.

C. Waiver

Supporting the conclusion that Willett did not bear her burden for the Court to issue a protective order is the matter of waiver. The contrast between Willett's four-page opening brief and her ten-page reply brief is stark on many levels. Her opening brief contains two pages of case law referring to the standard for granting a protective order but no application of that standard to the RFAs at issue; conclusory references for grounds to grant the protective order (irrelevance, harassment, bad faith) without further explanation[6]; summaries of the RFAs which may or may not contain summary arguments; and a paragraph concerning the July 2, 2025 Order that appears to argue that that ruling also encompassed the RFAs such that Plaintiff did not have to respond to them. Juxtaposed against that opening brief is the reply brief, which is much more fulsome in its engagement with the facts and the law. It applies the good cause standard, addressing the good cause balancing prongs set out

[6] The Court could very well conclude that Willett also waived her argument altogether regarding whether she asserted good cause for the protective order. *See Michael G. v. Comm'r of Soc. Sec.*, No. 21-01952, 2022 WL 1744644, at *7 n.2 (D.N.J. May 31, 2022) (finding an issue was waived where "[plaintiff] made a one-sentence, passing reference . . . but did not offer additional argument").

in *Pansy* and other Third Circuit cases, and makes numerous arguments concerning why a second protective order should issue.

It should go without saying that an opening brief must set out the facts and law in support of the relief requested. *See* LRCi 7.1(c)(1); *Virgin Grand Estates #60 Villa Ass'n v. Inter-Ocean Ins. Agency, St. Thomas, LLC*, 21-cv-0074, 2024 WL 4347616, at * n.5 (D.V.I. Sept. 30, 2024) (citing *Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 146-47 (3d Cir. 2017) for proposition that a "movant is required to raise all issues and present arguments in support of those issues in the opening brief"). In contrast, the reply brief "shall respond to the arguments presented in the memorandum in response and shall not raise new issues that do not respond to the arguments." LRCi 7.1(c)(3). As indicated above, the opening brief, with conclusory statements and vestigial arguments, and no application of the law to the facts, was insufficient to carry Willett's burden for the relief requested. Rather, Plaintiff waited until her reply brief to actually argue in support of the requested protective order, applying the *Pansy* good faith factors for the first time.

The Court can conceive of no reason why Willett did not argue these factors in her opening brief—particularly since the Court, a mere two weeks previously, applied those same factors when adjudicating Willett's initial motion for a protective order, thereby indicating that these factors should be considered in assessing the threshold matter of good cause. Dkt. No. 73. Thus, the Court concludes that Willett has waived the arguments raised in her reply brief. *See In re Niaspan Antitrust Litig.*, 67 F.4th 118, 135 (3d Cir. 2023) ("Arguments raised for the first time before a district court in a reply brief are deemed

forfeited."); *In re Green Field Energy Servs., Inc,* 834 F. App'x 695, 699 (3d Cir. 2020) ("Accordingly, the three arguments raised in passing but not squarely argued until Moreno's reply brief in District Court are considered waived.") (internal quotation marks and ellipsis omitted); *Helman v. Marriott Int'l, Inc.,* No. 19-cv-0036, 2021 WL 3473480, at *4 n. 6 (D.V.I. Aug. 6, 2021) ("However, as this argument was made for the first time in Marriott's reply, the Court need not consider it."); *Gutierrez v. Lamar Contractors, LLC*, No. 22-cv-00014, 2023 WL 3181670, at *6 (D.V.I. May 1, 2023) ("This argument is also raised for the first time in the reply brief and the Court will not consider it.").

If Willett had raised the arguments made in her reply brief in her opening brief, Dahlberg would have had an opportunity to respond to them. But, because those arguments were made for the first time in a reply brief, Dahlberg had no opportunity to address them—and it should not be his burden to move to file a sur-reply brief when Willett should have included these arguments to support her requested relief in her opening brief in the first place. This type of litigation strategy appears designed to stifle, not promote, resolution of issues on the merits, and the Court does not condone it.

CONCLUSION

Accordingly, it is hereby **ORDERED** that Plaintiff's Motion for Protective Order, Dkt. No. 78, is **DENIED.** The above requests for admissions shall be answered by Willett.

ENTER:

Dated: July 25, 2025

/s/ Emile A. Henderson III
EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE