

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

DANIEL COULBORN HOLLORAN, *et al.*)
Plaintiffs,)
v.) Case No. 13-cv-01050-JDB-egb
DEPUTY JOE DUNCAN, *et al.*)
Defendants.) Jury Demanded

EVAN BROWN, *et al.*,)
Plaintiffs,)
v.) Case No. 1:13-cv-1080-JDB-egb
DEPUTY JOE DUNCAN, *et al.*,)
Defendants.) Jury Requested

ORDER

On referral for determination are two pleadings filed in these two lawsuits by Defendants Joe Duncan, Jason Lowry, Lee Hatley, Josh Hedge, Alan Bolan, Mike Lockhart, Brandon Smith, Matthew Fry, Debbie Baird, Shaun Gary, Ricky Mallard, Chris Rogers, Bert Wells, Ricky Pafford, Bryant Allen, Andrew Clem and John Clem (“Defendants”). The Motions are each styled as *Rule 26 Motion for Protective Order*. (D.E. 81, D.E. 55).

Relevant History

The genesis of this lawsuit is a June 23, 2012 event which occurred at the Benton County farm of Plaintiff Holloran, during which Defendant law enforcement officers contend they found large numbers of people drinking and some intoxicated, including minors. There was evidence that beer was being sold to those present. As law enforcement arrived, some of the participants fled and attempted to flee into the woods. Mr. Holloran objected to the presence of the law on his private

property and states that the officers trespassed and otherwise mishandled what amounted to a raid. Mr. Holloran and others were carried to the Sheriff's Department and ultimately, the charges against him were dropped according to his Complaint.

Defendants—these law enforcement officials—are involved in a series of lawsuits and now seek a protective order to prevent discovery of their social media accounts or web pages from Plaintiffs in these lawsuits filed in this Western District of Tennessee.¹

An order [D.E. 88] was granted consolidating Case Nos. 13-1080, 13-1194, 13-1165, 13-1192, 13-1050, 13-1187, 13-1193, 13-1167, 13-1195, 13-1166, and 13-1168, with 13-1050—Mr. Halloran's case—remaining as the primary case.

Determination

A Case Management Order Governing Discovery was filed on October 7, 2013 [D.E. 86]. Paragraph i contemplated that the parties would disagree on whether disclosure of the existence of social media accounts (Twitter, Facebook, Instagram, SnapChat, etc.) belonging to the Plaintiffs/Defendants is appropriate and would tender this issue to the Court. It was noted further that Benton County, Tennessee and its Sheriff Tony King did not have social media accounts and would not join in the motions for protective orders.

Plaintiff Holloran has been unsuccessful in obtaining discovery of Defendants' social media for that period of six months preceding this event. He now argues on behalf of the all Plaintiffs for a broad construction of discovery, one which could reasonably lead to the discovery of other matters which could bear upon issues in the case. *See, e.g., Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350-351 (1978). Alternatively, Plaintiff Holloran argues a cross motion for a protective order

¹ At least one additional suit is filed in the Middle District of Tennessee.

covering the same social media of the Plaintiffs, under the theory that “[w]hat’s sauce for the goose is sauce for the gander.” (DE 81-5).

This Court determines that the Defendants are entitled to a protective order concerning the social media discovery requested by Plaintiffs. The Court agrees with Defendants that this discovery request is, essentially, a fishing expedition. Plaintiffs’ request is akin to one asking a letter-writing person for the last six months of all letters written and received. To ask for such information without some relevancy is simply inadequate when seeking to invade one’s privacy. See *Tompkins v. Detroit Metropolitan Airport*, 278 F.R.D. 387, 388 (E.D. Mich. 2012) (“consistent with Rule 26(b) and with the cases cited by both Plaintiff and Defendant, there must be a threshold showing that the requested information is reasonably calculated to lead to the discovery of admissible evidence. Otherwise, the [party seeking the information] would be allowed to engage in the proverbial fishing expedition, in the hope that there might be something of relevance in [the opposing party’s] Facebook account.”) See also *Potts v. Dollar Tree Stores, Inc.*, 3:11-cv-01180, 2013 WL 1176504 (M.D. Tenn. Mar. 20, 2013)

On the other hand, Defendants have met the threshold showing of relevance, by virtue of having information and belief that notice of the Halloran party was being “advertised” through the social media. The Magistrate Judge therefore orders Plaintiffs to produce the requested information for the limited time period of one week (7 days) prior to the date of the Halloran party.

Defendants’ Motion for a Protective Order is GRANTED and the Plaintiffs’ Motion for a Protective Order is DENIED.

IT IS SO ORDERED this 4th day of November, 2013.

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE