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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AARON DOYLE,  
  
Plaintiff,  
  
v.  
  
WILLIAM GONZALES; DAN W.  
DOPPS; SCOTT D. JONES; and  
the CITY OF QUINCY,  
WASHINGTON,  
  
Defendants.

NO. CV-10-0030-EFS

**ORDER DENYING PLAINTIFF'S  
MOTION FOR PROTECTION ORDER  
ENJOINING THE CITY OF QUINCY  
FROM RELEASING DOCUMENTS TO  
THE PRESS, and DENYING AND  
DENYING AS MOOT THE REMAINING  
PORTION OF DEFENDANTS'  
DISCOVERY MOTION**

Before the Court, without oral argument, are Plaintiff Aaron Doyle's Motion for Protection Order Enjoining the City of Quincy from Releasing Documents to the Press<sup>1</sup> (ECF No. [160](#)) and the outstanding portion of Defendants William Gonzales, Dan W. Dopps, Scott D. Jones, and the City of Quincy's ("City") Motion to Compel Production of Documents, Responses to Interrogatories, Responses to Requests for Admissions and for Terms (ECF No. [92](#)). After reviewing the submitted material and relevant authority, the Court is fully informed. As explained below, the Court

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<sup>1</sup> This motion was noted for hearing with oral argument. However, the Court finds oral argument is unwarranted. LR 7.1(h)(3)(b)(iv).

1 denies Plaintiff's motion and denies and denies as moot the outstanding  
2 portion of Defendants' discovery motion.

3 **A. Defendants' Discovery Motion**

4 On April 14, 2011, the Court granted, denied, and held in abeyance  
5 in part Defendants' discovery motion. (ECF No. [190](#).) The Court asked  
6 the parties to submit additional briefing on the two held-in-abeyance  
7 issues. Because defense counsel has a copy of the Sierra County-  
8 proceeding settlement agreement, the Court **denies as moot** Defendants'  
9 discovery motion as it relates to Request for Production (RP) No. 7.

10 Still at issue is Defendants' RP No. 10, which asks Plaintiff to  
11 "produce the medical records for every provider [who treated Mr. Doyle  
12 for any condition relating to your mental health or psychological well-  
13 being]." Plaintiff contends that he need not answer RP No. 10 because  
14 he is only asserting a "garden variety" emotional-distress<sup>2</sup> claim and  
15 therefore the psychotherapist privilege has not been waived. See *Jaffee*  
16 *v. Redmond*, 518 U.S. 1, 15-16 (1996) (recognizing a psychotherapist  
17 privilege applies to confidential communications made by the patient to  
18 a licensed psychiatrist, psychologist, and social worker in the course  
19 of counseling); *Ruhlmann*, 194 F.R.D at 448-89 (discussing different legal

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21  
22 <sup>2</sup> "'Garden-variety' means ordinary or commonplace. Garden-variety  
23 emotional distress, therefore, is ordinary or commonplace emotional  
24 distress." *Ruhlmann v. Ulster Cnty. Dep't of Soc. Servs.*, 194 F.R.D 445,  
25 448 n.6 (2000). Emotional distress is not "garden variety" if it results  
26 in a specific psychiatric disorder or disables one from working. *Id.*

1 approaches to determining whether the psychotherapist privilege has been  
2 waived when emotional-distress damages are requested).

3 Defendants agree that Plaintiff need not answer RP No. 10 if he does  
4 not claim long-term emotional distress, will not call any medical  
5 providers or rely on medical records to support his emotional-distress  
6 claim, and does not claim a specific psychiatric disorder or significant  
7 disruption of his life activity. Plaintiff has not claimed intentional  
8 or negligent infliction of emotional distress. And it is clear from his  
9 submission (ECF No. [193](#)) that he 1) will not call any medical providers  
10 or rely on medical records to support his emotional-distress claim, and  
11 2) will not claim a psychiatric disorder. It is not clear whether he  
12 will claim long-term emotional distress or a significant disruption of  
13 his life activity. Nonetheless, in light of the asserted claims and  
14 Plaintiff's self-imposed limitation that he will not rely on medical  
15 records or medical testimony, the Court determines the psychotherapist  
16 privilege has not been waived and Plaintiff need not produce the  
17 requested medical records. *See Santelli v. Electro-Motive*, 188 F.R.D.  
18 306 (N.D. Ill. 1999) (finding disclosure of medical records unnecessary  
19 in light of plaintiff's self-imposed limitation to seek compensation only  
20 for humiliation, embarrassment, and other similar emotions).

21 **B. Plaintiff's Motion**

22 On March 21, 2011, Plaintiff filed a motion asking the Court to  
23 prohibit the City from releasing the internal-affairs investigative  
24 findings and the City's Chief of Police's conclusions. Because the City  
25 understood that it had an obligation to produce the requested documents  
26 under the Washington State Public Records Act (PRA), the City produced

1 the documents on April 7, 2011. Also the City understood that Plaintiff  
2 had not initiated an action in Grant County Superior Court to enjoin the  
3 public-records disclosure. RCW 42.56.540.

4 The Court recognizes that it does not have the authority under the  
5 PRA to enjoin a public-records disclosure. *Id.* (giving authority to  
6 examine a public-record request to the "superior court for the county in  
7 which the movant resides or in which the record is maintained").  
8 Accordingly, Plaintiff's motion is denied. However, the Court does have  
9 authority to ensure that Plaintiff receives a fair trial. If Plaintiff  
10 is concerned with the pretrial publicity of this lawsuit, the internal-  
11 affairs investigation, and his alleged work performance, Plaintiff is  
12 free to request that the prospective jurors answer a written jury  
13 questionnaire before jury selection. Further, Plaintiff is free to argue  
14 at trial that reinstatement is not a viable remedy given the pretrial  
15 publicity.

### 16 **C. Conclusion**

17 For the reasons given above and at the hearing, **IT IS HEREBY**  
18 **ORDERED:**

19 1. The outstanding portion of Defendants' Motion to Compel  
20 Production of Documents, Responses to Interrogatories, Responses to  
21 Requests for Admissions and for Terms (**ECF No. [92](#)**) is **DENIED AS MOOT** (RP  
22 No. 7) **and DENIED** (RP No. 10).

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