

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**CARRIE McCLUSKEY, on  
behalf of herself and a class  
consisting of all of those similarly  
situated, and EVELYN  
REISDORFF, and JAIME  
YANEZ,**

**Plaintiffs,**

**CIVIL ACTION NO. 09-CV-14345**

**vs.**

**DISTRICT JUDGE MARK A. GOLDSMITH**

**BELFORD HIGH SCHOOL,  
BELFORD UNIVERSITY,  
EDUCATION SERVICES  
PROVIDER, INC., INTERNATIONAL  
ACCREDITATION AGENCY FOR  
ONLINE UNIVERSITIES, UNIVERSAL  
COUNCIL FOR ONLINE EDUCATION  
ACCREDITATION, ZUNCH WORLDWIDE,  
INC., ZUNCH CHINA, INC., MELVILLE  
P. CROWE, DAN ROBERTSON, SYDNEY  
GOLDSTEIN, KEN CALVERT, WILLIAM  
J. McTIERNEN, and JOHN DOES 1-35,**

**MAGISTRATE JUDGE MONA K. MAJZOUB**

**Defendants.**

**ORDER DENYING DEFENDANTS' MOTION FOR PROTECTIVE ORDER**  
**(DOCKET NO. 58)**

This matter comes before the Court on the Motion for Protective Order filed by Defendants Belford High School and Belford University on August 19, 2010. (Docket no. 58). The motion is fully briefed. This matter has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 59). The Court heard oral argument on the motion on October 4, 2010.

The motion is now ready for ruling.

Plaintiffs filed their original Complaint on November 5, 2009 and a Second Amended Complaint on December 21, 2009, alleging among other things breach of contract, fraud, RICO, and civil conspiracy arising out of Defendants' alleged operation of an internet scam in which Defendants reportedly marketed fraudulent high school diplomas to the public. (Docket no. 9). On August 19, 2010 Defendants filed the instant Motion for Protective Order. (Docket no. 58). In their motion, Defendants argue that Plaintiffs' counsel created and maintains website titled Belford High School Lawsuit Website ([www.belfordlawsuit.com](http://www.belfordlawsuit.com)) which publicizes the lawsuit and encourages "students to demand credit card charge-backs or refunds for the services they have received from Defendants." (Docket no. 58). Defendants argue that the website falsely accuses the Defendants of conducting a money-making scam and wrongly portrays its former students as victims of a scam. Defendants further state that the website contains false, misleading and disparaging information, wrongfully interferes with the contractual relationships between the Defendants and their students, and prejudices the Defendants' right to a fair trial.

In their motion Defendants move for an Order requiring the Plaintiffs to "disable the website . . . and discontinue disparaging the Belford Defendants in any way by publicly remarking on the Belford Defendants" or from publicizing this lawsuit in any way. (Docket no. 58). Defendants also state that some of its alumni have created websites critical of the Plaintiffs' law firm and this lawsuit. They assert that while they have no control over those websites, they "support an order that would restrict publicity about this case on those websites as well." (Docket no. 58 at 2 n.1).

Plaintiffs oppose Defendants' motion, arguing that the Defendants seek to have this Court enter a gag order and violate the First Amendment through issuance of an unconstitutional prior

restraint. Plaintiffs contend that their website does not contain false, misleading, or deceptive information. They further contend that while Defendants' request has serious First Amendment implications, which were fully briefed by Plaintiffs in response to the motion, the Court should resolve this matter based on the standards for issuance of a protective order enunciated in Federal Rule of Civil Procedure 26(c).

Rule 26(c), Fed. R. Civ. P., allows the Court to enter a protective order for good cause to protect a party from annoyance, embarrassment, oppression, or undue burden or expense. The burden of showing good cause for a protective order to issue rests with the party requesting the protective order. *See Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 412 (M.D. N.C. 1991). The moving party must make a particular request and a specific demonstration of facts in support of the request as opposed to conclusory or speculative statements about the need for a protective order and the harm which would be suffered without one. *Gulf Oil Co. v. Bernard*, 452 U.S. 89, 102 n.16 (1981). This requirement furthers the goal that the Court only grant as narrow a protective order as is necessary under the facts. *Brittain v. Stroh Brewery Co.*, 136 F.R.D. at 412.

Plaintiffs' website contains approximately nine paragraphs of text. The first paragraph discusses allegations made in Plaintiffs' Complaint. Paragraph one states that a class action lawsuit was filed alleging that Defendant Belford High School is an internet scam that defrauds students of their money. Paragraph one also states that the lawsuit alleges that Belford High School takes students' money by offering them a "valid" and "accredited" high school diploma, but that Belford High School is not accredited and that the "diplomas" are not valid. Paragraph one further states that the lawsuit alleges that Defendants' accreditation agencies are sham organizations set up solely to make Belford High School look like a legitimate school when, in fact, the school actually has no

authority to issue valid high school diplomas. A link is then provided where the readers can share any experiences they may have had with Belford.

Paragraph two of the website provides a link where the federal Complaint can be viewed and makes additional statements related to allegations made in the Complaint and the damages being sought in the lawsuit. In the third paragraph Plaintiffs' counsel refers to a recent order of the district court which permits Plaintiffs' counsel to provide information about the lawsuit to the operators of Belford High School via websites the Defendants maintain, and offers a link where a copy of the order can be read. Paragraph four identifies Plaintiffs' counsel and asks the reader to share any concerns he or she may have about "a 'high school,' trade school, career school, or other 'college' or 'university,'" without mentioning the Defendants. The remaining five paragraphs of the website provide a general discussion of how for-profit schools offering GEDs to adults often misrepresent the facts about their school and issue false academic credentials. None of these paragraphs mentions the Defendants.

Plaintiffs argue that their website is not inaccurate or misleading. They claim that the website does not encourage students to demand credit card charge-backs or refunds from the Defendants, provides links to publicly filed court documents which are available elsewhere on the internet, and addresses matters related to for-profit schools which are widely published on the internet on a variety of different websites.

The Court agrees and finds that Defendants have failed to show good cause for issuance of a protective order requiring the Plaintiffs to disable the website and refrain from publicly remarking on the Belford Defendants or from publicizing this lawsuit in any way. Plaintiffs were careful to use the phrase "the lawsuit alleges" before making any statements related to the Defendants.

Consequently, statements made on the website related to the allegations in Plaintiffs' lawsuit against the Defendants are not false or misleading, and do not improperly subject the Defendants to annoyance, embarrassment, oppression, or undue burden or expense. Furthermore, content on the website directing the reader to pleadings and orders in this case, or referring to Plaintiffs' law firm or to the generic topic of for-profit schools, can easily be found elsewhere on the internet and does not subject the Defendants to annoyance, embarrassment, oppression, or undue burden or expense requiring the issuance of a protective order. Defendants have failed to carry their burden on this motion. Accordingly, Defendants' motion will be denied.

**IT IS THEREFORE ORDERED** that Defendants' Motion for Protective Order (docket no. 58) is **DENIED**.

**NOTICE TO PARTIES**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: October 13, 2010

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this Order was served upon Counsel of Record on this date.

Dated: October 13, 2010

s/ Lisa C. Bartlett  
Case Manager