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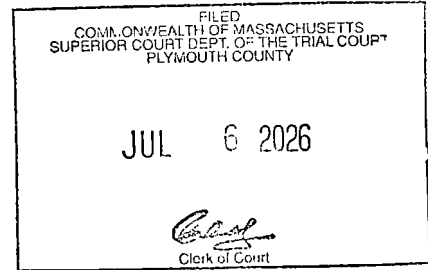
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COMMONWEALTH OF MASSACHUSETTS
PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 2483CV00692

PAUL O'KEEFE, as Personal Representative of
the Estate of JOHN JOSEPH O'KEEFE III,
PAUL O'KEEFE, Individually, JOHN O'KEEFE II,
MARGARET O'KEEFE, and MARGARET O'KEEFE
as Grandparent/Guardian of KAYLEY FURBUSH,
Plaintiffs,

v.

C&C HOSPITALITY, LLC d/b/a C.F. McCARTHY'S,
G&S HOSPITALITY, LLC d/b/a C.F. McCARTHY'S,
WATERFALL BAR & GRILL, LTD d/b/a
WATERFALL BAR & GRILL, and KAREN READ,
Defendants.



MOTION OF NON-PARTY WITNESS LIEUTENANT BRIAN TULLY (RET.)
FOR PROTECTIVE ORDER GOVERNING DEPOSITION

INTRODUCTION

Non-party witness Lieutenant Brian Tully (Ret.) respectfully moves this Court, pursuant to Mass. R. Civ. P. 26(c), for a protective order governing any deposition taken of him in this action. This motion is filed as a companion to Lt. Tully's previously filed Motion to Quash Subpoena and/or for Protective Order (Paper No. 132) and is intended to address the terms and conditions under which the deposition should proceed in the event the Court declines to quash the subpoena in its entirety.

The grounds for a protective order are substantial and independent of the Motion to Quash. Three distinct considerations, each sufficient on its own, establish good cause for the relief requested: (1) Lt. Tully's status as a named defendant in a parallel federal civil rights action brought by Karen Read, which creates a direct risk that his deposition testimony will be extracted and used against him in that proceeding before formal discovery opens there; (2) the demonstrated

and serious risk, established by this Court's own findings at the July 2, 2026 hearing, that deposition materials in this case will be immediately disseminated publicly and posted to social media in violation of court orders; and (3) the presence of personnel and disciplinary record materials that, if touched at the deposition, are independently protected under G.L. c. 149, § 52C.

BACKGROUND

A. Lt. Tully's Status as a Named Federal Defendant.

Lt. Tully is a named defendant in Karen Read v. Proctor et al., Civil Action No. 1:25-cv-13588-DJC, currently pending in the United States District Court for the District of Massachusetts. Karen Read has asserted seven causes of action against Lt. Tully personally in that action, arising from the same O'Keefe investigation that is the subject of this wrongful death proceeding. Lt. Tully's Motion to Dismiss the Amended Complaint in the Federal Action is pending, with a hearing scheduled before the Honorable Denise J. Casper for July 14, 2026. Formal discovery in the Federal Action has not opened.

The deposition commanded by Read's subpoena in this action is directed at the identical subject matter as her federal claims against Lt. Tully. Without a protective order limiting the use of his deposition testimony to this wrongful death action, nothing prevents Ms. Read's counsel from using the transcript of Lt. Tully's deposition in the Federal Action, in effect obtaining federal-defendant discovery from him before the federal court has authorized any discovery to proceed.

B. The Demonstrated Risk of Unauthorized Public Dissemination.

At the July 2, 2026 hearing, this Court made findings that sealed materials submitted in connection with a non-party witness's deposition-related filings were disseminated publicly on social media within thirty minutes of being filed and distributed to counsel. The Court issued an

order pausing discovery involving that witness, directed all parties and counsel to submit sworn certifications regarding the leak, and warned that failure to comply with confidentiality obligations would result in contempt and sanctions. The Court identified the environment in which this litigation proceeds as one in which “the courtroom has become content” and cautioned all counsel against using social media to influence the case.

Lt. Tully is a high-profile figure in the Read matter. The risk that his deposition testimony — if not protected — will be immediately disseminated publicly, posted to social media, and used to influence public perception of this case and the parallel federal proceedings is not speculative. It is demonstrated by the conduct this Court has already found to have occurred. A protective order restricting the dissemination of Lt. Tully’s deposition testimony is directly responsive to the problem this Court identified at the July 2 hearing and is consistent with the broader confidentiality framework the Court has directed the parties to establish.

C. Personnel and Disciplinary Record Protections.

To the extent the deposition touches upon Lt. Tully’s MSP personnel records or disciplinary proceedings, those materials are independently protected under G.L. c. 149, § 52C, which governs the confidentiality of law enforcement personnel records. Any such testimony should be designated confidential and subject to restrictions on dissemination consistent with the statutory protections that apply to the underlying records.

ARGUMENT

GOOD CAUSE EXISTS UNDER RULE 26(c) FOR A PROTECTIVE ORDER GOVERNING LT. TULLY’S DEPOSITION ON THREE INDEPENDENT GROUNDS.

Mass. R. Civ. P. 26(c) authorizes this Court to enter a protective order “for good cause shown” to protect any person from “annoyance, embarrassment, oppression, or undue burden or

expense,” and specifically empowers the Court to enter an order “specifying the terms and conditions” on which discovery shall be had. The three independent grounds set forth above each constitute good cause on their own; together they present a compelling basis for the relief requested.

Courts routinely enter protective orders limiting the use of deposition testimony obtained in one civil action from being used in a parallel proceeding, particularly where the deponent is a party or potential witness in both. Here the need is acute: Lt. Tully is not merely a potential witness in the Federal Action — he is a named defendant against whom Karen Read has asserted seven causes of action, and her counsel in this case and the Federal Action are the same. Without a use restriction, this deposition functions as unauthorized pre-discovery in the Federal Action, precisely the concern that prompted this Court’s pending consideration of the Motion to Quash.

The public dissemination risk requires no elaboration beyond this Court’s own findings at the July 2, 2026 hearing. If anything, the risk for Lt. Tully is heightened relative to the situation the Court addressed there: Lt. Tully is identified in Karen Read’s Amended Complaint as a central figure in the alleged cover-up, and his deposition testimony on those topics would be highly attractive to the social media ecosystem that has followed this case from its inception. The Court’s existing framework — impoundment, confidentiality certifications, contempt warnings — should be extended expressly to cover Lt. Tully’s deposition.

RELIEF REQUESTED

Lt. Tully respectfully requests that the Court enter a protective order governing any deposition taken of him in this action, providing as follows:

1. Lt. Tully’s deposition testimony and any transcript thereof may be used solely in connection with this wrongful death action and may not be used, disclosed, or disseminated

in any parallel civil, federal, or administrative proceeding, including but not limited to Karen Read v. Proctor et al., Civil Action No. 1:25-cv-13588-DJC (D. Mass.), absent further order of this Court or the court presiding over such parallel proceeding;

2. Lt. Tully's deposition testimony and any transcript thereof may not be posted to social media, published on any public platform, or disseminated to any person who is not a party, counsel of record, retained expert, or court reporter in this action;
3. Any portion of Lt. Tully's deposition testimony or exhibits touching upon his MSP personnel records, disciplinary proceedings, or matters protected under G.L. c. 149, § 52C, shall be designated confidential and subject to the same restrictions as impounded material under the Court's existing orders;
4. The deposition transcript shall be treated as confidential in its entirety pending further order of this Court, and shall be filed under seal if submitted to the Court in connection with any motion or proceeding in this action; and
5. Violation of any provision of this order shall be subject to sanctions, including contempt, consistent with the framework the Court has established for discovery conduct in this case.

CONCLUSION

For the foregoing reasons, this Court should enter a protective order governing the deposition of Lieutenant Brian Tully (Ret.) on the terms set forth above. Lt. Tully does not waive, and expressly preserves, his pending Motion to Quash Subpoena and/or for Protective Order (Paper No. 132). This motion is filed as a companion thereto and is intended to govern the deposition in the event the Motion to Quash is not granted in its entirety.

Respectfully submitted,

For the Non-Party Witness,
Lieutenant Brian Tully (Ret.),
By his attorneys,

Dated: July 6, 2026

/s/ Timothy M. Burke

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2026, this document is being sent via email to the Plymouth Superior Court Clerk's at plymouth.clerksoffice@jud.state.ma.us. Email copies will be sent to the following:

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/s/ Timothy M. Burke

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