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Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF

, an individual,

Plaintiff,

v.

, an individual,

Defendant.

CASE NO:

**POINTS AND AUTHORITIES  
IN SUPPORT OF PLAINTIFF'S *EX  
PARTE* APPLICATION TO  
PROCEED PSEUDONYMOUSLY**

**Assigned:  
Dept:  
Room:**

**I. INTRODUCTION**

**II. RELEVANT FACTS**

**III. DISCUSSION OF APPLICABLE LEGAL STANDARDS**

**A. Good Cause Exists For Permitting Plaintiff To Proceed Pseudonymously**

The use of "Doe plaintiffs" to protect legitimate privacy rights has been recognized as an appropriate practice in circumstances when a plaintiff would be further stigmatized by disclosing his or her name in court documents. *See Starbucks Corp v. Superior Court,*

1 168 Cal. App. 4th 1436, 1452 n.7 (2008) (noting that this practice “has gained wide  
2 currency, particularly given the rapidity and ubiquity of disclosures over the [internet.]”).

3 In determining whether a plaintiff should be able to proceed anonymously, courts  
4 balance “the plaintiff’s interest in anonymity . . . against both the public interest in  
5 disclosure and any prejudice to the defendant.” *Sealed Plaintiff v. Sealed Defendant*, 537  
6 F.3d 185, 189 (2d Cir. 2008) (adopting the Ninth Circuit’s formulation as described in  
7 *Does v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000), and holding that  
8 the district court abused its discretion in refusing to allow sexual assault plaintiff to  
9 proceed anonymously). In balancing these interests, courts have employed a number of  
10 non-exclusive factors. *See id.* at 189–190. An application of those factors to the facts of  
11 the case at bar demonstrates that each factor supports anonymity in this case.

12 First, courts consider whether the case involves matters that are highly sensitive and  
13 of a personal nature. *See id.* at 189-190; *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir.  
14 1993) (trial court abused discretion in denying plaintiff’s request to proceed  
15 anonymously, where request was made to protect children from revelation that their  
16 conception was by artificial insemination); *Doe v. United Services Life Ins. Co.*, 123  
17 F.R.D. 437 (S.D.N.Y. 1988) (allowing plaintiff to sue insurance company anonymously  
18 to protect against identification as a homosexual); *Doe v. Deschamps*, 64 F.R.D. 652, 653  
19 (D. Mont. 1974) (permitting plaintiff in abortion suit to use pseudonym due to the  
20 personal nature of pregnancy). This case involves the salacious and private details of  
21 Plaintiff’s relationship with Defendant, and of offensive postings to the internet that  
22 include photographs of plaintiff in a state of undress and of a sexual nature. In enforcing  
23 her legal rights relating to this invasion of privacy, Plaintiff should not have to expose  
24 herself to the substantial stigma associated with such photographs, or to the stigma of  
25 having been involved in an abusive and sexually coercive relationship. Plaintiff has thus  
26 far shielded her family members, including a minor child, from learning the details of her  
27 situation.

1 Second, courts consider whether identification poses a risk of retaliatory physical or  
2 mental harm. *See, e.g., Advanced Textile*, 214 F.3d at 1070 (risk of employment- related  
3 retaliation); *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981) (risk of retaliation due to  
4 child plaintiff's objection to school prayer). Revealing Plaintiff's name would  
5 undoubtedly subject her to the risk of public disgrace, harassment, and bodily harm.  
6 Defendant has apparently retaliated against Plaintiff twice before by publishing highly  
7 personal and offensive content to the internet. This pattern of conduct suggests that he  
8 may retaliate against Plaintiff for filing this case, through physical violence or further  
9 publications to the internet. Such postings would be very easily connected to the record  
10 of this case, and to all of the information Plaintiff must allege in an attempt to vindicate  
11 her rights, thereby making them much more harmful than Defendant's prior publications.  
12 Plaintiff has already been the victim of frightening contact by the public at large in  
13 response to Defendant's prior postings; she should not be further exposed to a risk of  
14 public harm stemming from the instant proceeding.

15 Third, identification presents other harms, including whether "the injury litigated  
16 against would be incurred as a result of the disclosure of the plaintiff's identity." *Sealed*  
17 *Plaintiff v. Sealed Defendant*, 537 F.3d at 190 (quoting *M.M. v. Zavaras*, 139 F.3d 798,  
18 803 (10th Cir. 1998)). Among the injuries here litigated against is the embarrassment,  
19 harassment, invasion of privacy, and related harm caused not only by Defendant directly,  
20 but also by the public's contacting of Plaintiff.

21 The other factors recognized in *Sealed Plaintiff* support proceeding anonymously as  
22 follows: (4) Plaintiff is particularly vulnerable to the harms of disclosure, because she has  
23 been victimized over a period of years by Defendant's postings, and by Defendant's prior  
24 disregard for a Protective Order issued by the Family Court. In addition, due to the  
25 salacious facts of this case, and its connection to internet harassment, the media is likely  
26 to take an interest in these proceedings. (5) Plaintiff's case does not challenge an act or  
27 omission of the government; it is related to private parties regarding matters of private  
28 concern, and the public interest in access is therefore minimal. (6) Defendant will not be

1 prejudiced by anonymity, because he already knows Plaintiff's identity. In fact,  
2 anonymity inures to Defendant's benefit: he would not be well served by his course of  
3 conduct becoming known to the public, as it is highly embarrassing. (7) Plaintiff's  
4 identity with respect to this matter has thus far been kept confidential. (8) The public's  
5 interest in the litigation is minimal, because the facts of this case serve little public  
6 purpose other than to appeal to the prurient interest and to promote scandal. (9) There is  
7 an atypically weak public interest in knowing the parties' identities because the case is  
8 relevant only to the prurient interest, and because the case presents relatively common  
9 and easily resolved factual and legal issues. And (10), there is only one alternative  
10 mechanism for protecting the confidentiality of the Plaintiff: sealing the case, as  
11 discussed below. Plaintiff believes that a decision by the Court allowing her both to  
12 proceed anonymously and to seal the case will be the most effective approach.

13 **IV. CONCLUSION**

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16 Dated: \_\_\_\_\_

By: \_\_\_\_\_

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18 Attorneys for  
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