

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JANE DOE,

Plaintiff,

-against-

CORNELL UNIVERSITY, INC., CHI PHI CHAPTER
HOUSE ASSOCIATION, CHI PHI FRATERNITY, INC.,
CHI PHI EDUCATIONAL TRUST, ALPHA BETA HOUSE
CORPORATION OF DELTA DELTA DELTA, DELTA,
DELTA DELTA SORORITY, ZAREEN ENTERPRISE
LLC d/b/a MOONIES BAR & NIGHTCLUB,
MATTHEW INGALLS, JOHNATHAN NEWELL,
WINSTON LEE, GILLIO LOPES, DIEGO SARABIA,
SCOTT NORRIS, SCOTT KRETZSCHMAR,
JOHN DOE (FACULTY), JOHN DOE (ALUMNI),
JOHN DOES (EXECUTIVE BOARD), and ORAZIO PETITO,

Defendant.

Index No.:

**ATTORNEY'S
AFFIRMATION IN
SUPPORT**

Thomas P. Giuffra, Esq. affirms under penalty of perjury as follows:

1. I am the attorney for Plaintiff JANE DOE in this action.
2. I am a partner with the law firm of Rheingold Giuffra Ruffo Plotkin & Hellman, LLP, retained as attorneys for Plaintiff in this action, and a member of the bar of this Court.
3. I am fully familiar with the above-captioned matter and the proceedings had herein by virtue of the file maintained in our office.
4. I submit this Affirmation in support of Plaintiff's Order to Show Cause to Proceed via Pseudonym pursuant to Civil Rights Law 50-b and other supporting authority and case law. Plaintiff respectfully requests that Plaintiff be permitted to proceed anonymously using the pseudonym in the above-captioned matter and in all publicly filed documents, as well as to enjoin

the Defendants and their agents from disclosing Plaintiff's name and/or identity to anyone other than their attorneys.

5. However, to be clear, this motion is not solely premised on Civil Rights Law 50-b, but also on common law. *Doe v. Doe*, 189 A.D.3d 406 (1st Dept. 2020) ("There is also a separate common-law exception that empowers a court to "use its discretion in balancing [the party's] privacy interest against the presumption in favor of open trials and against any potential prejudice to [the opposing party]"").

6. Plaintiff JANE DOE is a victim of sexual assault and rape.

7. Plaintiff JANE DOE seeks to proceed anonymously because she was sexually assaulted and raped by Defendants MATTHEW INGALLS, JOHNATHAN NEWELL, WINSTON LEE, GILLIO LOPES, DIEGO SARABIA, SCOTT NORRIS, and SCOTT KRETZSCHMAR, while within the Xi Chapter of Chi Phi Fraternity's house located on Cornell University's campus.

8. Plaintiff's complaint seeks compensation from Defendants for the heinous sexual abuses she suffered, for infliction of emotional distress, and other causes of action enumerated in Plaintiff's complaint.

9. Plaintiff seeks to shield her identity from the stigma associated with the sexual abuse she suffered and the traumas she continues to suffer. Plaintiff strongly believes that proceeding in this matter henceforth via a pseudonym is in her best interests.

10. As a matter of law, courts in New York have long recognized that individuals in a variety of contexts, such as those involving sexual assault, sexual abuse, and sexual harassment, have a strong interest in keeping their identity out of publicly filed documents. In such cases, courts

are instructed to balance an individual's right to privacy against the rights of the opposing party and the public at large.

11. Indeed, some factors that courts consider when determining whether a plaintiff may maintain an action under pseudonym are: "(1) whether the litigation will involve matters that are highly sensitive and of personal nature; (2) whether the identification will pose a risk of retaliatory harm to party seeking to proceed anonymously or even more critically, to innocent non-parties; (3) whether the identification presents other harms and the likely severity of those harms; (4) whether a plaintiff is particularly vulnerable to possible harms of disclosure; ... (6) whether a defendant will be prejudiced by allowing a plaintiff to press claims anonymously; ..." See: *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185 (2nd Cir. 2008).

12. Applying these factors, in no specific order, it is clear that by the weight of the factors, Plaintiff should be permitted to proceed under pseudonym here: (1) Plaintiff is a victim of drugging, sexual assault, and rape, which is of a highly sensitive and personal nature; (2) the perpetrators sexually preyed on Plaintiff, of whom they knew was in a vulnerable state as she was incapacitated at the time of the alleged rape, which is alleged to have caused Plaintiff severe emotional distress; (3) Plaintiff is not seeking to avoid mere embarrassment, but rather the social stigmatization associated with having been sexually assaulted and raped, as it is well known that victims of sexual crimes are often not believed and have their reputations put into question, and their identification will pose a serious risk of retaliatory harm from society, employers and family members of Plaintiff; and (4) Defendants will not be prejudiced nor will they gain anything from Plaintiff's public exposure, because Plaintiff shall provide her identity to Defendants herein and will provide further all other relevant identifying information to Defendants and their attorneys,

and thus, they will be able to investigate and defend against the claims through the standard means of discovery.

13. Furthermore, in balancing the granting of the relief that Plaintiff seeks herein versus Defendants' right to Due Process, this Court need look no further than the relatively recent decisions of Hon. Suzanne J. Adams, Hon. Dakota D. Ramseur, and Kathleen Waterman-Marshall, respectively, holding that affirmant's clients may proceed anonymously under pseudonym. *See Jane Doe v. Alan Benvenisty et al*, Index No. 952064/2023, Motion Seq. No. 001 (2023); *Jane Doe v. Marco Pacelli*, Index No. 952203/2023, Motion Seq. No. 003 (2023); *Jane Doe v. Andrew Hansen*, Index No. 156670/2025, Motion Seq. No. 001(2025).

14. Furthermore, as articulated by Hon. George J. Silver, J.S.C.:

[T]he right of the public, and the press, to access judicial proceedings is not absolute or unfettered, and involves judicial discretion (Lerner, 124 A.D.3d at 487, *supra*). Moreover, access may still be restricted in keeping with constitutional requirements while sensitive information is restricted in keeping with 'the State's legitimate concern for the well-being' of an individual (*Globe Newspapers Co. v. Superior Ct.*, 457 U.S. 596, 606 [1982]).

See ARK61 DOE v. Archdiocese of New York, 2019 N.Y. Misc. LEXIS 6035, *4 (Sup. Ct. 2019).

15. It also bears noting that allowing Plaintiff to proceed under pseudonym herein will not prejudice the public's interest in open judicial proceedings. Plaintiff has not requested that all court filings be sealed, nor that any measure be affected that would conceal from the public all of the facts underlying this lawsuit, other than their identity. As such, Plaintiff's request to proceed anonymously strikes the appropriate balance of preserving his privacy interests while allowing the public to know the nature of her Complaint, averments of which are verified in Plaintiff's Complaint as well as her annexed affirmation.

16. Judge Kornreich likewise explained in *Doe v. Szul Jewelry, Inc.*, 2008 N.Y. Slip Op. 31394, 13 (N.Y. Sup. Ct. 2008) that merely asking for anonymity barely impinges on the

public's right to know: "courts have recognized that a grant of anonymity impacts far less on the public's right to open proceedings than does the closing of a courtroom or the sealing of records ... See *Doe v. Bellmore-Merrick Central H. S. Dist.*, *supra* at 701 (right to proceed anonymously is not equivalent to sealing records and does not prevent public from accessing records) ... *Doe v. Stegall*, *id.* at 185. Plaintiff's anonymity here will "will not obstruct the public's view of the issues joined or the court's performance in resolving them." *Does I-XXIII v. Advanced Textile Corp.*, *supra* at 1068-9.

17. In *ARK61 v. DOE*, Hon. Silver also weighed in on the public's right to know in cases, like this one, where the Defendant is not a governmental entity:

...it is axiomatic that plaintiff should be afforded the protection of anonymity. To be sure, the instant case involves alleged acts that will no doubt center on information about plaintiff of a sensitive and highly personal nature. **The court recognizes that plaintiff, as the alleged victim of sexual abuse, has undoubtedly suffered great emotional distress...**

See *ARK61 v. DOE*, 2019 N.Y. Misc. LEXIS at *6 (emphasis added). This position is supported by precedent as it is well-established that "[t]he risk of psychological injury stemming from identification is a cognizable harm that can serve as a legitimate basis for proceeding anonymously." *Doe v. Solera Capital LLC*, 18-cv-1769, 2019 WL 1437520, at *4 (S.D.N.Y. Mar. 31, 2019).

18. The instant case involves a sexual assault and rape, and will no doubt center on information about Plaintiff of a sensitive and highly personal nature, Plaintiff has voiced concern for her privacy, her reputation and her livelihood prior to the start of proceedings, has kept her identity confidential throughout and has complained of harassment, ridicule and embarrassment.

19. The Defendants will be made readily aware of Plaintiff's identifying information upon the filing of this action and, upon agreement of Plaintiff, may proceed with discovery using

Plaintiff's legal name. The Defendant cannot seriously claim prejudice. The only purpose that the revelation of Plaintiff's name could have would be to further traumatize Plaintiff and perhaps deter her from litigating this case. In fact, the revelation of Plaintiff's identity would undermine the litigation by denying a portion of the relief ultimately requested in the action.

20. Furthermore, Plaintiff has an entirely separate ground for relief: she has shown that she is at risk of future harm. This risk is illustrated in both the allegations illustrated in the complaint as well as Plaintiff's personal affirmation accompanying these papers.

21. Judge Stroth also recently allowed for plaintiff to proceed under pseudonym in a sexual assault matter brought under the GMVA, finding in *Doe v. Combs*, Index No. 160055/2024, Supreme Court, New York County (Stroth, J. 2025) as follows:

An express purpose of the GMVA is to revive previously time-barred claims for crimes of violence motivated by gender. (New York Administrative Code, Chapter 11 § 10-1105, 2022). Revealing Plaintiffs identity may have a chilling effect on Plaintiff in litigating the instant matter, and on other plaintiffs in pursuing similar litigation. (see e.g. *John Doe No. 4 v. Rockefeller Univ.*, 2019 N.Y. Slip Op. 33725[U], *2, 2019 WL 6354255 [Sup. Ct., N.Y. Count Nov. 22, 2019]). Such would directly contradict the express legislative purpose of the GMVA. (New York Administrative Code, Chapter 11 § 10-1102, 2022). ... New York Courts consistently have held that trial courts are granted discretion in deciding on whether to allow a plaintiff to proceed anonymously, which they routinely exercise in granting anonymity motions in matters where sexual assault is alleged. (See *Twersky v. Yeshiva Univ.*, 201 A.D.3d 559,560, 157 N.Y.S.3d 379 [1st Dept. 2022]; *Doe v MacFarland*, 66 Misc 3d 604 [Sup Ct 2019]).

26. Here, not only does the matter regard crimes of a highly sensitive nature, but Plaintiff has also documented her fears, and has demonstrated why they are well-founded in her annexed affirmation (**Plaintiff's Affirmation**):

6. The risk of exposing my identity is particularly acute here as I was raped by multiple defendants while attending Cornell

University as a full-time undergraduate student. I have since stopped attending Cornell University because of the subject incident.

7. What happened to me was devastating and humiliating. I fear that such details of the subject assaults being made public would bring further shame to not only myself, but to my family as well.

8. I fear that being identified by name in this lawsuit will hinder my social life and career. Exposing my identity will negatively affect my relationships, as these people will view me differently after discovering such personal information about me through a public filing. Attaching my name to this lawsuit may permanently tarnish my reputation, one that I have worked so hard to rebuild.

9. I truly fear retribution and retaliation resulting from filing this lawsuit. Defendants have no regard for my health or safety. My assailants threatened my safety and wellbeing on numerous occasions, especially in plying me with copious amounts of drugs without any regard for the consequences.

10. Not only am I seeking to proceed anonymously as “JANE DOE”, but I am also kindly requesting a partial Attorneys’ Eyes Only (AEO) designation as to my sensitive personal information including my date of birth, SSN, residential address, phone number, and email address.

11. The worry of my identity being revealed in this lawsuit has caused me extreme anxiety, depression, and many sleepless nights.

27. Plaintiff is further requesting a partial Attorneys’ Eyes Only (AEO) designation as to Plaintiff’s sensitive personal information including her date of birth, SSN, residential address, phone number, and email address. Plaintiff is fearful that if Defendants have this information, then they would be enabled to inflict potential harm upon her or her family.

28. Moreover, if Plaintiff is not allowed to proceed under pseudonym, increased media attention may lead to a chilling effect that may inhibit Plaintiff and other alleged victims of abuse from coming forward.

29. As such, in light of the courts in New York’s accepted practice of permitting individual victims of sexual offenses to proceed anonymously, as well as the clear policy of the

State of New York to protect the confidentiality of that information, Plaintiff, by and through her attorneys, respectfully requests that she be allowed to use the pseudonym "JANE DOE" in this matter, as well as receive a partial Attorneys' Eyes Only (AEO) designation as to Plaintiff's date of birth, SSN, residential address, phone number, and email address.

29. Plaintiff has not made a prior request for the relief being sought herein.

WHEREFORE, it is respectfully requested that Plaintiff's Order to Show Cause be granted in its entirety, together with such other relief as this court deems just and proper.

Dated: New York, New York
September 14, 2026

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