

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

North Central District, Burbank Courthouse, Department A

**24STCV08102**

**JANE ROE, et al. vs JENNA SMITH, et al.**

January 7, 2025

2:47 PM

Judge: Honorable Frank M. Tavelman

Judicial Assistant: Lorna Garcia

Courtroom Assistant: Dennis Carroll

CSR: None

ERM: None

Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

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**NATURE OF PROCEEDINGS:** Ruling on Submitted Matter

The Court, having taken the matter under submission on 01/03/2025 for Hearing on Motion for Order to Proceed Under Pseudonyms Filed by Deft Jenna Smith et. al., now rules as follows:

**MOTIONS TO PROCEED UNDER PSEUDONYM**

Los Angeles Superior Court Case # 24STCV08102

MP: John Doe and Jane Roe (Plaintiffs) Jenna Smith and Mother Smith (Defendants)

RP: First Amendment Coalition (Non-Party)

**ALLEGATIONS:**

This is an action for defamation brought by John Doe and Jane Roe (Plaintiffs) as against Jenna Smith and Mother Smith (Defendants). Each of these parties is currently proceeding in this action under pseudonyms.

The action stems from Defendants' alleged accusation that John Doe sexually assaulted Jenna Smith whilst they both attended high school. (Compl. ¶ 2.) Plaintiffs allege that they and Jenna Smith were members of a "secret club" at their high school. (Compl. ¶ 18.) Plaintiffs suggest that the impetus behind Defendants' allegedly defamatory statements is her jealousy of Plaintiffs' leadership status in that club. (Compl. ¶ 33.) Jenna Smith is alleged to have told five other students of the club that John Doe sexually assaulted her. (Compl. ¶¶ 35, 40, 62, 63.) Mother Smith is alleged to have made the same representations to other parents whose children participated in the club. (Compl. ¶ 39, 43.) Plaintiffs' action seeks over five million dollars in damages and an injunction restraining further speech by Defendants. Plaintiffs also demand a public apology from Defendants. (Compl. ¶ 123.)

Before the Court are two motions for leave to proceed anonymously in this action, brought by Plaintiffs and Defendants respectively. Nonparty First Amendment Coalition has filed an

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opposition to Plaintiffs' motion only, the propriety of which will be addressed in the Court's ruling below.

ANALYSIS:

**I. LEGAL STANDARD**

C.C.P. § 367 requires that actions in the State of California be prosecuted in the name of the real party in interest. Further, C.C.P. § 422.40 provides that the names of all parties to a civil action must be included in the Complaint. These statutes have been generally construed to require a party who wishes to proceed anonymously to seek relief of the Court to do so. Often this relief is explicitly provided by statute, such as C.C.P. § 372.5's provision of anonymity in actions concerning nonconsensual distribution of sexually explicit materials.

Even where no statute provides for anonymity, California courts have frequently granted permission to proceed anonymously where it is necessary to preserve an important privacy interest. (See *Doe v. Lincoln Unified School Dist.* (2010) 188 Cal.App.4th 758 [teacher could proceed anonymously in action against school district].) This approach derives from the longstanding practice of allowing pseudonyms by federal courts. (See *Id.* at 766 ["The United States Supreme Court has also implicitly endorsed the use of pseudonyms to protect a plaintiff's privacy."].) As such, there is a great variety of case law dealing with use of pseudonyms in federal courts throughout the country. Until relatively recently however, no California case set forth guidelines for determining when a party may proceed anonymously in state court. This lack of on-point authority changed with the Court of Appeal decision in *Department of Fair Employment and Housing v. Superior Court of Santa Clara County* (2022) 82 Cal.App.5th 105 (hereinafter DFEH).

DFEH concerned an action under the Fair Employment and Housing Act (FEHA) against Cisco Systems, Inc. on behalf one of their employees. (*Id.* at 108.) The employee alleged he was discriminated against by his superiors because he was from India's lowest caste. (*Id.*) The employee sought to proceed anonymously out of fear of further mistreatment and fear of violence against his family that would result if his caste status was publicly revealed. (*Id.* at 109.) The Court of Appeal reversed the trial court's order denying the employee's request to proceed anonymously. (*Id.*) The DFEH court found that while the trial court applied the correct standard in making its determination, it failed to consider evidence of potential harm to the employee's family. (*Id.* at 112.)

The DFEH holding does not articulate a new standard which is uniquely applicable to motions to

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proceed anonymously. Instead, the DFEH holding clarified that the standard for determining such a motion is the same as the standard applicable to a motion to seal the record. DFEH identified this standard, set forth in *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1221 (hereinafter KNBC), as follows:

Before a party to a civil action can be permitted to use a pseudonym, the trial court must conduct a hearing and apply the overriding interest test: A party's request for anonymity should be granted only if the court finds that an overriding interest will likely be prejudiced without use of a pseudonym, and that it is not feasible to protect the interest with less impact on the constitutional right of access.

In deciding the issue, the court must bear in mind the critical importance of the public's right to access judicial proceedings. Outside of cases where anonymity is expressly permitted by statute, litigating by pseudonym should occur only in the rarest of circumstances.

(DFEH *supra*, at 111 quoting KNBC *supra*, at 1221.)

The DFEH court concluded that the constitutional concerns presented by motions to seal and motions to proceed anonymously are identical, and thus so are the legal standards governing them. To this end, the DFEH court noted that the trial court's use of the KNBC standard was correct. (DFEH *supra*, at 112.)

## II. MERITS

### First Amendment Coalition's Opposition

The Court's tentative ruling reflected that First Amendment Coalition's (Coalition) Opposition would not be considered for lack of standing. This was in accordance with the Court's understanding that a nonparty only has standing to oppose a motion where that party has been declared an intervening party under C.C.P. § 387. Given Coalition has not petitioned to be declared an intervenor, the Court's tentative ruling found they had no standing to oppose the motion.

At the hearing, the Court received argument from Coalition on the issue of their standing to oppose the motion. When prompted, neither Plaintiffs nor Defendants presented any argument on this issue. Having heard argument from Coalition and reviewed the relevant authorities, the Court has elected to consider the arguments of Coalition as to the merits of the underlying motions. The Court explains further below.

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Coalition stated they did not petition to intervene in the action because case law has specifically disavowed intervention as an appropriate means for opposing the sealing of a record. (See *Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 489 [“We agree with Savaglio that intervention pursuant to Code of Civil Procedure section 397 is not a means by which nonparties can participate in proceedings to seal or unseal court records.”].)

Coalition then argued they believe they had standing to oppose Plaintiffs’ motion under CRC Rule 2.551(h)(2), which permits any member of the public to move, apply, or petition the Court to unseal its records. Coalition essentially argues that because DFEH treats motions to proceed anonymously under the same legal standard as motions to seal/unseal the record, the standing provided under CRC Rule 2.551(h)(2) should apply here.

The Court finds no direct authority exists for Coalition’s standing to oppose Plaintiffs’ motion, but it finds the inferences drawn from DFEH to be persuasive. While a motion to proceed anonymously and a motion to seal the record restrict the public’s access to the courts in vastly different degrees, DFEH indicates that the same Constitutional principles apply to both. As such, the Court elects to consider Coalition’s opposition on grounds of CRC Rule 2.551(h)(2) as viewed through the lens of DFEH.

The above being established, the Court maintains the substance of its tentative ruling set forth below.

#### Judicial Notice

Defendants’ request that the Court take judicial notice of three Federal District Court decisions is GRANTED. The Court finds these records are subject to judicial notice pursuant to Evidence Code § 452(a).

#### Discussion

The Court begins by addressing the privacy concerns of the parties. DFEH makes clear that a party seeking to proceed anonymously bears the burden of demonstrating an overriding privacy interest. (DFEH *supra*, at 113 citing *Singh v. Immigration & Naturalization Service* (9th Cir. 1996) 94 F.3d 1353, 1359 [“A party seeking anonymity has the burden to show that geographically distant family members are at risk. The trial court's task is to consider the evidence produced on that point and assign it the appropriate weight.”].)

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Plaintiffs’ stated privacy interest is that public disclosure of Defendants’ allegations would create “a permanent record in public that connects the information of a highly sensitive and personal nature to the former students, which cannot be easily undone and which would cause unnecessary harm to their reputation and may expose them to public ridicule and shame.” (Mot. p. 14.) Plaintiffs appear to rely on the generally understood principle that being associated with allegations of sexual misconduct would subject them to public embarrassment, even if such allegation prove to be untrue. The public often remembers the allegations not the outcome of such assertions of sexual assault.

DFEH does not provide further guidance on how showings regarding privacy concerns should be weighed. To this end, the Court finds the standards articulated by the Ninth Circuit in *Does I thru XXIII v. Advanced Textile Corp.* (9th Cir. 2000) 214 F.3d 1058 (hereinafter *Advanced Textiles*) to be helpful. While the tenants of *Advanced Textiles* do not constitute binding authority upon this court, the Court finds its holding useful in articulating the types of showings which have been found by the district courts to be sufficient to establish an overriding privacy interest.

“Applying this balancing test, courts have permitted plaintiffs to use pseudonyms in three situations: (1) when identification creates a risk of retaliatory physical or mental harm... (2) when anonymity is necessary “to preserve privacy in a matter of sensitive and highly personal nature,” ... and (3) when the anonymous party is compelled to admit his or her intention to engage in illegal conduct, thereby risking criminal prosecution.” (*Advanced Textile supra*, 214 F.3d at 1068 [cleaned up].)

“We further hold that in cases where, as here, pseudonyms are used to shield the anonymous party from retaliation, the district court should determine the need for anonymity by evaluating the following factors: (1) the severity of the threatened harm... (2) the reasonableness of the anonymous party's fears... (3) the anonymous party's vulnerability to such retaliation.” (Id. at 1068-1069 [cleaned up].) “The court must also determine the precise prejudice at each stage of the proceedings to the opposing party, and whether proceedings may be structured so as to mitigate that prejudice... Finally, the court must decide whether the public's interest in the case would be best served by requiring that the litigants reveal their identities.” (Id. [cleaned up].)

Here, Plaintiffs’ interest in remaining anonymous relates to matters which are both highly sensitive and personal. Knowledge of the events which allegedly transpired between Plaintiffs and Defendants are confined to a relatively small number of people. While Defendant is alleged to have publicized her allegations on social media, nothing before the Court indicates that these posts caused awareness of the issues beyond the parties’ friends/associates and school. There is nothing in the record to indicate that this dispute has gained notoriety such that Plaintiffs do not

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maintain a reasonable expectation of privacy. Plaintiffs' fear that future employers, among others, may discover these allegations is well founded.

The same can be said of Defendants' privacy interests. Defendants state that anonymity is required to protect the general publicizing of Jenna Smith's alleged sexual assault. (Mot. p. 6.) The Court finds the potential to be publicly outed as a victim of sexual assault to be a valid concern, even where Defendants have allegedly played some part in disseminating that information. The Court believes there is a difference between disclosing an assault on a limited social media platform and being an unwanted participant to a lawsuit which becomes public record. The Court disagrees with Defendants' argument that the same privacy interest does not extend to Plaintiffs. If Jenna Smith is allowed to assert a privacy interest in her identity as an alleged sexual assault victim, it follows that John Doe should be allowed to assert a privacy interest in his identity as an alleged perpetrator of sexual assault, especially when such allegations have not been proven to be true. In the Court's view, the Defendants' privacy interest and Plaintiffs' privacy interest are two sides of the same coin.

In short, the Court finds that both Plaintiffs and Defendants have demonstrated a valid interest in proceeding anonymously. The question thus becomes whether these interests outweigh the public interest in court proceedings. As will be explained below, the Court finds they do.

In evaluating the public interest at play here, the Court notes that this is not a motion to seal the record. While the Court understands that proceeding anonymously can affect First Amendment right to public access, nevertheless, the access is limited in that the motions before the Court ask that both parties proceed anonymously, not that the proceedings be closed to the public or court documents shielded from public view. (DFEH *supra*, at 111). If the parties proceed anonymously, the public is not precluded from access to the court, only access to names of the parties. Viewed in such light, the question narrows to whether there is public interest in the identity of the parties. The Court answers this question in the affirmative, but such interest is likely nominal at best; the Court finds that the interest is overridden by the privacy interests of the parties.

DFEH relied upon KNBC in holding that, "the right to access court proceedings necessarily includes the right to know the identity of the parties." (DFEH *supra*, at 111 citing KNBC at 1211.) Regardless, the Court believes the procedural posture between DFEH and KNBC supports a slight distinction. Motions to seal restrict public access in far greater ways than motions to proceed anonymously. It follows that a stated privacy interest could be insufficient to override the public interest in access to the proceedings, while being sufficient to override public interest in knowing the litigants' names. The Court finds that this case presents such a circumstance.

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While the parties' privacy interests may not be so robust as to warrant the sealing of the record in this case, they are sufficient to warrant proceeding anonymously.

**Conclusion**

The Court finds that both Plaintiffs and Defendants have demonstrated an overriding privacy interest such that they should be allowed to proceed anonymously. Plaintiffs and Defendants have sufficiently demonstrated that their privacy interests outweigh the public interest in the disclosure of their names. Accordingly, the motions to proceed anonymously are GRANTED.

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**RULING:**

In the event a party requests a signed order or the court in its discretion elects to sign a formal order, the following form will be either electronically signed or signed in hard copy and entered into the court's records.

**ORDER**

John Doe & Jane Roe and Jenna Smith & Mother Smith's Motions to Proceed Under Pseudonym came on regularly for hearing on January 3, 2025, with appearances/submissions as noted in the minute order for said hearing, and the Court took the matter under submission and now rules as follows:

PLAINTIFFS' MOTION TO PROCEED UNDER PSEUDONYM IS GRANTED.

DEFENDANTS' MOTION TO PROCEED UNDER PSEUDONYM IS GRANTED.

PLAINTIFFS TO GIVE NOTICE.

IT IS SO ORDERED.

DATE: January 6, 2025 \_\_\_\_\_

F.M. TAVELMAN, Judge  
Superior Court of California  
County of Los Angeles

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The Plaintiff's Motion re: to Proceed under Pseudonyms filed by Jenna Smith, Mother Smith on 11/13/2024 is Granted.

The Defendant's Motion re: to Proceed under Pseudonyms filed by Jenna Smith, Mother Smith on 11/13/2024 is Granted.

The Court clerk is ordered to give notice.

Certificate of Mailing is attached.