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HOLLY McDEDE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

JOHN DOE, an Individual,

Plaintiff,

v.

MILL VALLEY SCHOOL DISTRICT,

Defendant.

HOLLY McDEDE,

Real Party in Interest.

Case No. CV0003896

REAL PARTY IN INTEREST HOLLY McDEDE'S OPPOSITION TO PLAINTIFF/PETITIONER JOHN DOE'S MOTION TO PARTIALLY SEAL COURT RECORDS

Date: July 9, 2025
Time: 1:30 p.m.
Dept.: H
Judge: The Hon. Sheila S. Lichtblau

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I. INTRODUCTION

Plaintiff/Petitioner John Doe seeks the drastic remedy of this Court clawing back and retroactively sealing contents of already public court records. Doe waived his opportunity to seal contents of the court records more than eight months ago when he chose to file details of allegations against him publicly. He assumed the risk that the Court would rule against him and that his true name would be disclosed if he lost. He cannot now avoid the consequences of that choice. Waiver aside, the mere risk of reputational harm asserted by Doe is insufficient to justify depriving the public of access to the judicial records documenting the basis for this Court's decision that Defendant/Respondent Mill Valley School District (the "District") could disclose some of its records about Doe but not others. Doe cannot overcome the people's compelling interest in protecting its constitutional right of access to already public judicial records underlying the Court's decision on the merits.

Despite Doe's attempt to conflate the merits of this case, on which he largely lost, with the issue of sealing judicial records about how the Court decided the merits, the purpose of this Court's order was not to shield him from any connection between his name and the contents of court records that he chose to file publicly. It is black-letter law that court records already in the public domain cannot be clawed back, except in the rare case of ongoing harassment resulting from public access to court records, which is not at issue here because Doe is experiencing no such harassment. "Once the cat is out of the bag, the ball game is over." *Gambale v. Deutsche Bank AG*, 377 F.3d 133, 144 n.11 (2d Cir. 2004) (citation omitted).

The only evidence Doe introduced to justify the extraordinary remedy of retroactive sealing is a single, conclusory sentence that connection of his name to *any* reference in the court records, even exculpatory references, to certain allegations against him would cause "grave and irreparable harm in the form of embarrassment, harassment, humiliation, and harm" to his reputation. Doe Decl. Supp. Mot. Partially Seal ¶ 3. This bare speculative assertion is far from the high evidentiary threshold courts must apply before entering an order retroactively sealing court records. To the extent any connection to the unfounded allegations could prejudice Doe's reputation, the Court already mitigated that risk by unequivocally and publicly opining that these

allegations are either not well-founded or fell outside the scope of the Real Party in Interest Holly McDede's records request, which sought records related to claims of sexual harassment, assault, boundary crossing behavior, and grooming. Indeed, the only evidence presented in the court records related to the baseless allegations, which Doe now seeks to seal, is also exculpatory because it comes from Doe's declarations and gives his personal account denying or explaining the allegations. Because Doe has provided no credible evidence of any overriding interest against disclosure of such court records, McDede respectfully requests that this Court deny Doe's motion to retroactively seal court records, vacate the preliminary injunction, and order that the Court's order of judgment take immediate effect.

II. STATEMENT OF FACTS

Doe is a former employee of the District. Doe Decl. Supp. Mot. J. ¶ 2. In June 2024, McDede, working as a freelance reporter, made a request to the District under the California Public Records Act ("CPRA") for records "related to claims of sexual harassment, sexual assault, or boundary crossing or grooming behavior made regarding teachers or other school employees" as well as "claims of sexual harassment, sexual assault, or grooming made to the California Commission on Teacher Credentialing." McDede Decl. Opp'n Mot. J. ¶¶ 2–4. Before Doe filed this action, the District had decided it would disclose various records to McDede.

After receiving notice of intended disclosure from the District, Doe filed this reverse-CPRA action on September 6, 2024, seeking to enjoin disclosure of records related to at least nine misconduct allegations against him. *See generally* Compl. & Pet.; Mot. J. at 3:12–6:2 (describing nine allegations of misconduct against Doe); Doe Decl. Supp. Mot. J. ¶¶ 5–19.

On September 10, 2024, Doe filed ex parte applications to proceed under a pseudonym and file the District records at issue under seal. On September 19, 2024, the Court granted these applications. Order Regarding Ex Parte Appls., Sept. 19, 2024, at 2:12–2:28. As a result, the records that the District proposed to disclose to McDede were lodged under seal with this Court and available for its in camera review. Doe moved for a preliminary injunction against disclosure of all District records at issue, which the Court granted, and later moved for judgment.

In litigating these motions, Doe filed declarations that detail his account of the allegations against him. *See generally* Doe Decl. Supp. Mot. Prelim. Inj.; Doe Decl. Supp. Mot. J. These exculpatory declarations were the only evidence related to the substance of the allegations against Doe that the public has had any access to during the pendency of this case. *See generally* McDede Opp'n Mot. J.; Order Regarding Ex Parte Appls., Sept. 19, 2024; Order Granting Prelim. Inj.

"On February 26, 2025, the parties appeared on [Doe's] motion for judgment on his petition for writ of mandate. After hearing oral argument, the court took the matter under submission." Order Mot. J. at 1. On March 17, 2025, the Court issued its order of judgment, denying Doe's motion for judgment in large part and granting it in part. *Id*. at 24–25. The order reflects that the Court allowed the District to disclose records, which contain Doe's true name, related to at least five of nine alleged incidents of misconduct against Doe ("Disclosable Records"). *Id.* at 19, 21. The Court held that public's right to know outweighs Doe's privacy interest in keeping his name and several allegations against him secret. *Id.* at 24:8–9 ("Disclosure of the [Disclosable] Records does not offend Petitioner's constitutional right to privacy."). However, the Court also held that several allegations were either "not well-founded," *id.* at 21:21, 23:17–23, or "fall outside the scope of the Request," having "nothing to do with 'sexual harassment,' 'sexual assault,' sexual 'boundary crossing behavior,' or 'grooming," as the Court described it ("Baseless Allegations"). *Id.* at 17:8–24. The Court ruled that the District was prohibited from disclosing records related to the Baseless Allegations ("Exempt Records").

Because the Court's order allowed the District to disclose records containing Doe's true name, and court records in this litigation refer to evidence from Doe's declarations regarding the Baseless Allegations, Doe filed this motion to retroactively seal the Court's records insofar as they contain any discussion, even exculpatory statements, related to the Baseless Allegations. *See* Mot. Partially Seal at 1. The only evidence Doe offered in support of any alleged harm is a single sentence in a declaration which states that "[i]f the public is able to identify me as the person targeted by the" Baseless Allegations, "I will suffer grave and irreparable harm in the form of embarrassment, harassment, humiliation, and harm to my reputation in the community, as well as economic and non-economic injury." Doe Decl. Supp. Mot. Partially Seal ¶ 3. Doe offered no

evidence of any actual or imminent threats or harassment. McDede now opposes the motion to retroactively seal the court records.

III. LEGAL STANDARD

Rules 2.550 and 2.551 of the California Rules of Court "apply to records sealed or proposed to be sealed by court order." Cal. R. Ct. 2.550(a)(1). These rules "provide a standard and procedures for courts to use when a request is made to seal a record" that are "based on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*," *id.* at advisory committee comment, a unanimous and sweeping decision that fully embraced the First Amendment right of access to judicial records and proceedings, in which the California Supreme Court held that judicial records may be sealed only "in the rarest of circumstances" because what "transpires in the court room is public property." [1] *NBC Subsidiary (KNBC-TV), Inc. v. Superior Ct.*, 20 Cal. 4th 1178, 1226 (1999).

Accordingly, unless "confidentiality is required by law" in matters such as juvenile proceedings that are not at issue, "court records are presumed to be open." *Id.* at 2.550(c). To overcome that presumption and order that a record be sealed, the court must make the following express factual findings:

> (1) There exists an overriding interest that overcomes the right of public access to the record;
> (2) The overriding interest supports sealing the record;
> (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
> (4) The proposed sealing is narrowly tailored; and
> (5) No less restrictive means exist to achieve the overriding interest.

Id. at 2.550(d).

The burden rests with "the party seeking to seal documents, or maintain them under seal," to "come forward with a specific enumeration of the facts sought to be withheld and specific

[1] Because the sealing rules are based on the holding in *NBC Subsidiary*, which was in turn based on the First Amendment right of access to judicial records, sealing decisions from federal courts rooted in the First Amendment right of access are instructive when interpreting Rules 2.550 and 2.551. *See* 20 Cal. 4th 1178, 1212–17.

reasons for withholding them" because he "is presumptively in the best position to know what disclosures will harm him and how." *H.B. Fuller Co. v. Doe*, 151 Cal. App. 4th 879, 894 (2007). "An order sealing the record must … specifically state the facts that support the findings." Cal. R. Ct. 2.550(e)(1)(A) (cleaned up).

IV. ARGUMENT

A. Doe Has Waived His Right to Move to Seal These Court Records.

Given the California Constitution's mandate that any court rule must "be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access," Cal. Const. art. I, § 3(b)(2), a post hoc motion to seal is subject to the rules of waiver and invited error. *See Savaglio v. Wal-Mart Stores, Inc.*, 149 Cal. App. 4th 588, 600–01 (2007) ("Wal-Mart's conduct was so inconsistent with an intent to enforce its rights to obtain sealed records under the Rules of Court as to induce a reasonable belief that it had relinquished such right.") "[H]eeding the call to construe our rules broadly to further the people's right of access," the Court of Appeal has held "that any reading of rules 2.550 and 2.551 that encourages an open-ended timeframe for filing a motion to seal records long after the underlying substantive matter has been decided would defeat the purpose of the rules." *Id.* at 601.

In other words, it "should go without saying that there is no justification for sealing records that contain only facts already known or available to the public." *H.B. Fuller Co.*, 151 Cal. App. 4th at 898. There can be no privacy with respect to a matter which is already public or which has previously become part of the 'public domain.'" *Sipple v. Chronicle Publ'g Co.*, 154 Cal. App. 3d 1040, 1047 (1984) (cleaned up).

In this case, Doe waived his right to seek retroactive sealing of references to facts surrounding the Baseless Allegations. He chose to discuss his version of those facts in public court records, and he assumed the risk that the Court would rule against him and allow the District to disclose at least some records containing his true name. The facts stated by Doe have been "part of the 'public domain'" for at least eight months as Doe chose to file and litigate them publicly. *See generally* Doe Decl. Supp. Mot. Prelim. Inj. Doe could have proactively moved to file evidence and references to allegations under seal to prevent those facts from entering the public domain, but

he did not. He could have also submitted evidence to the Court denying allegations without describing the content of those allegations by simply referencing the already sealed Notice of Lodgment. For example, Doe could have averred that: "I simply cannot explain [the allegation described in the Notice of Lodgment at pages X to Y] other than to state that it is absolutely 100 percent untrue," rather than describing the content of the allegation in his declaration. *See* Doe Decl. Supp. Mot. J. ¶ 18 (averring that out "of the allegations that I faced during my employment with the District, this is the only one that I simply cannot explain other than to state that it is absolutely 100 percent untrue," after describing the content of an allegation).

Instead, because Doe chose litigate evidence about the allegations publicly, basic descriptions of the allegations against Doe have been "known or available to public" since at least October 9, 2024, when Doe filed his motion for preliminary injunction, which included a declaration describing his perspective on the allegations against him. *See H.B. Fuller Co.*, 151 Cal. App. 4th at 898; *see generally* Doe Decl. Supp. Mot. Prelim. Inj. This choice "was so inconsistent with an intent to enforce [his] rights to obtain sealed records under the Rules of Court as to induce a reasonable belief that" Doe has "relinquished such right." *See Savaglio*, 149 Cal. App. 4th 588 at 600–01.

Doe cites only one inapplicable case—which held retroactive sealing was justified by substantial evidence that actual harassment had occurred and continued to occur due to public access to court records—to contend that he did not waive sealing these records. *See In re M.T.*, 106 Cal. App. 5th 322, 346 (2024). Doe cannot rely on "the presumably rare case" of *In re M.T*, where the court held that a transgender woman's privacy interests justified retroactive sealing of the court record in the unique context of her earlier name-and-gender-change proceeding, to support sealing the court records in this case. *See id.*

The petitioner-appellant only justified the extraordinary remedy of retroactive sealing in *In Re M.T.* because "she presented evidence of harassment specifically directed against her" that had already actually occurred and "evince[d] more than a mere possibility the public availability of appellant's records" themselves were precisely what "revealed her transgender identity to her persecutors." 106 Cal. App. 5th at 343. For example, in "a declaration attached to her application,

appellant stated she discovered her case record was publicly available online in 2022 when she searched her current name. The information online included appellant's private medical and contact information as well as appellant's former name." *Id.* at 330. M.T. submitted further evidence by attaching as an exhibit "a social media post with a photograph of appellant at work disclosing her former name and referring to appellant as a 'tranny,'" which included "offensive comments about appellant and identified appellant's current and former workplace, home address, and phone number." *Id.* "The post also divulged the last name of the physician who supported appellant's name and gender correction petition," which supported M.T.'s reasonable belief that her harassers located her court records. *Id.*

M.T. faced "repeated harassment by anonymous social media users and submitted transphobic messages from these users as exhibits." *Id.* Due to the severe harassment she actually incurred from public disclosure of her transgender identity, M.T. declared she "shut down all her social media accounts due to cyberbullying and repeated publishing of her private information." *Id.* M.T. provided evidence that her "transgender identity was anonymously disclosed to her workplace and school, … which made appellant uncomfortable as she had not previously shared this information," and she "ultimately left that job." *Id.*

Doe has provided no similar credible evidence that he has faced or will face harassment when his identity or the Disclosable Records become public, and he has not alleged membership in a protected class whose very identity carries an "excruciatingly private and intimate nature" like the transgender petitioner-appellant did in *In re M.T. See id.* at 338 (cleaned up). Doe has not even attempted to show that reputational harm or harassment is likely to come to someone who is publicly connected with a baseless allegation of misconduct, unlike the unique experience of transgender people who face "harassment and violence at levels greater than other segments of the American public," as up to "nearly six in 10 transgender adults reported being discriminated against because of their gender identity and/or expression, with 64 percent being verbally attacked and one in four being physically attacked," as evinced by the actual harassment M.T. faced. *See id.* at 340.

The only evidence in support of Doe privacy interest in sealing is a single, conclusory and self-serving sentence in Doe's declaration, which states that "[i]f the public is able to identify me as the person targeted by the" Baseless Allegations, "I will suffer grave and irreparable harm in the form of embarrassment, harassment, humiliation, and harm to my reputation in the community, as well as economic and non-economic injury." Doe Decl. Supp. Mot. Partially Seal ¶ 3. This conclusory sentence is a far cry from extraordinary and "rare" evidentiary showing that the plaintiff made in *In Re M.T.* that justified departure from the usual rule of waiver that is applied to retroactive motions to seal already public court records. *See* 106 Cal. App. 5th at 346.

In fact, Doe's bare assertion of reputational injury is such a far cry from—if not the polar opposite of—the high evidentiary threshold for retroactive sealing that it would "defeat the purpose of the [sealing] rules," *Savaglio*, 149 Cal. App. 4th 588 at 601, and upend the constitutional right of public access to permit Doe's proposed sealing in this case by analogy to *In Re M.T. See* 106 Cal. App. 5th at 346; *cf. H.B. Fuller Co.*, 151 Cal. App. 4th at 898 ("[W]ithout a clear enumeration of *specific facts* alleged to be worthy of the extraordinary measure of maintaining our records under seal, there is simply no basis to conclude that unsealing the records will actually infringe any interest of plaintiff's or inflict any harm on it."). Absent substantial evidence of actual harassment like that at issue in *In Re M.T.*, Doe presents no viable argument that he has not waived his opportunity to seeking sealing of the already public court records.

B. Doe Failed to Prove That His Qualified Right to Personal Privacy Overcomes the Compelling Interest in Public Access to the Court Records.

1. The Public Interest in Maintaining Access to Public Court Records is Compelling.

Even if Doe had not waived his right to ask the Court to seal court records, he cannot now meet the Rule 2.550 standard required to seal records. Despite Doe's efforts to conflate them, the public's right to ongoing access to the content of court records in this matter is independent of the merits of the Court's decision that the District must withhold the underlying Exempt Records. The issue is not whether Doe has a right of privacy in the abstract, but whether he has an *overriding interest* that *overcomes* the public's continued right of access to judicial records documenting the basis for this Court's decision. *See* Cal. R. Ct. 2.550(d). Doe must also prove a "substantial

probability" that interest "will be prejudiced if the record is not sealed," *id.* at 2.550(d)(3), which "is a higher standard than 'reasonable likelihood.'" *Marino v. Rayant*, 110 Cal. App. 5th 846, 864 (2025) (quoting *Alvarez v. Superior Ct.*, 154 Cal. App. 4th 642, 653 n.4 (2007)).

Maintaining public access to the court records is necessary for the public interest in assessing how reverse-PRA litigants, including Doe, utilize court resources to litigate their cases, and maintaining transparency in the court's decision-making process. "[B]y submitting a dispute to resolution in court, litigants should anticipate the proceedings will be adjudicated in public." *Dep't of Fair Emp.& Hous. v. Superior Ct.* (*DFEH*), 82 Cal. App. 5th 105, 111 (2022). "[I]t is a first principle that the people have the right to know what is done in their courts." *Copley Press v. Superior Ct.*, 63 Cal. App. 4th 367, 373 (1998) (quoting *In re Shortridge*, 99 Cal. 526, 530 (1893)); *see DFEH*, 82 Cal. App. 5th at 110 ("Public access to court proceedings is essential to a functioning democracy.").

Courts therefore recognize "the fundamental importance of issuing public decisions after public arguments based on public records" because "[a]ny step that withdraws an element of the judicial process from public view makes the ensuing decision look more like fiat, which requires compelling justification." *United States v. Stoterau*, 524 F.3d 988, 1012 (9th Cir. 2008) (emphasis added) (alteration in original) (first quoting *Doe v. United States* (*In re Admin Subpoena*), 253 F.3d 256, 262 (6th Cir. 2001); and then quoting *Union Oil Co. v. Leavell*, 220 F.3d 562, 568 (7th Cir. 2000)); *see Est. of Hearst v. Lubinski* (*In re Est. of Hearst*), 67 Cal. App. 3d 777, 784 (1977) ("If public court business is conducted in private, it becomes impossible to expose corruption, incompetence, inefficiency, prejudice, and favoritism.")

Doe cites the "stigma of having been the subject of [] frivolous allegations" as "the reason behind the filing of this lawsuit," Ex Parte Appl. Proceed under Fictitious Name 10:5–7, but Doe may not summon the power of the courts to "'clear his name' and wield a potential [judgment] against [defendant] but hide under a shield of anonymity if unsuccessful." *Doe v. Doe*, 85 F.4th 206, 215 (4th Cir. 2023); *cf. Doe v. Megless*, 654 F.3d 404, 410 (3d Cir. 2011) (upholding denial of a motion to proceed anonymously and reasoning in part that "litigating publicly will afford Doe the opportunity to clear his name in the community"); *Doe v. Valencia Coll.*, No. 6:15-cv-1800-

Orl-40DAB, 2015 U.S. Dist. LEXIS 198136, at *7 (M.D. Fla. Nov. 2, 2015) ("Plaintiff cannot possibly 'clear his name' if he is unwilling to disclose it.").

No overriding interest can justify cloaking in secrecy material from the court records that has been in the public domain for over eight months. By "submitting [this] dispute to resolution in court," Doe "should" have anticipated the proceedings would "be adjudicated in public." *See DFEH*, 82 Cal. App. 5th at 111. The public interest in disclosure is compelling here because the people must know "what [was] done in their courts," including the facts that Doe chose to publicly file and how this evidence weighed into the court's judgment. *See Copley Press*, 63 Cal. App. 4th at 373 (citation omitted). Confidence in the judiciary "cannot long be maintained where important judicial decisions are made behind closed doors and then announced in conclusive terms to the public, with the record supporting the court's decision sealed from public view." *Co. Doe v. Pub. Citizen*, 749 F.3d 246, 263 (4th Cir. 2014) (citation omitted).

2. Doe's Privacy Interest Against Continued Public Access to the Exculpatory Material in the Court Records Is Weak.

Doe has failed to prove a substantial probability that his personal privacy interest against theoretical reputational harm overrides the public interest in ongoing access to the court records, because the very material he seeks to seal is exculpatory and mitigates the risk of any reputational harm from a connection between his name and allegations the Court has determined to be baseless.

Evidence of threatened embarrassment or reputational harm, without more, is not sufficiently compelling to justify sealing court records. "The mere fact that judicial records may reveal potentially embarrassing information is not in itself sufficient reason to block public access." *Siedle v. Putnam Invs.*, 147 F.3d 7, 10 (1st Cir. 1998) (holding sealing may be justified only after evidence of more significant interest than that against embarrassment, such as a "prima facie showing that the attorney-client privilege applies" to the records); *see also People v. Jackson*, 128 Cal. App. 4th 1009, 1024 (2005) ("[C]ommercial harm or embarrassment of a party does not alone justify sealing the entire record of a case."); *Rudd Equip. Co. v. John Deere Constr. & Forestry Co.*, 834 F.3d 589, 594 (6th Cir. 2016) (holding that reputational harm is insufficient to "overcome the strong common law presumption in favor of public access to court proceedings

and records" and that is "especially true … where the entity alleging harm from publicizing the mere existence of this case is the plaintiff—the party that *chose* to file suit) (quoting *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1179 (6th Cir. 1983)).

Because the only harm that Doe even attempted to prove was "embarrassment, harassment, humiliation, and harm to [his] reputation," without more, Doe Decl. Supp. Mot. Partially Seal ¶ 3, Doe has not shown any overriding interest sufficient to justify sealing. *See Siedle*, 147 F.3d at 10; *cf. Jackson*, 128 Cal. App. 4th at 1024 (holding that the extraordinary "circumstances reflect[ed] an overriding interest justifying a sealing order" because they included "protecting minor victims of sex crimes from the trauma and embarrassment of public scrutiny," which was an overriding interest expressly recognized in *NBC Subsidiary*, and preserving an international celebrity's "right to a fair trial").

The retroactive sealing Doe seeks here is remarkably similar to one that the Court of Appeal recently rejected in *Marino v. Rayant*, 110 Cal. App. 5th 846 (2025). In *Marino*, the movant for sealing, Mark Alon Rayant, was the respondent and subject of a civil harassment restraining order for allegedly sending "racist/islamophobic messages," threatening to "file false police reports," and contacting the petitioner, Lawrence Marino's school and friends to "get personal information" and locate him. *Id.* at 851. The court granted the restraining order because Rayant failed to appear to oppose it, but Rayant later learned of the restraining order and moved to terminate it on the basis that Marino's allegations were baseless and he only failed to appear because was never personally served with any documents in the case, contrary to Marino's representations. *Id.* at 851–52. The court agreed to terminate the restraining order. *Id.* at 852–53.

Rayant also moved to retroactively seal Marino's restraining order request and the restraining order itself, citing his privacy "interest in preventing future employers, educational institutions, and other personal or professional contacts from having access to a fraudulently obtained restraining order" and "falsehoods about Rayant's character." *Id.* at 852, 863. The trial court found that Rayant's motion was untimely and failed to meet his burden to justify sealing under Rules 2.550 and 2.551; Rayant appealed. *Id.* at 854–55.

Despite the seriousness and sensitive nature of the allegations against Rayant that were discussed in public court records, the Court of Appeal affirmed the trial court's order denying the motion to seal because "Rayant offer[ed] no evidence demonstrating a 'substantial probability' that an employer would disqualify him based on the allegations in Marino's restraining order request, despite the subsequent termination of the restraining order," which "already … mitigated that prejudice."[2] *Id.* at 864.

Here, just like Rayant, Doe seeks retroactive sealing because "he argues he could be prejudiced by [the] unfounded accusations against him," *see id.*, but this Court already "mitigated that prejudice" by unequivocally and publicly opining that these allegations are either "not well-founded," Order Mot. J. at 21:21, 23:17–23, or "fall outside the scope of the Request," *id.* at 17:8. Given that the order mitigates the risk of prejudice to Doe's reputation, there is no basis for the Court to go so far as to claw back records of the parties' arguments and evidence in this case from the public domain. Because there is no evidence that the Court's holding is insufficient to mitigate the risk of prejudice to Doe's reputation, Doe's conclusory assertion of harm fails to prove a substantial probability that his privacy will be prejudiced if the records are not sealed. *See Marino*, 110 Cal. App. 5th at 864.

In addition to the mitigation of prejudice from the court's order, the only evidence in the public court records regarding the Baseless Allegations comes from Doe's own declarations, and it is exculpatory—he either denies the allegations entirely or explains why they "have nothing to do

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[2] Even though it was ultimately insufficient to justify sealing, Rayant at least attempted to make a far more robust evidentiary showing than the conclusory assertion Doe made here:

> He contended he had been prejudiced by the restraining order, averring in a supporting declaration he had applied for a job with the Los Angeles Department of Sanitation in May 2023, a position that required a background check, and never heard back about the position. He stated he intended to apply for other jobs, including with government agencies, that required background checks. He further averred that on June 21, 2023, and again on August 2, 2023, airport authorities subjected him to multiple rounds of screening and questioning when he returned from travel abroad. The authorities told him the additional screening was because of the restraining order against him.

Marino, 110 Cal. App. 5th at 853.

with "sexual harassment," "sexual assault," sexual "boundary crossing behavior," or "grooming," as the Court described it. Order Mot. J. at 17:15–24; *see* Doe Decl. Supp. Mot. J. McDede and undersigned counsel had no access to the underlying records, did not introduce any evidence disputing Doe's statements about the allegations, and learned all facts about the allegations from Doe's own declarations and arguments. *See generally* Doe Opp'n Mot. J.; District Opp'n Mot J. No party to this action introduced evidence that disputed Doe's accounts of the allegations as a factual matter. *See generally* Doe Opp'n Mot. J.; District Opp'n Mot J. The parties simply disputed how to apply the law to the facts that Doe himself declared. *See generally* Doe Opp'n Mot. J.; District Opp'n Mot J.

As the Court of Appeal did in *Marino*, this Court also recognized in its order of judgment that records "do not greatly impinge on Petitioner's privacy" where "they are not very sensitive" and in "fact, they are *exonerating*," as Doe's declarations, and his references thereto, in the court records are. *See* Order Mot. J. at 23:7–8 (emphasis added). Accordingly, Doe has failed to prove any personal interest will face such substantial prejudice by ongoing public access to the court records such that it overcomes the public right of access to judicial records documenting the basis for this Court's decision.

V. CONCLUSION

For the foregoing reasons, the Court is respectfully requested to deny Doe's motion to partially seal Court records, vacate the preliminary injunction against disclosure, and order that the Court's order of judgment, dated March 17, 2025, take immediate effect.

Dated: June 25, 2025

FIRST AMENDMENT COALITION

By _____

DAVID LOY
ANN CAPPETTA
Attorneys for Real Party in Interest
HOLLY McDEDE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF MARIN

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Marin, State of California. My business address is 534 4th Street, Suite B, San Rafael, CA 94901-3334.

On June 25, 2025, I served true copies of the following document(s) described as **REAL PARTY IN INTEREST HOLLY McDEDE'S OPPOSITION TO PLAINTIFF/ PETITIONER JOHN DOE'S MOTION TO PARTIALLY SEAL COURT RECORDS** on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rregnier@firstamendmentcoalition.org to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 25, 2025, at East Palo Alto, California.

Robin P. Regnier