



1 instead acknowledges that “[d]efendant properly notes that plaintiff has many names including  
2 John John.” (Pl.’s Opp.’n (ECF No. 13) at 2.) And the second amended complaint alleges that  
3 plaintiff did “not file this case in his real name.” (Sec. Am. Compl. (ECF No. 8) at 3.)

4 “The normal presumption in litigation is that parties must use their real names.” Doe v.  
5 Kamehameha Schools/Bernice Pauahi Bishop Estate, 596 F.3d 1036, 1042 (9th Cir. 2010); see  
6 also Fed. R. Civ. P. 10(a) (“[t]he title of the complaint must name all the parties”); Fed. R. Civ. P.  
7 17(a)(1) (“An action must be prosecuted in the name of the real party in interest.”).  
8 “Nevertheless, many federal courts, including the Ninth Circuit, have permitted parties to proceed  
9 anonymously when special circumstances justify secrecy.” Does I thru XXIII v. Advanced  
10 Textile Corp., 214 F.3d 1058, 1067 (9th Cir. 2000).

11 However, “[w]hen a party wishes to file a case anonymously or under a pseudonym, it  
12 must first petition the district court for permission to do so.” W.N.J. v. Yocom, 257 F.3d 1171,  
13 1172 (10th Cir. 2001). “In order to proceed anonymously, a plaintiff must show both (1) a fear of  
14 severe harm, and (2) that the fear of severe harm is reasonable.” Kamehameha, 596 F.3d at 1043.  
15 “Examples of areas where courts have allowed pseudonyms include cases involving abortion,  
16 birth control, transexuality, mental illness, welfare rights of illegitimate children, AIDS, and  
17 homosexuality.” Doe v. Megless, 654 F.3d 404, 408 (3rd Cir. 2011) (quotation omitted). When  
18 the plaintiff has failed to request permission to proceed anonymously, ““federal courts lack  
19 jurisdiction over the unnamed parties, as a case has not been commenced with respect to them.””  
20 United States ex rel. Little v. Triumph Gear Systems, Inc., 870 F.3d 1242, 1249-50 (10th Cir.  
21 2017) (quoting Yocom, 257 F.3d at 1172-73).

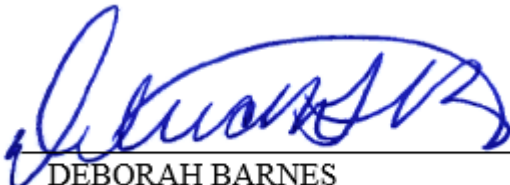
22 Here, plaintiff has not sought permission to proceed anonymously. In light of plaintiff’s  
23 pro se status, the undersigned will provide plaintiff with an opportunity to seek permission to  
24 proceed anonymously or to file a third amended complaint under his real name. See Doe v.  
25 UNUM Life Insurance Company of America, 164 F.Supp.3d 1140, 1144 (N.D. Cal. 2016)  
26 (“District courts within the Ninth Circuit have concluded that dismissal for lack of jurisdiction is  
27 not warranted when the plaintiff files a motion to proceed under a pseudonym, even if that motion  
28 is filed after the defendant filed a motion to dismiss.”).

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Accordingly, IT IS HEREBY ORDERED that:

1. Defendant’s December 13, 2017 motion to dismiss (ECF No. 11) is granted;
2. The January 26, 2018 hearing of defendant’s motion to dismiss is vacated;
3. Within twenty-eight days from the date of this order, plaintiff shall either file a motion to proceed anonymously or a third amended complaint under plaintiff’s real name<sup>2</sup>; and
4. If plaintiff files a third amended complaint under his real name, defendant shall file a responsive pleading within twenty-one days.

Dated: January 24, 2018

  
DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

DLB:6  
DB/orders/orders.pro se/john1640.mtd.ord

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<sup>2</sup> Plaintiff should not amend the third amended complaint in any respect other than to provide his real name.