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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE,  
Plaintiff,  
v.  
GEORGE STREET PHOTO & VIDEO,  
LLC,  
Defendant.

Case No. [16-cv-02698-MEJ](#)

**ORDER GRANTING PERMISSION TO  
PROCEED UNDER A PSEUDONYM  
AND FOR A PROTECTIVE ORDER**

Re: Dkt. No. 10

**INTRODUCTION**

Pending before the Court is Plaintiff Jane Doe’s (“Plaintiff”) Request to Proceed Under a Pseudonym and for a Protective Order, which seeks to preserve Plaintiff’s privacy and prevent Defendant George Street Photo & Video, LLC (“George Street”) and other Doe Defendants (collectively, “Defendants”) from publicly disclosing Plaintiff’s identity. Req., Dkt. No. 10. Plaintiff served George Street with this Request and supporting documents (Certificate of Serv., Dkt. No. 12), and George Street has not filed objections or any other response. Meanwhile, Plaintiff has filed an Amended Complaint, Dkt. No. 13, and given the newly asserted claims, has also filed a Supplemental Brief in support of her Request to proceed pseudonymously, Dkt. No. 14. For the reasons set forth below, the Court **GRANTS** Plaintiff’s Request to Proceed Under a Pseudonym and for a Protective Order.

**BACKGROUND**

Plaintiff’s suit arises from the online publication of excerpts of her private wedding video, which she alleges “went viral” and have been viewed “by millions of Internet users” across the world. Am. Compl. ¶¶ 58-60. These excerpts allegedly depict Plaintiff’s new and “obviously inebriated” husband “perform[ing] a series of sexually suggestive and other inappropriate acts []

1 directed toward Plaintiff,” her “emotional reaction” to this behavior, and Plaintiff being consoled  
2 by her family and friends. *Id.* ¶¶ 51-52. In addition, Plaintiff asserts that “hundreds of Internet  
3 users published comments ridiculing and personally criticizing” her. Req. at 3. Plaintiff alleges  
4 the publication of the video excerpts has caused her to suffer several ongoing harms, including  
5 severe psychological and emotional distress, reputational damage, etc. *Id.* at 3, 6. In addition,  
6 Plaintiff, whose name has not yet been linked to the video, fears that if unable to proceed under a  
7 pseudonym and with a protective order, her name will become associated with the video, resulting  
8 in further emotional distress and potentially irreparable harm to her reputation and career. *Id.*

9 **REQUEST TO PROCEED PSEUDONYMOUSLY**

10 Ordinarily, pleadings must identify the names of parties to a suit. Fed. R. Civ. P. 10(a).  
11 However, “a party may preserve his or her anonymity in judicial proceedings in special  
12 circumstances when the party’s need for anonymity outweighs prejudice to the opposing party and  
13 the public’s interest in knowing the party’s identity.” *Does I through XXIII v. Advanced Textile*  
14 *Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). In cases where pseudonyms “are used to shield the  
15 anonymous party from retaliation,” the Court, in evaluating the need for anonymity, also considers  
16 (1) the severity of the threatened harm, (2) the reasonableness of the anonymous party’s fears, (3)  
17 the anonymous party’s vulnerability to retaliation, and (4) the prejudice to the opposing party and  
18 whether proceedings may be structured to avoid that prejudice. *Id.* at 1068 (citations omitted).  
19 Additionally, the Court “must decide whether the public’s interest in the case would be best served  
20 by requiring that the litigants reveal their identities.” *Id.* (citation omitted).

21 Ultimately, “[t]he question is one of balance.” *Jane Roes 1-2 v. SFBSC Mgmt., LLC*, 77 F.  
22 Supp. 3d 990, 993 (N.D. Cal. 2015). As the Ninth Circuit explained:

23 [A] district court must balance the need for anonymity against the  
24 general presumption that parties’ identities are public information  
25 and the risk of unfairness to the opposing party. . . . Applying this  
26 balancing test, courts have permitted plaintiffs to use pseudonyms in  
27 three situations: (1) when identification creates a risk of retaliatory  
28 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[.]”

1 *Advanced Textile*, 214 F.3d at 1068 (citations and quotations omitted); *see also Jane Roes 1-2*, 77  
2 F. Supp. 3d at 993 (recognizing that “[i]n this circuit, . . . we allow parties to use pseudonyms”  
3 where it is “necessary” to “protect a person from . . . *ridicule or personal embarrassment.*”  
4 (quoting *Advanced Textile*, 214 F.3d at 1068 (emphasis in *Jane Roes 1-2*))); *cf. Doe v. Standard*  
5 *Ins. Co.*, 2015 WL 5778566, at \*3 (D. Me. Oct. 2, 2015) (indicating that something more than  
6 general “[l]itigation-related stress and a general desire for privacy” is needed to justify the  
7 granting of a request to proceed under a pseudonym). The Ninth Circuit has, however, recognized  
8 that “the balance between a party’s need for anonymity and the interests weighing in favor of open  
9 judicial proceedings may change as the litigation progresses.” *Advanced Textile*, 214 F.3d at  
10 1069. Weighing Defendants’ and the public’s interests against Plaintiff’s privacy concerns, the  
11 Court finds Plaintiff’s need for anonymity currently outweighs the public’s interest in her identity  
12 and the potential for prejudice to Defendants. First, with regard to prejudice to the opposing party,  
13 despite being served with this Request, George Street has in no way opposed it or articulated how  
14 it may suffer any degree of prejudice if Plaintiff proceeds pseudonymously. Plaintiff further notes  
15 that George Street has known her identity for almost a year through its participation in pre-filing  
16 settlement negotiations and has thus far refrained from disclosing any information identifying her.  
17 Req. at 4; Burgoyne Decl. ¶ 5, Dkt. No. 11. Thus, under the present circumstances, the Court  
18 identifies no prejudice to Defendants in allowing Plaintiff to proceed pseudonymously.

19       Second, while the public interest always favors open access to judicial proceedings and  
20 there is a general presumption against anonymity, *Advanced Textile*, 214 F.3d at 1067, the Court  
21 does not perceive any particular interest the public might have in knowing Plaintiff’s identity. The  
22 subject of these proceedings can be understood and scrutinized regardless of Plaintiff’s identity.  
23 *See id.* at 1072 (“[W]e fail to see [] how disguising plaintiffs’ identit[y] will obstruct public  
24 scrutiny of the important issues in this case.” (footnote omitted)). Furthermore, the public may  
25 have an interest in allowing Plaintiff to proceed under a pseudonym because, among other things,  
26 Plaintiff has indicated she would rather dismiss her claims than pursue them if pursuing them  
27 means exposing her identity. Burgoyne Decl. ¶ 4. To deny Plaintiff’s request under the  
28 circumstances of this case might not only prevent Plaintiff from proceeding on her claim, but

1 might also discourage others who suffer online public shaming and other such offenses from  
2 asserting their claims for fear of further cyber-related exposure. *See Advanced Textile*, 214 F.3d at  
3 1073 (“[P]ermitting plaintiffs to use a pseudonym will serve the public’s interest in this lawsuit by  
4 enabling it to go forward.”); *Doe v. Rostker*, 89 F.R.D. 158, 162 (N.D. Cal. 1981) (noting the  
5 “most compelling situations” when plaintiffs should be permitted to use pseudonyms include those  
6 “where the injury litigated against would occur as a result of the disclosure of the plaintiff’s  
7 identity.”). While such a concern might not be sufficient in all cases, under the current  
8 circumstances, the Court finds the public interest does not presently weigh against Plaintiff being  
9 allowing to proceed under a pseudonym and may actually weigh in her favor.

10 Finally, Plaintiff’s interest in protecting her identity is compelling at this point. “This  
11 district has . . . considered ‘social stigmatization’ [to be] among the ‘most compelling’ reasons for  
12 permitting anonymity. . . . [which] is consistent with the Ninth Circuit’s instruction in *Advanced*  
13 *Textile* that anonymity is permitted where the subject matter of a case is ‘sensitive and highly  
14 personal[.]’” *Jane Roes 1-2*, 77 F. Supp. 3d at 994. Plaintiff alleges Defendants’ actions resulted  
15 in the mass exposure of the sensitive and highly personal excerpts of her wedding video, leading  
16 to the public openly scrutinizing and criticizing her online. She alleges this “public shaming” has  
17 caused her great embarrassment, humiliation, and emotional distress (Am. Compl. ¶ 63), and  
18 while thus far her name is not associated with this video, it is reasonable that she risks further  
19 stigmatization and embarrassment if her name is linked to the video. In cases such as this one,  
20 when plaintiffs have expressed “legitimate concern for their privacy” and “an understandable fear  
21 of social stigmatization,” it is fitting to allow them to proceed under pseudonyms. *Id.* at 993; *see*  
22 *also Roe v. Ingraham*, 364 F. Supp. 536, 541 n.7 (S.D.N.Y. 1973) (“[I]f plaintiffs are required to  
23 reveal their identity prior to the adjudication [of their case] on the merits . . . , they will already  
24 have sustained the injury which by this litigation they seek to avoid.”).

25 Thus, given the lack of prejudice to Defendants and the public as compared with Plaintiff’s  
26 legitimate privacy concerns, the Court will allow Plaintiff to proceed anonymously. However, as  
27 noted, courts have discretion to reevaluate the need to proceed pseudonymously as litigation  
28 progresses, as “the balance between a party’s need for anonymity and the interests weighing in

1 favor of open judicial proceedings may change[.]” *Advanced Textile*, 214 F.3d at 1069.  
2 Consequently, while the Court **GRANTS** Plaintiff’s Request to Proceed Under a Pseudonym, it  
3 does so **WITHOUT PREJUDICE** to future challenges to this designation.<sup>1</sup>

4 **REQUEST FOR A PROTECTIVE ORDER**

5 Next, the Court turns to Plaintiff’s request for the Court to enter a protective order.

6 Plaintiff proposes the following language:

7 [O]nce formally served with a summons . . . , Defendant George  
8 Street Photo and Video, LLC and any other named Defendants, and  
9 all those acting in concert with or at the direction of any of them,  
10 shall refrain from disclosing, whether in connection with this matter  
11 or otherwise, Plaintiff’s identity or information from which  
12 Plaintiff’s identity might reasonably be discerned.

11 *See* Proposed Order, Dkt. No. 10-1.

12 The court has broad discretion to decide when it is appropriate to issue a protective order  
13 and the degree of protection required. *Phillips ex rel. Estates of Byrd v. General Motors Corp.*,  
14 307 F.3d 1206, 1210-11 (9th Cir. 2002) (moving party has burden to show good cause for why a  
15 protective order is necessary); *see also* Fed. R. Civ. P. 26(c)(1) (“[T]he court may, for good cause,  
16 issue an order to protect any party or person from annoyance, embarrassment, oppression, or  
17 undue burden or expense.”); *Advanced Textile*, 214 F.3d at 1069 (alluding to the court’s general  
18 “powers to manage pretrial proceedings” and “to issue protective orders limiting disclosure of the  
19 party’s name” (citing Fed. R. Civ. P. 26(c)). Given the circumstances and interests discussed  
20 above, the Court finds Plaintiff has presently established good cause for the protective order she  
21 seeks to protect her identity. Accordingly, the Court **GRANTS** Plaintiff’s Request for a  
22 Protective Order and **ADOPTS** and **ENTERS** Plaintiff’s proposed protective order as stated  
23 above. *See Advanced Textile*, 214 F.3d at 1070 (holding that “[a] district court with subject-matter  
24 jurisdiction over a case has the power to issue orders relating to third parties” and noting “that this  
25 court and others have concealed parties’ identities in order to protect them from retaliation by third  
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27 <sup>1</sup> Plaintiff must also keep in mind that while the Court may be able to protect her name, protecting  
28 her identity is a more complicated task, and basic facts that may come to light in the course of this  
action may expose her identity regardless of the protections ordered or precautions taken.

1 parties and also to protect nonparties from reprisals.” (citations omitted)).

2 **CONCLUSION**

3 Based on the analysis above, the Court **GRANTS** Plaintiff’s Request to Proceed Under the  
4 Pseudonym “Jane Doe” and for a protective order **WITHOUT PREJUDICE** to future challenges  
5 or modifications of this designation and protective order.

6 Accordingly, the Clerk of Court shall issue the summons, and the Protective Order is  
7 **ENTERED** as follows:

8 Once formally served with a summons, Defendant George Street  
9 Photo and Video, LLC and any other named Defendants, and all  
10 those acting in concert with or at the direction of any of them, shall  
11 refrain from disclosing, whether in connection with this matter or  
12 otherwise, Plaintiff’s identity or information from which Plaintiff’s  
13 identity might reasonably be discerned.

14 Plaintiff is **ORDERED** to serve Defendant(s) with a copy of this Order within 21 days of its filing  
15 and to file a proof of service of such with the Court.

16 The Initial Case Management Conference in this matter is **CONTINUED** from August 18,  
17 2016 to September 29, 2016 at 10:00 AM in Courtroom B, 15th Floor of the Phillip Burton  
18 Federal Building, 450 Golden Gate Avenue, San Francisco 94102. **IT IS FURTHER**  
19 **ORDERED** that no later than seven calendar days before the Case Management Conference, the  
20 parties shall file a Joint Case Management Statement containing the information in the Standing  
21 Order for All Judges in the Northern District of California, available at:

22 <http://cand.uscourts.gov/mejorders>. The Joint Case Management Statement form may be obtained  
23 at: <http://cand.uscourts.gov/civilforms>. If the statement is e-filed, no chambers copy is required.

24 **IT IS SO ORDERED.**

25 Dated: June 28, 2016

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28 MARIA-ELENA JAMES  
United States Magistrate Judge