

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**JOHN DOE,**  
Plaintiff,  
  
vs.  
  
**LINCOLN NATIONAL LIFE INSURANCE  
COMPANY,**  
Defendant.

CASE NO. 17-cv-03963-YGR  
  
**ORDER GRANTING PLAINTIFF’S EX PARTE  
MOTION TO PROCEED UNDER PSEUDONYM**  
  
**DKT. NO. 3**

United States District Court  
Northern District of California

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Plaintiff, appearing anonymously as John Doe, initiated this action on July 13, 2017 against defendant Lincoln National Life Insurance Company, alleging violations of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. section 1132(a)(1)(B). (Dkt. No. 1, “Compl.”) Specifically, plaintiff alleges that, since June 12, 2013, he has been disabled, as defined under the Marin Individual Practice Association Long Term Disability Plan (the “Plan”), due to “multiple serious physical health problems, including HIV and HIV associated neurocognitive decline,” yet defendant terminated his claims under the Plan effective September 9, 2015. (*Id.* at ¶¶ 8–10.)

Concurrently with the filing of his complaint, plaintiff filed an ex parte motion seeking leave from the Court to proceed under a pseudonym due to the sensitive and confidential nature of his HIV and psychiatric health issues. (Dkt. No. 3.) Having reviewed the pleadings and plaintiff’s motion, and for the reasons set forth below, the Court **GRANTS** plaintiff’s motion to proceed under a pseudonym.

In the Ninth Circuit, a “party may preserve his or her anonymity in judicial proceedings in special circumstances when the party’s need for anonymity outweighs prejudice to the opposing party and the public’s interest in knowing the party’s identity.” *Does I thru XIII v. Adv. Textile Corp.*, 213 F.3d 1058, 1068 (9th Cir. 2000). Put simply, courts must weigh (i) the party’s need for anonymity against (ii) the risk of prejudice to defendant and (iii) the public’s interest in the case. *Id.*

1 First, in determining the party’s need for anonymity, courts evaluate: “(1) the severity of  
2 the threatened harm; (2) the reasonableness of the anonymous party’s fears; and (3) the  
3 anonymous party’s vulnerability to such retaliation.” *Id.* (internal citations omitted). Courts have  
4 recognized the stigma and risks associated with public disclosure of one’s HIV status in granting  
5 motions to proceed anonymously. *See, e.g., Doe v. City and Cty. of San Francisco*, No. 16-CV-  
6 6950-KAW, 2017 WL 1508982, at \*2 (N.D. Cal. Apr. 27, 2017) (“The Court also concludes that  
7 the use of a pseudonym is appropriate to protect Plaintiff from injury or personal embarrassment,  
8 based on Plaintiff’s HIV-positive status.”).<sup>1</sup> Here, plaintiff fears that “proceeding under his true  
9 name would expose [him] to harassment, embarrassment and discrimination” and he represents  
10 that he has “maintained the confidentiality of his HIV and psychiatric health issues,” except to a  
11 limited circle of family, friends, medical personnel, and insurers. (Dkt. No. 3 at 2.) Although  
12 public discourse, understanding, and acceptance of such issues has improved in recent years, the  
13 Court recognizes that society continues to place at least some stigma on those diagnosed with  
14 HIV, and fear of negative treatment due to HIV remains reasonable and understandable.  
15 Moreover, plaintiff’s decision to maintain the confidentiality of his status implicates significant  
16 privacy concerns that demonstrate plaintiff’s need for anonymity. *See City and Cty. of San*  
17 *Francisco*, 2017 WL 1508982, at \*2.

18 Second, in evaluating the prejudice to defendant, the Ninth Circuit instructs district courts  
19 to “determine the precise prejudice at each stage of the proceedings to the opposing party, and  
20 whether proceedings may be structured so as to mitigate that prejudice.” *Advanced Textile Corp.*,  
21 214 F.3d at 1068. The Court finds that no such prejudice exists at this juncture. Plaintiff has  
22 provided sufficient information in the complaint, such as his claim number and the dates of his  
23 communications with defendant, to allow defendant to ascertain his identity. (Compl. ¶¶ 5, 8–13.)  
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25 <sup>1</sup> *See also Roe v. City of Milwaukee*, 37 F. Supp. 2d 1127, 1129 (E.D. Wisc. 1999) (“I  
26 believe that in modern society one’s HIV-positive status, unlike most other medical conditions, is  
27 still considered a stigma. The plaintiff’s HIV-positive status cannot be viewed as a ‘common  
28 disorder’ such that disclosure can be viewed as inconsequential.”); *Patient v. Corbin*, 37 F. Supp.  
2d 433, 434 (E.D. Va. 1998) (“Being HIV positive carries a significant stigma in many parts of  
today’s society. Given the increase in public access to court docket sheets, public disclosure of  
plaintiff and her husband’s identities could subject them to public vilification.”).

1 Defendant, therefore, has no need for plaintiff to disclose the same in a public forum. The Court  
2 acknowledges that defendant has yet to be served and has, therefore, not had the opportunity to  
3 respond to plaintiff's motion. Should defendant identify any prejudice that would attach as a  
4 result of plaintiff's prosecution of this action anonymously, defendant may raise such issues so  
5 that the Court may evaluate the propriety of continuing to allow the action to proceed  
6 anonymously or whether any such prejudice may be mitigated.

7 Finally, the Court evaluates whether the public's interest "would be best served by  
8 requiring that the [plaintiff] reveal his identit[y]." *Advanced Textile Corp.*, 214 F.3d at 1068. The  
9 Court finds that the public interest is not advanced by publication of plaintiff's identity here. The  
10 public need not know plaintiff's real name to understand the nature of his claims or the legal  
11 proceedings in this action. Rather, the Court finds that the public interest is better served by  
12 allowing plaintiff to advance anonymously, rather than subject him to the uncomfortable position  
13 either of dismissing what may be legitimate claims or publicly disclosing highly confidential  
14 medical information that may place him in harm's way.

15 Thus, the Court finds that plaintiff's need for anonymity outweighs any prejudice to  
16 defendant at this stage of the proceedings or the public's interest in disclosure of his identity.  
17 Accordingly, the Court **GRANTS** plaintiff's ex parte motion to proceed anonymously.

18 This Order terminates Docket Number 3.

19 **IT IS SO ORDERED.**

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21 Dated: July 26, 2017

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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**