

1 **A. Background**

2 Plaintiffs are a group of four minors and three parent guardians who
3 filed an amended complaint challenging certain aspects of Defendants'
4 COVID-19 vaccination mandate. (ECF No. 34). In the amended complaint,
5 Plaintiffs identify themselves as: John and Jill Doe, guardians of Jill Doe, a
6 minor; Tiffany Roe, guardian of Terry and Taylor Roe, minors; and Andrew
7 Poe, guardian of Adrian Poe, a minor. (*Id.*).

8 Plaintiffs now ask the Court to excuse the attendance of the minors at
9 the September 30, 2022 ENE/CMC on grounds that all minors are
10 represented by an adult parent who is representing each minor's interest,
11 and because the minors have no settlement authority of their own. The
12 Court agrees with this request, and **GRANTS** that aspect of the parties' joint
13 motion. The minors are not required to attend the ENE/CMC.

14 Next, however, the Plaintiff parents seek to appear anonymously at the
15 ENE/CMC, with their cameras turned off, using their pseudonymous
16 identities only. (ECF No. 46 at 2). In support of their request, the Plaintiff
17 parents explain that they initiated this action using pseudonymous
18 identities, and they intend to file a motion for leave to proceed as such
19 throughout the case. (*Id.*). Defendants are not opposed to the Plaintiffs'
20 request for the limited purpose of the ENE/CMC. (*Id.* at 2-3).

21 **B. Legal Standard: Pseudonyms**

22 "The normal presumption in litigation is that parties must use their
23 real names." *Doe v. Kamehameha Sch./Bernice Pauahi Bishop Est.*, 596 F.3d
24 1036, 1042 (9th Cir. 2010); *see also* Fed. R. Civ. P. 10(a) (requiring the title of
25 every complaint to "name all the parties"). "This presumption is loosely
26 related to the public's right to open courts, and the right of private
27 individuals to confront their accusers." *Kamehameha*, 596 F.3d at 1042

1 (citations omitted). To proceed under a pseudonym, a plaintiff must seek
2 leave of the Court. *Aellis O. v. Connor*, No. 22-CV-200 JLS (WVG), 2022 WL
3 2229421, at *3 n.1 (S.D. Cal. June 21, 2022).

4 “The Ninth Circuit allows parties to use pseudonyms in unusual cases
5 where anonymity is ‘necessary . . . to protect a person from harassment,
6 injury, ridicule or personal embarrassment.’” *Doe v. UNUM Life Ins. Co. of*
7 *Am.*, 164 F. Supp. 3d 1140, 1144 (N.D. Cal. 2016) (quoting *United States v.*
8 *Doe*, 655 F.2d 920, 922 n.1 (9th Cir. 1980)); *Does I thru XXIII v. Advanced*
9 *Textile Corp.*, 214 F.3d 1058, 1067–68 (9th Cir. 2000) (“In this circuit, we
10 allow parties to use pseudonyms in the unusual case”) (citations and
11 quotation marks omitted); *United States v. Stoterau*, 524 F.3d 988, 1012 (9th
12 Cir. 2008) (“As a general rule, ‘the identity of the parties in any action, civil
13 or criminal, should not be concealed except in an unusual case, where there is
14 a need for the cloak of anonymity.’”) (citations and quotation marks omitted);
15 *Doe v. Ayers*, 789 F.3d 944, 946 (9th Cir. 2015) (noting that the use of a
16 pseudonym was proper because of the case’s exceptional nature). To test
17 whether use of a fictitious name is appropriate, courts ask whether “the party’s
18 need for anonymity outweighs prejudice to the opposing party and the
19 public’s interest in knowing the party’s identity.” *Advanced Textile Corp.*,
20 214 F.3d at 1068.

21 To determine whether to allow a party to proceed anonymously, a
22 district court must balance five factors: “(1) the severity of the threatened
23 harm, (2) the reasonableness of the anonymous party’s fears, . . . (3) the
24 anonymous party’s vulnerability to . . . retaliation, (4) the prejudice to the
25 opposing party, and (5) the public interest.” *Kamehameha*, 596 F.3d at 1042.
26 District courts place particular emphasis on the first and second factors. *Id.*
27 at 1043.

1 **C. Discussion**

2 The Chambers’ Rules in this Court require parties to appear in-person
3 (via Zoom video technology) for all Early Neutral Evaluation settlement
4 conferences absent a showing of good cause as to why they cannot do so. *See*
5 Hon. Mitchell D. Dembin, Civ. Chambers R. IV(B). The present motion fails
6 to articulate a basis for the Plaintiffs’ request to proceed anonymously, except
7 to state that Plaintiffs intend to seek approval from the district court in order
8 to proceed in the case using only pseudonyms. (ECF No. 46).

9 In the absence of stated grounds for overcoming this Court’s
10 requirement for personal appearance at a settlement conference, or the
11 presumption that parties must proceed with their real names in litigation
12 (and the minors’ initials pursuant to Federal Rule 5.2(a)(3)), the Court has
13 considered the amended complaint that asserts:

14 The Plaintiffs all seek to proceed pseudonymously in this case for
15 fear of retaliation and harassment by SDUSD officials, teachers, or
16 students.

17 (ECF No. 34 ¶ 29). The Court also notes that Plaintiffs previously filed a
18 motion to appear pseudonymously together with their motion for a temporary
19 restraining order. (ECF No. 7 [filed 11/1/2021]).

20 District Judge Cathy Ann Bencivengo denied the request for a
21 temporary restraining order and advised Plaintiffs that their application to
22 proceed pseudonymously was more suitable for a separate motion. (ECF No.
23 20 at 10 [filed 11/18/2021]). Judge Bencivengo permitted the parties to
24 proceed anonymously for purposes of filing an immediate appeal, but she
25 explained that “the Court is not persuaded that Plaintiffs have overcome the
26 presumption that parties must use their real names in litigation.” (*Id.* at 10
27 & n.5) (citing *Kamehameha*, 596 F.3d at 1042).

1 To date, Plaintiffs have provided no additional information on this
2 issue. In the absence of such information, the Court finds that Plaintiffs have
3 failed to establish good cause for appearing anonymously for the Court's ENE
4 on September 30, 2022. Because the district court, rather than this Court,
5 must balance the factors relevant for determining whether it is appropriate
6 for the parties to proceed pseudonymously, the parties may alternatively
7 consider filing a joint motion to continue the ENE/CMC until after the
8 district court resolves the pseudonym issue. Until then, the Court **DENIES**
9 the joint motion for the Plaintiff parents to proceed anonymously during the
10 September 30, 2022 Early Neutral Evaluation and Case Management
11 Conference.

12 **IT IS SO ORDERED.**

13 Dated: September 16, 2022



14 Hon. Mitchell D. Dembin
15 United States Magistrate Judge
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