

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

Civil Action No.: 8:17-CV-00361-TDC

**PLAINTIFFS' MOTION FOR LEAVE
FOR JOHN DOE #4 AND JOHN DOE #5
TO PROCEED PSEUDONYMOUSLY
AND FOR WAIVER OF LOCAL RULE
102.2(a) AS TO THE NAMED
INDIVIDUAL PLAINTIFFS**

As the Court is aware, Plaintiffs recently filed a Second Amended Complaint to add allegations and claims regarding the proclamation President Trump signed on September 24, 2017, entitled, "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats" (hereinafter, "EO-3"). *See* SAC, Dkt. No. 203. The Second Amended Complaint also adds seven individual Plaintiffs to the case: John Doe #4, John Doe #5, Mohamad Mashta, Grannaz Amirjamshidi, Fakhri Ziaolhagh, Shapour Shirani, and Afasaneh Khazaeli. In this motion, Plaintiffs respectfully request leave for John Does #4 and #5 to proceed pseudonymously, and for new individual Plaintiffs proceeding under their real names to be relieved of the obligation under Local Rule 102.2(a) to include their home addresses in the Second Amended Complaint.

Plaintiffs' counsel has consulted with counsel for the Defendants, who reported, as to both requests, as follows: "The Government does not object to Plaintiffs' requests at this time, but reserves the right to revisit these issues if circumstances warrant and/or at later stages of the proceeding."

I. Waiver of Local Rule 102.2(a)'s Obligation to Publish Home Addresses

Local Rule 102.2(a) requires parties to provide their addresses in the first pleading in which they appear, and therefore requires individual Plaintiffs Mohamad Mashta, Grannaz Amirjamshidi, Fakhri Ziaolhagh, Shapour Shirani and Afasaneh Khazaeli to list their home addresses in the Second Amended Complaint.

The new named individual Plaintiffs wish to be relieved of this obligation in order to protect their privacy and to avoid harassment. At least one named individual Plaintiff whose address was published in a prior complaint was harassed via telephone for participating in this case. His family's phone number, which they ultimately had to change to end the harassment, was uncovered through the address provided in the complaint. In light of this experience, as well as many of the considerations relevant to the request of John Does #4 and #5 to proceed anonymously (discussed in more detail below), the new named individual Plaintiffs respectfully request that the Court waive this requirement of Local Rule 102.2(a).

II. Leave for John Does #4 and #5 to Proceed Under Pseudonyms

When a party seeks to litigate under a pseudonym, the court must balance that party's interest in anonymity against the public's interest in openness and any prejudice that anonymity would cause to the opposing party. *Doe v. Public Citizen*, 749 F.3d 246, 274 (4th Cir. 2014). Factors relevant to that balancing test include: Whether the party seeks anonymity merely to avoid annoyance that might attend any litigation, or rather to preserve privacy in a sensitive or highly personal matter; whether identification poses a risk of retaliatory harm to the requesting party or, even more critically, to innocent non-parties; the ages of the persons whose privacy interests are sought to be protected; whether the action is against a governmental or private party; and, relatedly, the risk of unfairness to the opposing party from allowing an action against it to proceed

anonymously. *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993) (citations omitted); *Int’l Refugee Assistance Proj.* (“IRAP”), No. TDC-17-0361, 2017 WL 818255, at *1 (D. Md. Mar. 1, 2017).

John Does #4 and #5 move for leave to proceed anonymously on grounds very similar to those on which the Court previously granted motions for other Doe Plaintiffs. *Compare* Dkt. No. 205-1, J.R. 460-62 (“John Doe #4 Decl.”), *and* Dkt. No. 205-1, J.R. 446-48 (“John Doe #5 Decl.”), *with IRAP*, 2017 WL 818255, *and* Mem. Order dated Mar. 17, 2017, Dkt. No. 163.

First, John Does #4 and #5 share the same fear as other the Doe Plaintiffs in this litigation— that revealing their true identities and personal stories, as well as their participation in this lawsuit, would subject them to harassment from members of the public at large. John Doe #4 Decl. ¶ 12; John Doe #5 Decl. ¶¶ 7, 9. John Doe #4, moreover, fears that his participation in this case could lead to the persecution of his wife, who is a national of and still lives in Iran. John Doe #4 Decl. ¶ 11. These risks of retaliation, physical harm, or harassment “weighs heavily in favor” of permitting John Does #4 and #5 to proceed anonymously. *IRAP*, 2017 WL 818255, at *2.

Second, both men seek to protect “‘privacy in a matter of sensitive and highly personal nature’” related to their “religious faith and their relatives’ immigration status,” which also weighs in favor of the use of pseudonyms. *Id.* (quoting *James*, 6 F.3d at 238).

Third, this case is against the government. As this Court has explained, “[u]se of pseudonyms is more likely to be appropriate in cases challenging government activity because there is both ‘arguably a public interest in a vindication of . . . rights’ and a risk of stigmatization of the plaintiff, who often represents a minority interest.” *Id.* at *3 (quoting *EW v. N.Y. Blood Ctr.*, 213 F.R.D. 108, 111 (E.D.N.Y. 2003) (alteration in original)). Moreover, John Does #4 and #5 do

not challenge “the conduct of particular government employees,” but rather executive orders issued by the President, which makes the use of pseudonyms “more likely to be justified.” *Id.*

Fourth and finally, Defendants do not oppose the motion and “have offered no claim of prejudice.” *Id.* at *3.

Granting John Does #4 and #5’s motion will only minimally affect the public’s interest in open judicial proceedings. John Does #4 and #5 are joining “a pure legal challenge to” EO-2 and EO-3, and so their role in the litigation will be relatively minor. *Id.* The presence of now five organizational plaintiffs and six named individual plaintiffs, moreover, means that “the public already has significant information about the parties in this case,” further reducing the need for John Does #4 and #5 to disclose their real names. *Id.*

In light of the following, Plaintiffs respectfully request that the Court grant John Does #4 and #5 leave to proceed in this matter using pseudonyms.

Respectfully submitted,

Dated: October 6, 2017

/s/ Nicholas Espíritu

Karen C. Tumlin†
Nicholas Espíritu†
Melissa S. Keaney†
Esther Sung†
National Immigration Law Center
3435 Wilshire Boulevard, Suite 1600
Los Angeles, CA 90010
Tel: (213) 639-3900
Fax: (213) 639-3911
tumlin@nilc.org
espiritu@nilc.org
keaney@nilc.org
sung@nilc.org

Justin B. Cox (Bar No. 17550)
National Immigration Law Center
PO Box 170208
Atlanta, GA 30317
Tel: (678) 279-5441

Omar C. Jadwat†
Lee Gelernt†
Hina Shamsi†
Hugh Handeyside†
Sarah L. Mehta†
David Hausman††
American Civil Liberties Union
Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel: (212) 549-2600
Fax: (212) 549-2654
ojadwat@aclu.org
lgelernt@aclu.org
hshamsi@aclu.org
hhandeyside@aclu.org
smehta@aclu.org
dhausman@aclu.org

Fax: (213) 639-3911
cox@nilc.org

Cecillia D. Wang†
Cody H. Wofsy†
Spencer E. Amdur†
American Civil Liberties Union
Foundation
39 Drumm Street
San Francisco, CA 94111
Tel: (415) 343-0770
Fax: (415) 395-0950
cwang@aclu.org
cwofsy@aclu.org
samdur@aclu.org

David Cole†
Daniel Mach†
Heather L. Weaver†
American Civil Liberties Union
Foundation
915 15th Street NW
Washington, DC 20005
Tel: (202) 675-2330
Fax: (202) 457-0805
dcole@aclu.org
dmach@aclu.org
hweaver@aclu.org

David Rocah (Bar No. 27315)
Deborah A. Jeon (Bar No. 06905)
Sonia Kumar (Bar No. 07196)
Nicholas Taichi Steiner (Bar
No.19670)
American Civil Liberties Union
Foundation of Maryland
3600 Clipper Mill Road, Suite 350
Baltimore, MD 21211
Tel: (410) 889-8555
Fax: (410) 366-7838
jeon@aclu-md.org
rocah@aclu-md.org
kumar@aclu-md.org
steiner@aclu-md.org

Counsel for Plaintiffs

†Admitted *Pro Hac Vice*

†† Application for admission *Pro Hac Vice* pending

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of October, 2017, I caused a PDF version of the foregoing document and any accompanying exhibits to be electronically transmitted to the Clerk of the Court, using the CM/ECF System for filing and for transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

Dated: October 6, 2017

Respectfully submitted,

/s/ Nicholas Espíritu