

1 **ANALYSIS**

2 “Plaintiffs’ use of fictitious names runs afoul of the public’s common law right of access
3 to judicial proceedings.” *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th
4 Cir. 2000) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978)). Further, Rule
5 10(a) commands that the title of every complaint “include the names of all the parties.” Fed. R.
6 Civ. P. 10(a). The Ninth Circuit allows “parties to use pseudonyms in the ‘unusual case’ when
7 nondisclosure of the party’s identity ‘is necessary . . . to protect a person from harassment, injury,
8 ridicule or personal embarrassment.’” *Advanced Textile*, 214 F.3d at 1067–68 (quoting *United*
9 *States v. Doe*, 655 F.2d 920, 922 n. 1 (9th Cir. 1981)). The Ninth Circuit has permitted plaintiffs
10 to use pseudonyms in three situations: (1) when identification creates a risk of retaliatory physical
11 or mental harm, (2) when anonymity is necessary to privacy in a matter of sensitive and highly
12 personal nature, and (3) when the anonymous party is compelled to admit his or her intention to
13 engage in illegal conduct thereby risking criminal prosecution. *Id.* at 1068. If the plaintiff’s
14 motion to proceed anonymously is based on fear of retaliation, the court evaluates the following
15 factors: (1) the severity of the threatened harm, (2) the reasonableness of the anonymous party’s
16 fears, and (3) the anonymous party’s vulnerability to such retaliation (4) the prejudice to the
17 opposing party and (5) the public interest. *Doe v. Kamehameha School Sch. Bernice Pauahi*
18 *Bishop Estate*, 596 F.3d 1036, 1042 (9th Cir. 2010).

19 The court sympathizes with Plaintiff’s past psychological issues and is comforted by her
20 choice to obtain help. Yet, in terms retaliatory mental harm, she provides only conclusory
21 statements about her fears surrounding future interactions she may have with the public as a result
22 of her job and how knowledge about this case might affect her professional standing with her
23 employer, who is not aware of her past gambling history. The information provided is so lacking
24 that the court is unable to weigh any of the *Kamehameha School Sch. Bernice Pauahi Bishop*
25 *Estate* factors. And, in today’s environment, a past gambling addiction with accompanying
26 mental health problems is not so out of the norm as to constitute sensitive and highly personal in
27 nature. While there is no identifiable prejudice to defendant in allowing plaintiff to remain
28 anonymous, plaintiff cannot show that the need for anonymity in this case outweighs the public’s

1 interest in the proceedings. See *Advanced Textile*, 214 F.3d at 1068. Again, this court is
2 sympathetic to Plaintiff's concerns, but the facts of this case do not overcome the paramount
3 importance of open courts. This court would fail its obligation to the public by allowing the
4 plaintiff to remain anonymous.


5 Given the procedural posture of the case, including defendant's pending Motion to
6 Compel Arbitration (ECF No. 22) and defendant's Motion to Dismiss (ECF No. 23), the court
7 will allow plaintiff some time before she needs to reveal her identity.

8 IT IS THEREFORE ORDERED that plaintiff's motion to proceed anonymously (ECF No.
9 10) is DENIED.

10 IT IS FURTHER ORDERED that Plaintiff's Motion to Seal (ECF No. 13) is DENIED.

11 IT IS FURTHER ORDERED that Plaintiff must file an amended complaint using her true
12 name no later than 14 days after this Court resolves the Motion to Dismiss, at which time the
13 Court will unseal the certificate of interested parties (ECF No. 12).

14 DATED: October 14, 2020

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17 BREND A WEKSLER
18 UNITED STATES MAGISTRATE JUDGE
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