UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAYSA ABDEL-RAZEQ and DARRAN ALBERT	:	
Plaintiffs,	:	14 Civ. 5601 (HBP)
-against-	:	OPINION AND ORDER
ALVAREZ & MARSAL, INC., ALVAREZ & MARSAL TRANSACTION ADVISORY GROUP, LLC, ALVAREZ & MARSAL HOLDINGS, LLC, ALVAREZ & MARSAL GLOBAL SERVICES, LLC, PAUL AVERSANO, in his individual and professional capacities, ANTHONY CAPORRINO, in his individual and professional capacities, JOEL PORETSKY, in his individual and professional capacities, and LAUREEN RYAN, in her individual and professional capacities,	:	
Defendants.	:	

PITMAN, United States Magistrate Judge:

I. Introduction

This is a Title VII action in which plaintiffs allege claims of discrimination, harassment and retaliation. The parties have executed a settlement agreement and have made a joint application seeking that defendant Laureen Ryan's name be retroactively redacted from or replaced with a pseudonym on the docket and in all publicly available documents including court

Orders (See Joint Letter Application, dated Sept. 21, 2015 ("Sept. 21 Letter"); Joint Letter Motion for Pre-Motion Conference, dated Apr. 15, 2015 (Docket Item ("D.I.") 50)).

All parties have consented to my exercising plenary jurisdiction pursuant to 18 U.S.C. § 636(c) (D.I. 52, 53).

For the reasons set forth below, the application to redact Ryan's name or replace it with a pseudonym is denied.

II. Factual and Procedural Background

This action was commenced on July 23, 2014 against all the current defendants except for Ryan (Complaint (D.I. 1); Sept. 21 Letter, at 3). The Amended Complaint, filed on August 19, 2014, added Ryan as a defendant and asserted claims of aiding and abetting unlawful discrimination and retaliation (Amended Complaint (D.I. 8); Sept. 21 Letter, at 3). Plaintiffs filed a Second Amended Complaint ("SAC") on January 28, 2015 (D.I. 39). In the SAC, plaintiff Abdel-Razeq alleges that defendant Paul Aversano subjected her to a pattern of sexual harassment and racial discrimination and that after she complained of this abuse, various supervisors retaliated against her and/or aided and abetted the retaliation. According to the parties, Abdel-Razeq was transferred to Ryan's division less than one month

before the SAC was filed and had not worked for Ryan before that time (Sept. 21 Letter, at 3; SAC, ¶ 106). There are six specific allegations concerning Ryan in the SAC; the SAC asserts two claims on behalf of Abdel-Razeq against Ryan for aiding and abetting (SAC, ¶¶ 4, 24, 106, 108, 110-111, 180-85, 221-27). Plaintiff Albert does not assert any claims against Ryan.

The parties attended a settlement conference before me on March 31, 2015 at which they agreed to a settlement (D.I. 50). Following the conference, the parties jointly made the pending application to edit the record to remove any reference to Ryan. In the pending application, the parties argue that Ryan will suffer financial hardship and loss of professional goodwill if her name is not redacted or replaced with a pseudonym. The parties argue that (1) the relief they seek is narrowly tailored to address Ryan's concerns about her professional reputation; (2) plaintiffs will not be prejudiced because they have consented to the request and there will be no further filings in this case and (3) the public's interest in Ryan's name is limited.

For the reasons set forth below, the parties' application is denied.

III. Analysis

"There is a strong presumption that the public should be able to access every single document filed with this court of law." Saks Inc. v. Attachmate Corp., 14 Civ. 4902 (CM), 2015 WL 1841136 at *14 (S.D.N.Y. Apr. 17, 2015) (McMahon, D.J.), citing S.E.C. v. TheStreet.com, 273 F.3d 222, 231 (2d Cir. 2001); see also United States v. Amodeo, 71 F.3d 1044, 1048 (2d Cir. 1995) ("The public's exercise of its common law access right in civil cases promotes public confidence in the judicial system."), quoting Leucadia, Inc. v. Applied Extrusion Tech., Inc., 998 F.2d 157, 161 (3d Cir. 1993). This presumption is rooted in the First Amendment as well as common-law principles. See Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978); Hartford Courant Co. v. Pellegrino, 380 F.3d 83, 93-94 (2d Cir. 2004); Westmoreland v. Columbia Broad. Sys., Inc., 752 F.2d 16, 22 (2d Cir. 1984); Doe v. Del Rio, 241 F.R.D. 154, 156 (S.D.N.Y. 2006) (Lynch, D.J.); see also Anonymous v. Medco Health Solutions, Inc., 588 F. App'x 34, 35 (2d Cir. 2014) (summary order) ("A 'presumption of immediate public access attaches [to some judicial documents] under both the common law and the First Amendment,'"), quoting Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 126 (2d Cir. 2006) (alteration in original). "[T]he weight

to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts." United States v. Amodeo, supra, 71 F.3d at 1049. Thus, in determining whether to grant a request such as Ryan's, the court will balance the privacy interests of the movant in the confidentiality of the information in question, including a party's identity, against the importance of the material to the adjudication and the public's interest in access to such materials. Nixon v. Warner Communications, Inc., supra, 435 U.S. 589, 597–603 (1978); S.E.C. v. TheStreet.com, supra, 273 F.3d at 232; United States v. Amodeo, supra, 71 F.3d at 1048-53; Joy v. North, 692 F.2d 880, 893 (2d Cir. 1982).

Specific considerations are applicable to a party's request for anonymity. Rule 10(a) of the Federal Rules of Civil Procedure provides that "[t]he title of the complaint must name all the parties." This rule "serves the vital purpose of facilitating public scrutiny of judicial proceedings and therefore cannot be set aside lightly." Sealed Plaintiff v. Sealed Defendant, 537 F.3d 185, 188-89 (2d Cir. 2008). The Court of Appeals has set forth the following non-exhaustive list of factors for district courts to consider in assessing a plaintiff's motion to proceed anonymously: (1) whether the litigation involves matters

that are highly sensitive and of a personal nature; (2) whether identification poses a risk of retaliatory harm to a party seeking to proceed anonymously or even more critically, to innocent non-parties; (3) whether identification presents other harms and the likely severity of those harms; (4) whether plaintiff is particularly vulnerable to possible harm from disclosure; (5) whether the suit is challenging actions of government or that of private parties; (6) whether defendant is prejudiced by allowing plaintiff to press claims anonymously and whether the nature of that prejudice differs at any particular stage of the litigation or can be mitigated by the district court; (7) whether plaintiff's identity has thus far been kept confidential; (8) whether the public's interest in the litigation is furthered by requiring plaintiff to disclose his identity; (9) whether, because of the purely legal nature of issues presented or otherwise, there is an atypically weak public interest in knowing the litigants' identities and (10) whether there are any alternative mechanisms for protecting the confidentiality of plaintiff. Sealed Plaintiff v. Sealed Defendant, supra, 537 F.3d at 189-90, citing Does I Thru XXIII v. Advanced Textile Corp., 214 F.3d 1058, 1068 (9th Cir. 2000); M.M. v. Zavaras, 139 F.3d 798, 803 (10th Cir. 1998); James v. Jacobson, 6 F.3d 233, 238 (4th Cir. 1993); Doe v. Frank, 951 F.2d 320, 323 (11th Cir. 1992); Doe v.

Del Rio, supra, 241 F.R.D. at 157; Doe v. Shakur, 164 F.R.D. 359, 361 (S.D.N.Y. 1996) (Chin, D.J.).

Although the Court of Appeals did not explicitly limit its holding to plaintiffs who wish to proceed anonymously, an application to remove a defendant's name from the public record raises distinct, albeit overlapping, considerations from those considered by the Court of Appeals in Sealed Plaintiff v. Sealed Defendant. See North Jersey Media Group Inc. v. Doe Nos. 1-5, 12 Civ. 6152 (VM)(KNF), 2012 WL 5899331 at *4 (S.D.N.Y. Nov. 26, 2012) (Fox, M.J.) ("'The problem of anonymous plaintiffs involves considerations entirely different from those involving 'John Doe' defendants'"), quoting Doe v. Deschamps, 64 F.R.D. 652, 652-53 n.1 (D. Mont. 1974). For instance, a plaintiff who has privacy concerns has the option of either not commencing or discontinuing the action rather than revealing his or her identity to the world; a defendant does not have this option. Nevertheless, I find the factors articulated in Sealed Plaintiff to be informative in assessing a defendant's application to remove her name from the record. Accord Next Phase Distribution, Inc. v. Does 1-138, 11 Civ. 9706 (KBF), 2012 WL 691830 at *1-*2 (S.D.N.Y. March 1, 2012) (Forrest, D.J.) (applying Sealed Plaintiff to defendant's request to proceed pseudonymously); North Jersey Media Group Inc. v. Doe Nos. 1-5, supra, 2012 WL 5899331 at *4-*9

(acknowledging the distinction but applying Sealed Plaintiff factors where defendant sought to proceed anonymously). I shall therefore address the present application by analyzing the factors articulated in Sealed Plaintiff and other relevant considerations.

A. Whether the Litigation Involves Matters that Are Highly Sensitive and of a Personal Nature

Ryan does not contend that the allegations against her are of a highly sensitive and personal nature. Indeed, the allegations against Ryan are substantially less sensitive than the class of allegations that are typically found to meet this standard. See Michael v. Bloomberg L.P., 14 Civ. 2657 (TPG), 2015 WL 585592 at *3 (S.D.N.Y. Feb. 11, 2015) (Griesa, D.J.) (citing as examples "claims involving sexual orientation, pregnancy, or minor children"); North Jersey Media Group Inc. v. Doe Nos. 1-5, supra, 2012 WL 5899331 at *4 (citing matters "such as birth control, abortion, homosexuality or the welfare rights of illegitimate children or abandoned families") (citation omitted); Next Phase Distribution, Inc. v. Does 1-138, supra, 2012 WL 691830 at *1-*2 (noting "highly sensitive nature and privacy issues that could be involved with being linked to a pornography film" and allowing defendant to proceed pseudonymously "until

further order of this Court"). Moreover, the potential for embarrassment or public humiliation does not, without more, justify a request for anonymity. See, e.g., M.M. v. Zavaras, supra, 139 F.3d at 803 (affirming denial of plaintiff inmate's motion to proceed under pseudonym where she alleged corrections officers denied her funds for an abortion and that "her inability to proceed under a pseudonym 'might subject her to humiliation, embarrassment and to possible intimidation and retaliation by staff members of the institution where she is detained'"); Doe v. Shakur, supra, 164 F.R.D. at 362 (rejecting plaintiff's argument that she would be publicly humiliated if she proceeded with sexual assault claims against famous individual in her true name). Because the allegations against Ryan are not highly sensitive or of a personal nature, this factor weighs against the request for anonymity.

B. Whether Identification Poses Risk of Retaliatory Harm to Party Seeking to Proceed Anonymously or to Innocent Non-Parties

The parties do not contend that identification poses risk of retaliatory harm to Ryan or to innocent non-parties. C.f., Javier H. v. Garcia-Botello, 211 F.R.D. 194, 196 (W.D.N.Y. 2002) (plaintiffs had a substantial privacy interest in proceeding anonymously because the defendants had threatened them with

violence and were criminally charged for those threats). Thus, this factor does not weigh in favor of the parties' application.

C. Whether Identification Presents Risk of Other Harms and Likely Severity of Those Harms

Ryan's primary basis for requesting anonymity is that being named in this action may cause her economic hardship and loss of professional goodwill. The parties explain the contention as follows:

> Ms. Ryan is a Managing Director in Alvarez & Marsal's Global Forensic and Dispute Services practice and specializes in accounting and forensic investigations, and disputes with complex economic, valuation, solvency and financial issues. Her special set of expert skills is demanded by clients and courts with high stakes complicated problems and litigation who want no questions about her integrity or background. These discerning clients almost universally run comprehensive background checks in advance of retaining expert services. In most instances, Ms. Ryan's background is reviewed by law firms on behalf of a client against court docket searches prior to retention. Even less sophisticated clients are likely to perform internet searches for Ms. Ryan's name and would learn of Ms. Ryan's implication in this lawsuit. . . .
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> . . . Plaintiff's litigation against Ms. Ryan could very well affect her reputation, compensation and employment, as it risks Ms. Ryan losing opportunities to be retained as an expert by those who fear her involvement in this lawsuit will create a litigation 'side show' if she is retained.

(Sept. 21 Letter, at 2-3). The parties assert that the allegations in the complaint implicate Ryan's ethics and credibility

and, thus, endanger her income as an expert (Sept. 21 Letter, at 2-3). The parties also state that any "lost opportunities to be retained as an expert will directly impact [Ryan's] future employment advancement opportunities and her ability to join Boards of Directors" (Sept. 21 Letter, at 3).

Ryan's potential professional losses are not a compelling reason to grant her motion because she has not demonstrated any real, non-speculative, impact on her professional prospects. Although courts do sometimes grant requests for anonymity to protect "privacy or confidentiality concerns" that are "sufficiently critical," James v. Jacobson, supra, 6 F.3d 233 at 238, courts have consistently rejected anonymity requests predicated on harm to a party's reputational or economic interests. See, e.g., Nat'l Commodity & Barter Ass'n v. Gibbs, 886 F.2d 1240, 1245 (10th Cir. 1989) (per curiam) (explaining that anonymity "has not been permitted when only the plaintiff's economic or professional concerns are involved" and collecting cases); Doe v. United Servs. Life Ins. Co., 123 F.R.D. 437, 439 n.1 (S.D.N.Y. 1988) (Sweet, D.J.) (rejecting proposition that litigants may proceed anonymously "to protect the parties' professional or economic life"). Further, where, as here, the claims of purported economic harm are unsubstantiated, the claims are entitled to little weight. See Michael v. Bloomberg L.P., 14 Civ. 2657

(TPG), 2015 WL 585592 at *2-*3 (S.D.N.Y. Feb. 11, 2015) (Griesa, D.J.) (denying a plaintiff's request for anonymity in action asserting claims for unpaid wages despite plaintiff's concern regarding future job opportunities due to employer's history of publicly disparaging employees who brought similar suits); cf. Doe v. Shakur, supra, 164 F.R.D. at 362 (although plaintiff claimed that she faced death threats, request to seal was denied because she failed to "provid[e] any details" or "explai[n] how or why the use of her real name in court papers would lead to harm").

This present case is similar to Anonymous v. Medco Health Solutions, Inc., supra, 588 F. App'x 34, in which the Court of Appeals affirmed a decision denying a plaintiff physician's motion to proceed anonymously and to seal the entire court record. The plaintiff in that case, an orthopedic surgeon diagnosed with Parkinson's disease, brought suit for defendant's unauthorized disclosure of plaintiff's medical condition to plaintiff's medical office. The plaintiff wished to proceed anonymously, arguing that any further identification of his medical condition would "adversely impact his patient base as he is a specialist who relies largely upon referrals from other physicians." Anonymous v. Medco Health Solutions, Inc., supra, 588 F. App'x at 35. The Court of Appeals found this claim to be

speculative because there was no support for the proposition that other physicians would erroneously conclude that plaintiff's condition would adversely affect his work as a physician. Anonymous v. Medco Health Solutions, Inc., supra, 588 F. App'x at 35.

Similarly in Doe v. Delta Airlines, Inc., the Honorable Paul A. Engelmayer, United States District Judge, denied a motion by a practicing attorney to proceed anonymously in a lawsuit in which the plaintiff's public intoxication was in issue. Doe v. Delta Airlines, Inc., 13 Civ. 6287 (PAE), -- F.R.D. --, 2015 WL 5781215 at *2 (S.D.N.Y. Oct. 2, 2015). Judge Engelmayer applied the Sealed Plaintiff factors and found that the plaintiff's argument that she would be harmed in her "reputation and finances" if it was revealed that she was arrested for public intoxication did not outweigh the presumption of access. Specifically, Judge Engelmayer found plaintiff's concerns that "as a practicing lawyer, she will suffer professionally, and therefore financially, if her name is disclosed" to be "invalid." Doe v. Delta Airlines, Inc., supra, 2015 WL 5781215 at *1, *3-*4; see also Doe v. City of New York, 201 F.R.D. 100, 102 (S.D.N.Y. 2001) (Kaplan, D.J.) (rejecting attorney's request to proceed anonymously in claim for false arrest; although claim of "reputational

injury is not to be discounted entirely . . . claim of threatened harm is speculative and exaggerated").[1]

Admittedly, unlike the cases discussed above, Ryan is not a plaintiff who brought suit and voluntarily put her conduct in issue; she had no control over Abdel-Razeq's naming her in the lawsuit or the allegations Abdel-Razeq made. However, like the foregoing cases, the parties' argument that being named as a defendant will cause Ryan to lose potential clients is based on conjecture. The parties are unable to demonstrate any real, rather than speculative, harm that the allegations against Ryan will have on a potential client's decision to hire Ryan as an accounting expert. The parties do not assert that this litigation, which has been pending against Ryan since August 2014, has, in fact, affected any of her prior existing engagements or impacted any specific potential engagements.

The parties' contention that there will be a "litigation 'side show' if she is retained" in future actions is not

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[1] The parties cite Doe v. New York University, 6 Misc. 3d 866, 879, 786 N.Y.S.2d 892, 903 (Sup.Ct. N.Y. Co. 2004) for the proposition that the danger of "social stigmatization" is a substantial privacy interest that outweighs the public's interest in disclosure (Sept. 21 Letter, at 3). That case, however, involved plaintiffs who were victims of sexual assault, suffered emotional distress, and had undergone psychotherapy. Doe v. New York University, supra, 6 Misc. 3d at 880, 786 N.Y.S.2d at 904. Given the sensitive nature of the conduct at issue in Doe, the privacy considerations implicated in that case are not present in this case.

convincing (Sept. 21 Letter, at 3). Although the parties do not elaborate on the nature of the "side show," the fact that Ryan was named as a defendant in an action that was settled could not be used to impeach her credibility. If offered in another action, Abdel-Razeg's allegations against Ryan would be hearsay and would be inadmissible. See Rivera v. Metro. Transit Auth., 750 F. Supp. 2d 456, 461 (S.D.N.Y. 2010) (Kaplan, D.J.) ("An unsworn statement by a non-party in a complaint in another lawsuit is hearsay when offered to prove the truth of that statement. It is not admissible."); see also Greene v. Brentwood Union Free Sch. Dist., 576 F. App'x 39, 41 (2d Cir. 2014) (summary order) ("complaints and charges are also inadmissible hearsay and not evidence of discrimination"); Beechwood Restorative Care Ctr. v. Leeds, 856 F. Supp. 2d 580, 604 (W.D.N.Y. 2012) ("[C]omplaints, and the charges and allegations they contain, are hearsay under the Federal Rules of Evidence."), quoting Insignia Sys. Inc. v. News America Mktg. In-Store, Inc., 04 Civ. 4213 (JRT)(AJB), 2011 WL 382964 at *2 (D. Minn. Feb. 3, 2011)(alteration in original; internal quotation marks omitted); Dent v. U.S. Tennis Ass'n, Inc., 08 Civ. 1533 (RJD) (VVP), 2008 WL 2483288 at *3 (E.D.N.Y. June 17, 2008) ("In addition to being inadmissible as hearsay, unproved allegations of misconduct are not proof of anything."). Thus, there appears to be little

likelihood that the "sideshow" Ryan fears will come to pass and this factor does not weigh in favor of the parties' request.

D. Whether The Requesting Party is Particularly Vulnerable to Possible Harms of Disclosure

The parties do not contend that Ryan is particularly vulnerable to possible harms of disclosure. Hence, this factor weighs against the motion.

E. Whether Suit Challenges Governmental or Private Action

This factor has been applied when a plaintiff brings an action against a governmental defendant and demonstrates that disclosure of plaintiff's identity may subject plaintiff to harm in the form of criminal prosecution or civil penalties. Because this action is not brought against a governmental entity and there is no chance of retaliatory charge, this factor also weighs against the parties' motion.

F. Whether Abdel-Razeq Is Prejudiced by Allowing Ryan Anonymity

There is no dispute that Abdel-Razeq will not be prejudiced from the removal of Ryan's true name because Abdel-Razeq has known Ryan's identity since the beginning of this

action and Abdel-Razeq consents to this application (Sept. 21 Letter at 4).[2]

G. Whether Defendant's Identity Has Thus Far Been Kept Confidential

Ryan's name has been part of the public record since August 2014 without any objection, and that fact weighs against her request for anonymity. The parties do not argue that there is any change in Ryan's circumstances that justifies her application here other than the settlement and resultant dismissal of the case. Moreover, third-party websites have posted information concerning the action, including the fact that Ryan is named as a defendant.[3] This factor also weighs against the parties' appli

[2] The parties cite two cases in support of their argument that plaintiff's consent to Ryan's request for anonymity is relevant. Those cases, however, found that a party's consent combined with other compelling factors justified the request for limited sealing (Sept. 21 Letter, at 4, citing Danco Labs. v. Chem. Works of Gedeon Richter, 274 A.D.2d 1, 711 N.Y.S.2d 419 (1st Dep't 2000) (consent a factor where disclosure would reveal trade secrets and the identities of persons who may be targeted for harassment or violence); Malibu Media, LLC v. Doe, 15 Civ. 1834 (JGK), 2015 WL 4403407 at *1-*2 (S.D.N.Y. July 20, 2015) (Koeltl, D.J.) (denying motion to quash subpoena where plaintiff sought defendant's true name and noting plaintiff's consent to defendant's proceeding anonymously in case "minimiz[ed] the possible embarrassment and reputational damage" associated with downloading pornography)).

[3] See, e.g., Abdel-Razeq et al v. Alvarez & Marsal, Inc. et al, http://www.law360.com/cases/53d277ef4fd0c5556d000001 (last (continued...)

cation for Ryan to be expunged from the record of this case. See Doe v. Shakur, supra, 164 F.R.D. at 362 (claims of potential public embarrassment through media attention belied by fact that plaintiff admitted that "press has known her name for some time").

H. The Impact of Anonymity on the Public's Interest in the Litigation

The public's interest in this action also weighs against the parties' application.

There is a strong public policy in favor of enforcing federal anti-discrimination laws and deterring workplace discrimination on the basis of race, sex, and national origin through the pursuit of Title VII claims. See McKennon v. Nashville Banner–Publishing Co., 513 U.S. 352, 358 (1995) (noting that like Title VII, an ADEA "private litigant who seeks redress for his or her injuries vindicates both the deterrence and compensation objectives" of the anti-discrimination law); Alexander v. Gardner–Denver Co., 415 U.S. 36, 44 (1974) (the private Title VII plaintiff "not only redresses his own injury but also vindicates

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[3](...continued)
visited Nov. 10, 2015); Abdel-Razeq et al v. Alvarez & Marsal, Inc. et al, http://www.plainsite.org/dockets/2klvfdmjn/new-york-southern-district-court/abdelrazeq-et-al-v-alvarez-and-marsal-inc-et-al/ (last visited Nov. 10, 2015).

the important congressional policy against discriminatory employment practices"); Vuona v. Merrill Lynch & Co., 10 Civ. 6529 (PAE), 2013 WL 1971572 at *5 (S.D.N.Y. May 14, 2013) (Engelmayer, D.J.) ("there is an important public interest served by the pursuit of colorable Title VII claims.") (citation and internal quotation marks omitted).

One salutary effect of private discrimination actions is deterrence; open proceedings serve the function of putting would be discriminators on notice that illegal discrimination not only results in a direct financial obligation to the victim, it also results in an embarrassing public record of the illegal conduct. See Doe v. Del Rio, supra, 241 F.R.D. at 159 ("Private civil suits, individually and certainly in the aggregate, do not only advance the parties' private interests, but also further the public's interest in enforcing legal and social norms.").

Finally, transparent proceedings foster public confidence in the integrity of the judiciary and serve to demonstrate to the public that the laws are being enforced even- handedly.

> The presumption of access is based on the need for federal courts, although independent -- indeed, particularly because they are independent -- to have a measure of accountability and for the public to have confidence in the administration of justice. . . . Although courts have a number of internal checks, such as appellate review by multi-judge tribunals, professional and public monitoring is an essential feature of democratic control. Monitoring both provides judges with critical views of their work and deters arbitrary

> judicial behavior. Without monitoring, moreover, the public could have no confidence in the conscientiousness, reasonableness, or honesty of judicial proceedings. Such monitoring is not possible without access to testimony and documents that are used in the performance of Article III functions.

United States v. Amodeo, supra, 71 F.3d at 1048. Access to all proceedings in discrimination cases gives the public confidence that the law is being applied fairly.

I. Whether, Because of the Purely Legal Nature of the Issues Presented or Otherwise, There is an Atypically Weak Public Interest in Knowing the Litigants' Identities

The parties' arguments related to the public's interest in Ryan's identity are addressed above in the discussion of the eighth factor.

J. Whether There Are Any Alternative Mechanisms for Protecting Confidentiality of Defendant

The parties have not addressed this factor.

K. Summary

In summary, the balance of factors discussed above weigh against the parties' request for retroactive anonymity for Ryan and in favor of the presumption of access to judicial proceedings. The allegations at issue in this case are not of a

highly sensitive and personal nature nor does Ryan face any form of retaliation if her name remains in the judicial record. Further, the parties have not demonstrated any real, rather than speculative, harm to Ryan's professional opportunities due to the disclosure of her name, either to date or in the future. Although plaintiff consents to this application and it is undisputed that she would face no prejudice if Ryan's name is removed from the record, the strong public interest in access to the public record in employment discrimination cases like this one also weighs strongly in favor of continued disclosure.

Finally, granting this motion would set an untenable precedent. It would invite any defendant named in a civil complaint who settles a case to seek to have his or her name expunged from the record because it may shed a negative light on his or her professional life. Defendant's argument that this case is different and that in "most cases" the public would not investigate or care about an executive being named in a lawsuit (Sept. 21 Letter, at 2) is incorrect. In today's internet-based society, it has become the norm to seek and to access publicly available information about potential employees and consultants as well as professional and personal acquaintances. The increasing availability of electronically accessible court records is

simply not a basis for taking steps to seal court records in cases like this one.

IV. Conclusion

Accordingly, for all the foregoing reasons, the application to redact Ryan's name or replace it with a pseudonym is denied. The parties' September 21, 2015 letter will be docketed with this Order.

Dated: New York, New York
November 12, 2015

SO ORDERED

HENRY PITMAN
United States Magistrate Judge

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