

**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

**PLAINTIFF JANE DOE #2'S MOTION  
FOR LEAVE TO PROCEED UNDER  
PSEUDONYM AND MEMORANDUM  
OF LAW IN SUPPORT THEREOF**



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## INTRODUCTION AND STATEMENT OF FACTS AND ISSUES

Plaintiff Jane Doe #2 respectfully requests leave to proceed under a pseudonym. In this action, Jane Doe #2, along with several other named organizational and individual plaintiffs, some of whom are already proceeding pseudonymously as Doe Plaintiffs, challenge the Executive Order signed by President Trump on March 6, 2017 entitled, “Protecting the Nation from Terrorist Entry into the United States” (hereinafter, the “Executive Order”). This Court previously granted Plaintiffs’ motion to proceed anonymously for plaintiffs similarly situated to Plaintiff Jane Doe #2 and Defendants did not oppose Plaintiffs’ prior motion. *See* Dkt. No. 66. Jane Doe #2’s motion is supported by several independent grounds. *See generally* Decl. of Jane Doe #2, attached as Exhibit A.

First, public disclosure of Jane Doe #2’s true identity and participation in this action could seriously jeopardize her ability participate in this lawsuit and vindicate her constitutional rights. Jane Doe #2 reasonably fears that if her identity were to become public, she and/or her family members would be subjected to retaliation by federal government officials, particularly her sister, a refugee in Saudi Arabia, who has a pending I-130 petition.

Second, Jane Doe #2 shares the same fear as other the Doe Plaintiffs in this litigation—that, in light of the current heated debate over immigration generally and the Executive Order in particular, revealing the true identities and personal stories of all the Doe Plaintiffs would subject them to harassment and even physical harm from members of the public at large.

Third, the public’s interest in open judicial proceedings will only be minimally affected if Jane Doe #2 is permitted to proceed anonymously. This a case against the government, not a private party, and it turns on legal questions, not on the identities of any particular individuals, which are not material to the resolution of any issues presented by the case.

Fourth, Defendants will not be prejudiced if the Jane Doe #2 is permitted to proceed anonymously.

## **ARGUMENT**

### **I. LEGAL STANDARD**

When a party seeks to litigate under a pseudonym, the court must “ensure that extraordinary circumstances support such a request by balancing the party’s stated interest in anonymity against the public’s interest in openness and any prejudice that anonymity would pose to the opposing party.” *Doe v. Public Citizen*, 749 F.3d 246, 274 (4th Cir. 2014). When performing such a balancing test, courts consider the following nonexclusive factors:

Whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature; whether identification poses a risk of retaliatory physical or mental 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). The court must “carefully review all the circumstances of a given case and then decide whether the customary practice of disclosing the plaintiff’s identity should yield to the plaintiff’s privacy concerns.” *Doe v. Pittsylvania County*, 844 F. Supp. 2d 724, 729 (W.D. Va. 2012) (internal punctuation and citation omitted).

In this case, all these factors are relevant except for the one pertaining to age; Jane Doe #2 is an adult over the age of eighteen. As discussed below, the remaining factors weigh heavily in favor of allowing Jane Doe #2 to proceed pseudonymously.

## **II. THE COURT SHOULD GRANT JANE DOE #2'S MOTION TO PROCEED UNDER A PSEUDONYM**

### **A. Jane Doe #2 Seeks To Preserve Privacy in a Matter of Sensitive and Highly Personal Nature**

As already noted in the Doe Plaintiffs' Motion for Leave to Proceed Under Pseudonyms ("Doe Plaintiff Motion"), Dkt. No. 5, and the First Amended Complaint, Dkt. No. 89, the Doe Plaintiffs in this litigation are directly affected by the Executive Order insofar as each Doe Plaintiff has a relative or relatives whom the Executive Order bars from entering the United States because of those relatives' nationality, alienage, and/or actual or perceived religious affiliation. The immigration status of not only these relatives but also the Doe Plaintiffs themselves is highly sensitive information that is routinely protected from public disclosure in cases, like this one, where requiring plaintiffs to disclose it could dissuade a reasonable person in their position from seeking to vindicate their legal rights at all. *See, e.g., Keller v. City of Fremont*, No. 8:10-cv-0270-LSC-FG3, 2011 WL 41902, at \*2 (D. Neb. Jan. 5, 2011); *see also Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1169 (9th Cir. 2000); *Lozano v. Hazleton*, 496 F. Supp. 2d 477, 508-09 (M.D. Pa. 2007), *aff'd* in relevant part, 620 F.3d 170, 194-96 (3d Cir. 2010). This factor therefore weighs in favor of anonymity.

### **B. Identification Poses a Risk of Retaliation, Harassment, and Even Violence to Jane Doe #2 and to Her Family**

In addition to the recent upsurge in anti-immigrant and anti-Muslim attacks in this country, Jane Doe #2's personal circumstances, as well as threats to her family members abroad, strongly counsel in favor of allowing her to proceed anonymously. *See Lozano*, 620 F.3d at 195 (anonymity warranted where "ethnic tensions had escalated" and plaintiffs "would face an 'exponentially greater' risk of harassment, and even physical danger, if their identities were revealed") (citation omitted); *Roe v. Aware Woman Ctr. for Choice*, 253 F.3d 678, 687 (11th Cir.

2001) (anonymity warranted in abortion case, where the abortion issue had elsewhere “led to death, injury, harassment, [and] fear . . .”).

Jane Doe #2 is a United States citizen of Syrian origin living in Mecklenburg County, North Carolina. Decl. of Jane Doe #2 at ¶ 1. Even as a United States citizen, she is fearful of leaving the United States because she is afraid the Executive Order may result in difficulty or harassment upon her return to the United States. *Id.* ¶ 13. Jane Doe #2 is also aware that Muslims in the United States are at risk of harassment for their religious and political beliefs, and she is afraid that if she reveals her name in this lawsuit, she could also become a target of the current anti-Muslim sentiment in the United States. *Id.* ¶¶ 12, 14; *see also* Dkt. No. 5.

Jane Doe #2’s sister, who is married and has two young children, is currently in Saudi Arabia. Decl. of Jane Doe #2 ¶ 3. Jane Doe #2’s sister originally fled from her home town of Damascus in 2012 because their neighborhood was bombed and their home was destroyed. *Id.* In Yemen, she registered with the U.N. High Commissioner for Refugees and received a temporary protection certificate explaining that she should be protected from forcible return to Syria. *Id.* ¶ 5. The war in Yemen, however, forced Jane Doe #2’s sister to flee again, this time to Saudi Arabia, where her family now lives in a refugee hotel close to the Saudi-Yemen border. *Id.* ¶¶ 6, 7. They remain under constant threat from nearby rocket fire and military conflict. *Id.* ¶ 7.

Jane Doe #2 is concerned that her participation in this lawsuit could jeopardize her sister’s visa application, which is currently pending. *Id.* ¶ 10. If and when the visa application is approved, Jane Doe #2’s sister will be able to access the U.S. Refugee Admissions Program (“USRAP”) through the Priority-2 Direct Access Program for Iraqi and Syrian Beneficiaries of Form I-130 Petition for Alien Relatives. *Id.* Jane Doe #2 worries that her participation in this



lawsuit may adversely impact her sister's visa or refugee applications. *Id.* Any delay in the processing of her application will prolong the period that Jane Doe #2's sister and her family must remain in their current, extremely dangerous living situation.

In addition to these concerns, Jane Doe #2 fears that her participation in this case could result in harassment of her sister. *Id.* ¶ 11. Discrimination against Syrians in Saudi Arabia is severe, and the Saudi Arabian government tries to make conditions in the country difficult for Syrian refugees. *Id.* ¶¶ 8, 11. Jane Doe #2 fears that if she reveals her name in this lawsuit, it will be easy to identify her sister and make her susceptible to harassment or further persecution. *Id.* ¶ 11.

Under these circumstances, anonymity is warranted. *See, e.g., Lozano*, 620 F.3d at 194-96; *Stegall*, 653 F.2d at 186; *Barrow County*, 219 F.R.D. at 193.

**C. Jane Doe #2 Risks Social Stigma, Harassment, and Even Violence if Her Identity is Made Public**

As already set out in the previously filed Doe Plaintiffs' Motion, recent events have illustrated a significant escalation in the targeting of Muslim and Arab-Americans in the United States for harassment and even criminal behavior, demonstrating the objective reasonableness of Jane Doe #2's fear regarding the consequences of proceeding under her real identity. *See Lozano*, 620 F.3d at 195; *see also* Dkt. No. 5. Given the numerous examples of recent harassment and violence directed at Muslim- and Arab-Americans, Jane Doe #2 reasonably fears that if her identity were made public, she and her family would also be subjected to harassment and violence.

**D. This Action is Against the Government and Therefore Favors Anonymity**

An additional factor weighing in favor of permitting Jane Doe #2 to proceed anonymously is that this is an action against the federal government, rather than a private party. *See John Does 1-5 v. McCrory*, No. 1:13CV711, 2014 WL 29352, at \*2 (M.D.N.C. Jan. 3, 2014). As courts have

recognized, “[a]ctions against the government do no harm to its reputation, whereas suits filed against private parties may damage their good names and result in economic harm.” *Pittsylvania County*, 844 F. Supp. 2d at 730 (citation omitted); *see also Candidate No. 452207 v. CFA Institute*, 42 F. Supp. 3d 804, 810 (E.D. Va. 2012); McCrory, 2014 WL 29352, at \*2.

**E. There is no risk of unfair prejudice to the government if Jane Doe #2 is allowed to proceed anonymously**

Similarly, there is no risk of unfair prejudice to the Defendants if the Court permits Jane Doe #2 to proceed anonymously, as this case involves strictly legal issues and does not turn on questions of the individual Doe Plaintiffs’ background or credibility. *See Pittsylvania County*, 844 F. Supp. 2d at 731. Because the issues presented in this case are purely legal, the Doe Plaintiffs’ particularized facts and circumstances play “a relatively minor role in this litigation,” and therefore “the risk of unfairness to defendants by allowing plaintiff[s] to proceed anonymously is relatively low.” *Id.* at 731. Indeed, Defendants declined to oppose the previous Doe Plaintiffs’ Motion.

In short, the federal government faces no unfair prejudice if Jane Doe #2 is allowed to proceed under pseudonym, particularly at this early stage of the litigation. And if the government can later articulate and substantiate a need for particularized information about the Doe Plaintiffs, the Court can consider at that stage whether a different balance should be struck regarding the Doe Plaintiffs’ privacy.

**F. Permitting the Doe Plaintiffs to Proceed Anonymously Will Not Harm the Public Interest in Open Proceedings**

Finally, in the circumstances of this case, anonymity does not compromise in any way the public interest in open judicial proceedings. This particular case turns on legal questions, not the identities of individuals. If the Doe Plaintiffs are granted leave to proceed under pseudonym, “the

public is not denied its right to attend the proceedings or inspect the orders or opinions of the court on the underlying constitutional issue.” *Pittsylvania County*, 844 F. Supp. 2d at 728 (citing *Barrow County*, 219 F.R.D. at 193).

### CONCLUSION

Jane Doe #2 and her family members would be at risk of great harm if her identity were made public in this litigation. Permitting her to proceed anonymously would neither materially harm the public interest in open court proceedings nor risk unfair prejudice to the government. Jane Doe #2 therefore respectfully requests that this Court permit her to proceed under a pseudonym in this action.

Dated: March 10, 2017

Respectfully submitted,

/s/ Justin B. Cox  
Justin Cox (Bar No. 17550)  
National Immigration Law Center  
1989 College Ave. NE  
Atlanta, GA 30317  
T: 678.404.9119  
cox@nilc.org

Karen C. Tumlin†  
Nicholas Espiritu†  
Melissa S. Keaney†  
Esther Sung†  
National Immigration Law Center  
3435 Wilshire Boulevard, Suite 1600  
Los Angeles, CA 90010  
T: 213.639.3900  
tumlin@nilc.org  
espiritu@nilc.org  
keaney@nilc.org  
sung@nilc.org

Omar C. Jadwat†  
Lee Gelernt†  
Hina Shamsi†

Hugh Handeyside†  
Sarah L. Mehta†  
American Civil Liberties Union  
Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel: (212) 549-2600  
ojadwat@aclu.org  
lgelernt@aclu.org  
hshamsi@aclu.org  
hhandeyside@aclu.org  
smehta@aclu.org

Cecillia D. Wang†  
Cody H. Wofsy†  
American Civil Liberties Union  
Foundation  
39 Drumm Street  
San Francisco, CA 94111  
Tel: (415) 343-0770  
cwang@aclu.org  
cwofsy@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  
jeon@aclu-md.org

rocah@aclu-md.org  
kumar@aclu-md.org  
steiner@aclu-md.org

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of March, 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: March 10, 2017

Respectfully submitted,

/s/ Justin B. Cox

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
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Defendants.

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

**DECLARATION OF JANE DOE #2**

**DECLARATION OF JANE DOE #2**

I, Jane Doe #2, upon my personal knowledge, hereby submit this declaration pursuant to 28 U.S.C. § 1746 and declare as follows:

1. I am a United States Citizen of Syrian origin, and I live in Mecklenburg County, North Carolina.
2. I am currently enrolled in college and studying to become a healthcare technician.
3. My sister was born in Damascus, Syria, where she grew up and spent most of her life. She is married and has two young boys, aged 7 and 2. In 2012, government planes bombed her neighborhood in Damascus and destroyed her house. She and her family fled to the home of her parents-in-law with nothing but their passports and the clothes on their backs. After remaining with her in-laws for several weeks, my sister and her family eventually moved to a home about two hours outside of Damascus, but shelling eventually reached that town, too.
4. While internally displaced within Syria, my sister and her husband heard rumors that the Syrian government's selective service would eventually be expanded to include



men over the age of 30. After my sister's husband saw some of his friends taken for the selective service, she told him to flee to Yemen, because only Yemen and Sudan accept Syrian refugees without visas. She stayed behind in Syria with their first child, pregnant with their second, because as a teacher, she was a government employee and was required to apply for government approval to stop working and leave the country. She remained in Syria, enduring constant shelling of their town, until she received permission from the government to leave work, at which point she fled to Yemen with her child to join her husband.

5. In Yemen, my sister's family registered with the United Nations High Commissioner for Refugees and received a temporary protection certificate explaining that they should be protected from forcible return to Syria. They remained in Yemen for approximately a year and a half, but war broke out in the country six or seven months after they arrived and the capitol, where they were staying, was soon besieged. They had no electricity, fuel, clean water, or food. Her husband had to risk his life to leave the city every day to find food and clean water for them because no trucks could enter the city to deliver supplies.

6. War engulfed the capitol and at one point, the house where my sister's family was staying was taken over by insurgents as a site for launching shells. She and her children, including her newborn baby, were locked into a room for three to four days while insurgent militiamen used their house to fire rockets. In the meantime, her husband, who had left to find food, was prevented from entering. After the insurgents finally left, my sister and her husband fled that same day for the Saudi Arabian border.

7. My sister's family is now in a refugee hotel on the Saudi Arabia-Yemen border and living in terrible, life-threatening conditions. They endure regular shelling from the Yemeni side of the border; where they live is shelled so often that the local school is open only

one or two days a week, if at all. The building in which they live is infested with bugs; human refuse from the bathroom of the unit above them leaks into their room. They are constantly sick and their children are throwing up all the time. The Saudi Arabian government often turns off the power to the building in an attempt to make the living conditions there so intolerable that the refugees will leave.

8. Discrimination against Syrian refugees in Saudi Arabia is severe. My sister's husband searches for work every day, but is often cheated out of his wages and kicked out of jobs without payment because he is Syrian. Because her husband is gone during the day, my sister must remain inside with her children; if she went out in public by herself, it is unquestionable that she would be abducted because she is a woman and a Syrian. The only time she and her children are able to leave the room where they are staying is at night, when her husband returns home and can accompany them outside. For this reason, their children did not believe that the sun rose and set in Saudi Arabia for the first year they were in the country because their room where they were staying had no windows. Her children never have the opportunity to play outside, but instead remain in their room for most of the day. During the rare times that they are able to emerge from the building at night, my sister's younger son cries and tries to run away whenever they have to return to the hotel.

9. My sister's older son always asks her, "When am I going to have friends?" He has not been able to make any friends because he is rarely able to go to school or to interact with other children and his entire life has been a continual experience of displacement.

10. I am very worried that my participation in this lawsuit against federal government officials could jeopardize my sister's visa application. My I-130 petition for her is currently pending. Once approved for an I-130 visa, she will be able to access the U.S. Refugee

Admissions Program (USRAP) through the Priority-2 Direct Access Program for Iraqi and Syrian Beneficiaries of Form I-130 Petition for Alien Relatives. I do not want my participation in this lawsuit to adversely impact either her visa or refugee applications and delay or prevent her from joining me in the United States.

11. I fear that whether or not my sister's visa and refugee application are denied, my participation in this case could result in harassment of me and my sister. Persecution of Syrian refugees in Saudi Arabia is rampant, and the Saudi Arabian government tries to make conditions difficult for Syrian refugees in the country. I fear that if my identity is made public, it would be easy to identify her as well, making her susceptible to harassment or further persecution.


12. While participating in this lawsuit is important to me, I am also fearful that my participation may lead to me and my family being targeted for harassment if my identity were made public.

13. Even as a United States citizen, I am fearful of leaving the United States because I am afraid the Executive Order may result in difficulty or harassment upon my return to the United States.

14. I am aware of the reports indicating that harassment and violence targeting Muslims has been on the rise recently. In fact several of my friends have experienced such harassment on account of their perceived or actual religious affiliation. I am aware of the shooting at the mosque in Quebec and the bombings of mosques here in the United States.

15. For these reasons, I feel that my personal security and that of my family necessitates that I be allowed to proceed under a pseudonym.

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct. Executed at Mecklenburg County, North Carolina, on March 10, 2017.

A large black rectangular redaction box covering the signature of Jane Doe #2.

Jane Doe #2