

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JANE ROE #1, et al.,  
  
Plaintiffs,  
  
v.  
  
UNITED STATES OF AMERICA, et al.,  
  
Defendants.

No. 1:19-cv-00270-DAD-BAM

ORDER GRANTING PLAINTIFFS’  
UNOPPOSED MOTION TO PROCEED  
PSEUDONYMOUSLY

(Doc. No. 16)

**INTRODUCTION**

This matter is before the court on the individual plaintiffs’ unopposed motion to proceed in this action pseudonymously. (Doc. No. 16.) Each of the individual plaintiffs—Jane Roe #1, Jane Roe #2, John Doe #1, John Doe #2, John Doe #3, John Doe #4, John Doe #5, and John Doe #6 (collectively, the “individual plaintiffs”)—has been subjected to a mental health evaluation under some form of alleged governmental authority. (Doc. No. 16 at 3.) As a result of these evaluations, each of the individual plaintiffs has been disqualified from acquiring, keeping, or bearing firearms, which they allege is a violation of their constitutional rights. (*Id.* at 1–5; *see also* Doc. No. 1 at 2–10.) On February 25, 2019, the individual plaintiffs, along with organizational plaintiff Second Amendment Foundation, commenced this action, asserting claims against various state and federal agencies and their employees for violations of their Second, Fifth

1 and Fourteenth Amendment rights, as well as various statutory violations. (Doc. No. 16 at 3; *see*  
2 *also* Doc. No. 1.)

3 On September 30, 2019, the individual plaintiffs filed a motion to proceed in this action  
4 pseudonymously. (Doc. No. 16.) Pursuant to Local Rule 230(g), the court deemed the motion  
5 suitable for decision without a hearing. (Doc. No. 22.) The court has considered the individual  
6 plaintiffs' brief and, for the reasons set forth below, will grant their motion to proceed in this  
7 action pseudonymously.

### 8 LEGAL STANDARD

9 The "use of fictitious names runs afoul of the public's common law right of access to  
10 judicial proceedings. . . and Rule 10(a)'s command that the title of every complaint 'include the  
11 names of all the parties'" *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th  
12 Cir. 2000) (citing *Nixon v. Warner Commc 'ns, Inc.*, 435 U.S. 589, 598–99 (1978); *EEOC v.*  
13 *Erection Co.*, 900 F.2d 168, 169 (9th Cir. 1990); Fed. R. Civ. P. 10(a)). "The normal  
14 presumption in litigation is that parties must use their real names." *Doe v. Kamehameha*  
15 *Sch./Bernice Pauahi Bishop Estate*, 596 F.3d 1036, 1042 (9th Cir. 2010); *see also United States*  
16 *v. Stoterau*, 524 F.3d 988, 1012 (9th Cir. 2008) ("As a general rule, the identity of the parties in  
17 any action, civil or criminal, should not be concealed except in an unusual case, where there is a  
18 need for the cloak of anonymity."). "Nevertheless, many federal courts, including the Ninth  
19 Circuit, have permitted parties to proceed anonymously when special circumstances justify  
20 secrecy." *Advanced Textile Corp.*, 214 F.3d at 1067.

21 In this circuit, a party is "allow[ed] . . . to use pseudonyms in the 'unusual case' when  
22 nondisclosure of the party's identity 'is necessary . . . to protect a person from harassment, injury,  
23 ridicule or personal embarrassment.'" *Id.* (quoting *United States v. Doe*, 655 F.2d 920, 922 n.1  
24 (9th Cir. 1981)). Thus, "a party may preserve his or her anonymity in judicial proceedings in  
25 special circumstances when the party's need for anonymity outweighs prejudice to the opposing  
26 party and the public's interest in knowing the party's identity." *Id.* at 1068. "The court must also  
27 determine the precise prejudice at each stage of the proceedings to the opposing party, and  
28 whether proceedings may be structured so as to mitigate that prejudice." *Id.* "Finally, the court

1 must decide whether the public’s interest in the case would be best served by requiring that the  
2 litigants reveal their identities.” *Id.* Ultimately, “[t]he question is one of balance.” *Jane Roes 1-2*  
3 *v. SFBSC Mgmt., LLC*, 77 F. Supp. 3d 990, 993 (N.D. Cal. 2015). “Applying this balancing test,  
4 courts have permitted plaintiffs to use pseudonyms . . . when anonymity is necessary to preserve  
5 privacy in a matter of sensitive and highly personal nature . . .” *Advanced Textile Corp.*, 214  
6 F.3d at 1068 (internal quotation marks and citations omitted).

7 With this guidance in mind, the court now turns to the pending motion.

### 8 DISCUSSION

9 Here, the individual plaintiffs “express a legitimate concern for their privacy and, more  
10 compelling for the anonymity analysis, an understandable fear of social stigmatization.” *SFBSC*  
11 *Mgmt., LLC*, 77 F. Supp. 3d at 993. Specifically, the individual plaintiffs note that their privacy  
12 interest in their medical records—which purportedly reflect that each named plaintiff was  
13 required by the state to undergo a mental health evaluation—“is per se a protectable right with  
14 Constitutional (State and Federal) significance.” (Doc. No. 16 at 8.) In this regard, the individual  
15 plaintiffs point to Article 1, Section 1 of the California Constitution, various provisions of  
16 California’s Welfare and Institutions Code, and some federal case law. (*Id.* at 7–13.) With  
17 respect to stigmatization, the individual plaintiffs point out that, were they required to disclose  
18 their identities in order to proceed with this action, “[t]he stigma of having been treated for  
19 alleged mental health pathologies would attach to these plaintiffs irrespective of the outcome of  
20 this case.” (Doc. No. 16 at 7.) They argue that “[t]hat stigma, or reputation for having been held  
21 for a mental health evaluation[,] may have unforeseen consequences for employment, social  
22 networking, [and] even romantic attachments.” (*Id.*)

23 Several courts have allowed plaintiffs to proceed pseudonymously where, as here,  
24 fictitious names were necessary to preserve privacy in matters of sensitive and highly personal  
25 nature. *See, e.g., Doe v. Ayers*, 789 F.3d 944, 946 (9th Cir. 2015) (“Petitioner’s truly extreme  
26 history and the expert evidence he offered led us to conclude that his particular circumstances  
27 represented the ‘unusual case’ in which the use of a pseudonym is appropriate.”); *Roe v. City of*  
28 *Milwaukee*, 37 F. Supp. 2d 1127, 1129 (E.D. Wis. 1999) (permitting the plaintiff to proceed

1 anonymously because his “HIV-positive status is a compelling reason” given that “in modern  
2 society one’s HIV-positive status, unlike most other medical conditions, is still considered a  
3 stigma” and his “HIV-positive status cannot be viewed as a ‘common disorder’ such that  
4 disclosure can be viewed as inconsequential”); *Doe v. Provident Life & Accident Ins.*, 176 F.R.D.  
5 464, 468–69 (E.D. Pa. 1997) (permitting the plaintiff to proceed anonymously because he was  
6 diagnosed with multiple psychiatric disorders and feared that disclosing his identity would result  
7 in permanent damage to his professional reputation); *Doe v. United Services Life Ins.*, 123 F.R.D.  
8 437 (S.D.N.Y. 1988). These cases demonstrate that “[t]he most compelling situations [where  
9 courts permit plaintiffs to proceed pseudonymously] involve matters which are highly sensitive,  
10 such as social stigmatization . . . .” *Doe v. Rostker*, 89 F.R.D. 158, 162 (N.D. Cal. 1981).

11 Here, each of the individual plaintiffs has been subjected to an involuntary hold or mental  
12 health evaluation. Such involuntary holds and evaluations inherently carry a high risk of social  
13 stigmatization because the state, by virtue of subjecting a person to such holds and evaluations, is  
14 indicating that it does not believe that the person is of sound mind and, instead, perceives that  
15 person as a threat to herself or others. Accordingly, the court finds that the individual plaintiffs’  
16 fears that proceeding with their true identities in this action would subject them to social  
17 stigmatization are reasonable and weighs in favor of the granting of their motion.

18 Next, the court finds that defendants will not be prejudiced if the individual plaintiffs  
19 proceed pseudonymously. First, the individual “[p]laintiffs have provided their identit[ies] to the  
20 Defendants in confidential pre-litigation correspondence.” (Doc. No. 16 at 2); *see also Advanced*  
21 *Textile Corp.*, 214 F.3d at 1069 n.11 (“[The] knowledge defendants have of plaintiffs’  
22 identities . . . lessens their claims to be prejudiced by the use of pseudonyms.”). Second, the  
23 individual plaintiffs and defendants have stipulated to a protective order which provides  
24 defendants an opportunity to conduct meaningful discovery in this action. (*See* Doc. No. 21.)  
25 Third, and most importantly, defendants do not contend that they will be prejudiced if the  
26 individual plaintiffs proceed pseudonymously. Indeed, no defendant has opposed the pending  
27 motion, which further supports the court’s conclusion in that regard. Accordingly, the court finds  
28 that, at this early stage of litigation, defendants will not be prejudiced by the individual plaintiffs

1 proceeding pseudonymously.

2 Finally, the court finds that the public’s interest will not be served by requiring the  
3 individual plaintiffs to reveal their true identities at this stage in the litigation. As the court in  
4 *SFBSC Management* noted, “[t]he court does not take lightly keeping information from the public  
5 record. Open courts and open judicial records are fundamental to the very idea of the rule of  
6 law.” 77 F. Supp. 3d at 996. However,

7 [t]his root tenet can be invoked too reflexively . . . where the situation  
8 at hand does not threaten the principle. The court thinks that this is  
9 such a case. There is nothing about the plaintiffs’ identities that  
10 makes it critical to the working of justice to reveal those identities.  
11 Anonymity, in other words, does not in this case threaten the  
12 principle of open courts . . . . The great bulk of this case will be on  
the public record. The basic facts . . . , the court’s reasoning, and the  
resulting interplay of those things—which is to say, in a word, the  
law that runs through and results from this case—will be open to the  
public. And that is the crucial thing.

13 *Id.*; see also *Advanced Textile Corp.*, 214 F.3d at 1072 (“The district court did not explain, and  
14 we fail to see, how disguising plaintiffs’ identities will obstruct public scrutiny of the important  
15 issues in this case.”). The court finds that the individual plaintiffs have established that at this  
16 early stage of litigation their need for anonymity outweighs any interest that the public has in  
17 knowing their identities.

18 Accordingly, because the individual plaintiffs’ need for anonymity outweighs any possible  
19 prejudice to defendants or the public’s interest in knowing their true identities at this stage of the  
20 proceedings, the court will grant their motion to proceed pseudonymously.<sup>1</sup>

21 \_\_\_\_\_  
22 <sup>1</sup> As noted, the court “must also determine the precise prejudice at each stage of the proceedings  
23 to the opposing party, and whether proceedings may be structured so as to mitigate that  
24 prejudice.” *Advanced Textile Corp.*, 214 F.3d at 1068. Accordingly, while the court will grant  
25 the pending motion, defendants may challenge the plaintiffs’ use of pseudonyms later if, as  
26 litigation progresses, evidence indicates that revelation of their identities is necessary. See, e.g.,  
27 *id.* at 1072 (“We recognize that at some later point in the proceedings it may be necessary to  
28 reveal plaintiffs’ identities to defendants so that defendants may refute individualized accusations  
of FLSA violations.”); see also *John Doe 140 v. Archdiocese of Portland in Oregon*, 249 F.R.D.  
358, 361 (D. Or. 2008) (After permitting plaintiff to proceed pseudonymously, the court noted  
that it “shall monitor these proceedings *sua sponte* as they go forward, to prevent avoidable  
impairment of defendants’ rights in consequence of John’s anonymity” after permitting plaintiff  
to proceed anonymously).

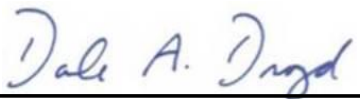
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONCLUSION**

For the reasons set forth above, the individual plaintiffs' unopposed motion to proceed pseudonymously (Doc. No. 16) at this stage of the litigation is granted.

IT IS SO ORDERED.

Dated: February 19, 2020

  
UNITED STATES DISTRICT JUDGE