

Jane Doe 1 v Beth Israel Med. Ctr.
2018 NY Slip Op 31964(U)
August 14, 2018
Supreme Court, New York County
Docket Number: 156127/2018
Judge: Eileen A. Rakower
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 6

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Jane Doe 1, Jane Doe 2, Jane Doe 4, Jane Doe 7,
Jane Doe 8, Jane Doe 9, Jane Doe 12, Jane Doe 13,
Jane Doe 14, Tanisha Johnson, Hillary Tullin,

Plaintiffs,

- v -

Beth Israel Medical Center, Richard A. Cruciani, M.D.,
John & Jane Smith 1-20 (Fictitious Persons and/or
Entities),

Defendants.
-----X

HON. EILEEN A. RAKOWER, J.S.C.

Plaintiffs bring this action alleging claims of malpractice, lack of informed consent, fraudulent concealment, assault and sexual harassment, and battery.

Plaintiffs Jane Doe 1, Jane Doe 2, Jane Doe 4, Jane Doe 7, Jane Doe 8, Jane Doe 9, Jane Doe 12, Jane Doe 13, and Jane Doe 14 (collectively, "Plaintiffs") move pursuant to Civil Rights Law 50-b, for an Order permitting them "to file and prosecute their complaint under a pseudonym on the grounds that the plaintiffs may suffer further mental anguish, trauma, humiliation, re-victimization, and additional emotional harms should their identities be revealed." Plaintiffs also seek to direct that Defendants use only their pseudonyms in the caption and in documents. Plaintiffs also seek to "require any document that bears the true name of these Plaintiffs or any document that tends to identify these Plaintiffs shall be redacted by the party filing such documents and the original unredacted document shall be retained by the party who has filed the redacted document for an in camera inspection by the Court." Defendants do not oppose.

According to Plaintiffs' counsel Kathleen Thomas' affirmation, Plaintiffs have suffered serious emotional injuries as a result of the sexual misconduct that was perpetrated by defendant, Richard A. Cruciani, M.D. ("Cruciani"). Cruciani "was

was criminally charged with felony violations against certain plaintiffs stemming from the same causes of action alleged in this matter.” Cruciani contends, since Plaintiffs are alleging claims of sexual assault and sexual misconduct, “revealing their identity poses a heightened risk of mental or physical harm, harassment, ridicule and personal harassment.”

Legal Standard

“[T]o obtain anonymity, there must be a showing that the privacy interest involved is substantial, so as to overcome the presumption of openness that attends judicial proceedings.” *Doe v. Kidd*, 19 Misc. 3d 782, 788 (Sup. Ct. 2008) (citations omitted). In determining a request to proceed anonymously, the court considers:

[W]hether 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 a sensitive and highly personal nature*; whether the party seeking anonymity has an illegitimate ulterior motive; the extent to which the identity of the litigant has been kept confidential; *whether identification poses a risk of mental or physical harm, harassment, ridicule or personal embarrassment*; *whether the case involves information of the utmost intimacy*; whether the action is against a governmental entity; the magnitude of the public interest in maintaining confidentiality or knowing the party's identity; whether revealing the identity of the party will dissuade the party from bringing the lawsuit; whether the opposition to anonymity has an illegitimate basis; and whether the other side will be prejudiced by use of the pseudonym.

Doe v Szul Jewelry, Inc., No. 0604277/2007, 2008 WL 2157893, at *6 (Sup Ct, New York County May 08, 2008)(emphasis added).

“[C]ourts have recognized that a grant of anonymity impacts far less on the public’s right to open proceedings than does the closing of a courtroom or the sealing of records - relief requested by defendant.” *Szul Jewelry*, 2008 WL 2157893 at *6.

When a case involves claims of sexual assault and sexual misconduct, courts have allowed the plaintiff to proceed under the use of a pseudonym. *See Doe v. New*

York Univ., 786 N.Y.S.2d 892 (N.Y. Sup. Ct. 2004) (permitting the plaintiffs to proceed anonymously in a sexual assault case); *Stevens v. Brown*, 2012 N.Y. Slip Op 31823(U) (Sup. Ct., N.Y. County 2012) (allowing the plaintiff to proceed under a pseudonym due to the deeply personal and sensitive subject matter involving sexually transmitted diseases); *Szul Jewelry*, 2008 N.Y. Slip Op 31394(U) (permitting the plaintiff to use a pseudonym in an action involving claims related to sexual harassing material that created a potential for harm and embarrassment to the litigant).

Discussion

Here, Plaintiffs are alleging claims of sexual assault and sexual misconduct, which have caused them “physical injury, pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment and humiliation.” In light of the highly sensitive and personal nature of these claims, and because revealing Plaintiffs’ identities “poses a risk of mental or physical harm, harassment, ridicule and personal embarrassment,” Plaintiffs’ motion to proceed under a pseudonym is granted.

Wherefore it is hereby

ORDERED that the motion is granted without opposition; and it is further

ORDERED plaintiffs Jane Doe 1, Jane Doe 2, Jane Doe 4, Jane Doe 7, Jane Doe 8, Jane Doe 9, Jane Doe 12, Jane Doe 13, and Jane Doe 14, are permitted to file and prosecute their complaint under a pseudonym; and it is further

ORDERED that Defendants are directed to maintain the file in this action under a caption containing pseudonymous names for these Plaintiffs and direct that only pseudonyms of these Plaintiffs shall also appear within the body of any documents filed with the Court in order to protect their identity; and it is further

ORDERED that any document that bears the true name of these Plaintiffs or any document that tends to identify these plaintiffs shall be redacted by the party filing such documents and the original unredacted document shall be retained by the party who has filed the redacted document for an in camera inspection by the Court.

This constitutes the decision and order of the court. All other relief requested is denied.

DATED: AUGUST ¹⁴_, 2018

A handwritten signature in black ink, appearing to read 'Eileen A. Rakower', written over a horizontal line.

EILEEN A. RAKOWER, J.S.C.