

Jane Doe v Katay

2024 NY Slip Op 34598(U)

November 26, 2024

Supreme Court, New York County

Docket Number: Index No. 154267/2024

Judge: Gerald Lebovits

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. GERALD LEBOVITS **PART** **07**

Justice

-----X

INDEX NO. 154267/2024

JANE DOE,

MOTION SEQ. NO. 001 002

Plaintiff,

- v -

**DECISION + ORDER ON
MOTION**

YITZCHAK KATAY A/K/A YITZCHOK KITAY,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51

were read on this motion for INJUNCTION/RESTRAINING ORDER.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 8, 9, 10, 11 were read on this motion for JUDGMENT - SUMMARY IN LIEU OF COMPLAINT.

This is a CPLR 3213 motion-action seeking to domesticate an Israeli judgment that plaintiff, Jane Doe, previously obtained against defendant, Yitzchak Kitay. On motion sequence 001, plaintiff seeks leave to proceed pseudonymously and to bar disclosure of her identity; and also to restrain defendant’s assets. On motion sequence 002, plaintiff moves for summary judgment in lieu of complaint to domesticate her judgment against defendant. Defendant has not appeared or filed opposition papers. Motion sequence 001 is granted in part and denied in part; motion sequence 002 is granted.

On motion sequence 001, plaintiff seeks an order permitting her to prosecute this action under a “Jane Doe” pseudonym.¹ In considering whether to permit a plaintiff to proceed anonymously (or pseudonymously), courts must consider several factors, including (i) “whether the plaintiff is challenging governmental activity or an individual’s actions”; (ii) “whether the plaintiff’s action requires disclosure of information of the utmost intimacy, (iii) “whether identification would put the plaintiff [or innocent third-parties] at risk of suffering physical or mental injury”; (iv) “whether the defendant would be prejudiced by allowing the plaintiff to proceed anonymously”; and (v) “the public interest in guaranteeing open access to proceedings without denying litigants access to the justice system.” (*Roe v Harborfields Cent. Sch. Dist.*, 212 AD3d 853, 854 [2d Dept 2023].)

¹ Plaintiff initially obtained interim relief permitting her to commence the action under this pseudonym. (*See* NYSCEF No. 12 at 3 [order to show cause].)

Here, plaintiff is seeking to domesticate a judgment that she obtained against defendant in Israel for sexually abusing her while she was a minor. (*See* NYSCEF No. 5 [translation of Israeli judicial ruling].) And plaintiff has provided an affidavit attesting to the psychological harm that public disclosure of her identity would cause to her. (*See* NYSCEF No. 3 at ¶¶ 10-11.) In these circumstances, plaintiff should be allowed to proceed pseudonymously. (*See Roe*, 212 AD3d at 855.) Should defendant later appear in this action, neither he nor any attorney who has appeared may publish or otherwise disclose plaintiff's identity in filings or oral statements in this action (whether in this court or in any appeal).²

On motion sequence 002, plaintiff moves under CPLR article 53 to domesticate her Israeli judgment. The motion is granted without opposition. Plaintiff's motion papers establish prima facie that the judgment is final, conclusive, and enforceable; and that neither of the mandatory non-recognition grounds enumerated in CPLR 5304 (a) apply. (*See* NYSCEF No. 5; NYSCEF No. 9 [affidavit of Israeli attorney]; NYSCEF No. 11 at 3-5 [mem. of law].) Defendant has not opposed this motion, let alone contended that either the mandatory nonrecognition grounds of CPLR 5304 (a) or CPLR 5304 (b)'s discretionary nonrecognition grounds for apply. Nor does the record suggest that any CPLR 5304 (b) ground applies. (*See* NYSCEF No. 11 at 5-7.)

On motion sequence 001, plaintiff seeks to restrain defendant's assets to prevent him from further evading her efforts to collect on the judgment.³ The motion is granted without opposition. Plaintiff's affidavit shows, among other things, that defendant has attempted, thus far successfully, to avoid her efforts in Israel to collect on the Israeli money judgment (*see* NYSCEF No.3 at ¶¶ 6-8)—and therefore that restraints on his assets in New York are needed to aid plaintiff's efforts to collect on the judgment here.⁴

² To the extent that plaintiff seeks broader relief barring defendant or any attorney or agent of his from "publishing or disclosing Plaintiff's true identity" in forums beyond, or unrelated to, this litigation (*see* NYSCEF No. 12 at 2), that request is denied. This court sees no basis by which it may, consistent with constitutional protections for freedom of speech, impose open-ended controls on the speech of litigants outside the context of a given litigation.

³ This court previously granted, and then extended, interim restraints pending resolution of the underlying motion. (*See* NYSCEF No. 12 at 3 [order to show cause]; NYSCEF Nos. 25, 45 [extension orders].)

⁴ A nonparty, American Friends of Birkas Rifka, has previously sought release of restraints imposed on bank accounts of Birkas Rifka on which defendant was a signatory. (*See* NYSCEF No. 30.) This court issued an order in October 2024 holding that the restraints on the Birkas Rifka accounts would be lifted, upon (i) "appropriate proof that defendant has been removed as a signatory from the restrained accounts," coupled with (ii) submission to the court of monthly reports about those accounts (and a bar on large expenditures from the accounts absent leave of court). (NYSCEF No. 45 at 2-3.) On November 25, 2024, counsel for Birkas Rifka filed a letter representing that the bank "only recently completed the removal of Defen[d]ant as a signatory from all three accounts," and that Birkas Rifka will soon file a further submission providing the information required in this court's October 2024 order. (*See* NYSCEF No. 50.) The disposition in this order of plaintiff's motions is without prejudice to any such further submission by Birkas Rifka.

To the extent that plaintiff seeks an award of attorney fees on motion sequence 001 (*see* NYSCEF No. 12 at 2), her fee request is denied. This court may award fees only as provided for by statute, regulation, or contract. Plaintiff does not identify a basis in one of those sources for an award of fees here.

Accordingly, it is

ORDERED that the branch of plaintiff's motion permitting her to prosecute this action under a "Jane Doe" pseudonym (mot seq 001) is granted without opposition, and the action shall proceed under its current caption reflecting the use of that pseudonym; and it is further

ORDERED that the branch of plaintiff's motion barring disclosure of her identity is granted to the extent that the parties, their attorneys, and their agents may not publish or otherwise disclose plaintiff's identity in filings, testimony, or oral statements made in this action; and this branch of the motion is otherwise denied; and it is further

ORDERED that any document that bears the true name of plaintiff, or any document that tends to identify plaintiff or her family, may be filed only in redacted form, with simultaneous submission of the unredacted document to the court (by email to SFC-Part7-Clerk@nycourts.gov) for its in camera review; and it is further

ORDERED that plaintiff's motion to domesticate the Israeli judgment entered on August 7, 2022 in the form appearing at NYSCEF No. 10 (mot seq 002) is granted without opposition; and it is further

ORDERED that the branch of plaintiff's motion seeking to restrain defendant's assets (mot seq 001) is granted without opposition; and it is further

ORDERED that neither defendant nor his agents, representatives, employees, or family members, nor any other person acting on behalf of or in concert with defendant, may, until further order of this court,


(i) assign, transfer, encumber, or otherwise alienate any monies held in bank accounts held in defendant's name (individually or jointly), or in any account over which he has any interest or authority;

(ii) sell, close, or otherwise alienate any bank account held in defendant's name (individually or jointly), or any account over which he has any interest or authority; or

(iii) assign, transfer, pay, encumber, sell, close, or otherwise alienate defendant's interest in any assets now held by defendant, or any real or personal property in which defendant has any interest or over which he has any authority;

and it is further

ORDERED that plaintiff shall serve a copy of this order with notice of its entry on defendant by email to defendant’s last-known personal address and by express mail with signature confirmation to defendant’s last-known residential address; on Birkas Rifka by email; on the office of the General Clerk (by the means set forth in the court’s e-filing protocol, available on the e-filing page of the court’s website, <https://ww2.nycourts.gov/courts/1jd/supctmanh/E-Filing.shtml>), which shall update its records accordingly; and on the office of the County Clerk (by the means set forth in the court’s e-filing protocol), which shall enter judgment accordingly.


HON. GERALD LEBOVITS
J.S.C.

11/26/2024
DATE

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: