

M.O. v Rabbi Jacob Joseph Sch.

2025 NY Slip Op 32933(U)

July 31, 2025

Supreme Court, New York County

Docket Number: Index No. 951099/2021

Judge: Alexander M. Tisch

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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. ALEXANDER M. TISCH PART 18

Justice

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INDEX NO. 951099/2021

M. O.,

MOTION DATE 08/10/2021

Plaintiff,

MOTION SEQ. NO. 001

- v -

RABBI JACOB JOSEPH SCHOOL, RABBI JACOB JOSEPH
MEMORIAL, RABBI JACOB JOSEPH SCHOOL, INC.

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 12, 16, 18, 19, 20, 21, 22, 23, 24, 25, 28, 34

were read on this motion to/for MISCELLANEOUS.

Upon the foregoing papers, plaintiff moves via Order to Show Cause for the plaintiff to proceed in this action using the pseudonym, M.O., so the caption of the above-entitled matter is M. O. v RABBI JACOB JOSEPH SCHOOL, RABBI JACOB JOSEPH MEMORIAL, and RABBI JACOB JOSEPH SCHOOL, INC. Defendants, RABBI JACOB JOSEPH SCHOOL, RABBI JACOB JOSEPH MEMORIAL, and RABBI JACOB JOSEPH SCHOOL, INC. (Schools) oppose plaintiff's motion (NY St Cts Elec Filing [NYSCEF] Doc No. 21).

Plaintiff commenced the instant action on August 10, 2021, under the Child Victims Act, alleging that plaintiff was sexually abused by Rabbi Heshi Erenthal, while Rabbi Heshi Erenthal was an agent, representative, servant, or employee of the Schools when plaintiff was a student there. Plaintiff requests to proceed anonymously, claiming plaintiff will have to disclose intimate matters consisting of one or more incidents of child sexual abuse. Plaintiff fears further psychological injury if plaintiff's identity as a victim of child sexual abuse were to become

known as a matter of public record (see NYSCEF Doc No 3). The Schools oppose plaintiff's motion alleging that plaintiff failed to provide sufficient evidence to justify using a pseudonym.

“Under New York law, there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). Among the recognized values of open access to civil proceedings is that “the bright light cast upon the judicial process by public observation diminishes the possibilities for injustice, incompetence, perjury, and fraud” (*Danco Labs. v Chemical Works of Gedeon Richter*, 274 AD2d 1, 7 [1st Dept 2000]). Likewise, the very openness of the process should provide the public “with a more complete understanding of the judicial system and a better perception of its fairness” and serves to “ensure that the proceedings are conducted efficiently, honestly and fairly” (*Danco*, 274 AD2d at 7).

“The determination of whether to allow a [party] to proceed anonymously requires the court to ‘use its discretion in balancing [that party’s] privacy interest against the presumption in favor of open trials and against any potential prejudice to [their adversary]’” (*Anonymous v Lerner*, 124 AD3d 487, 487-88 [1st Dept 2015], quoting *Stevens v Brown*, 2012 NY Slip Op 31823 [U], 2012 WL 2951181, *9 [Sup Ct, NY County 2012]). Factors for the Court to consider as to whether the privacy interest involved is substantial, so as to overcome the presumption of openness that attends judicial proceedings, includes

“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 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.*, 2008 NY Slip Op 31382[U], 2008 WL 2157893, *12 [Sup Ct, New York County 2008] [internal quotation marks and citation omitted]).

Courts “should not pro forma approve an anonymous caption, but should exercise its discretion to limit the public nature of judicial proceedings ‘sparingly’ and ‘then, only when unusual circumstances necessitate it’” (*Anonymous v Anonymous*, 27 AD3d 356, 361 [1st Dept 2006]).

“A plaintiff seeking permission to proceed anonymously by employing a pseudonym must provide facts specific to the plaintiff that will allow the motion court to exercise its discretion in an informed manner” (*Twersky v Yeshiva Univ.*, 201 AD3d 559, 560 [1st Dept 2022]) A “short attorney affirmation, which merely repeated the relief requested in the order to show cause and made a single vague statement that plaintiff[] might suffer further mental harm should their identit[y] be revealed” is not specific evidence to entitle plaintiff to proceed anonymously (*Twersky v Yeshiva Univ.*, 201 AD3d 559, 560 [1st Dept 2022]).

Here, plaintiff’s attorney provided a six-paragraph affirmation stating plaintiff will have to disclose intimate matters and plaintiff fears future psychological injury if plaintiff’s identity as a victim of child sexual abuse were to become known as a matter of public record. The plaintiff did not provide facts specific to the plaintiff which would allow the Court to weigh plaintiff’s privacy interest against the presumption of open trials and any potential prejudice to the defendant in an informed manner (see *Doe v Good Samaritan Hosp.*, 110 NYS3d 830, 833 (Sup Ct, Nassau County 2019 “On this record consisting solely of a “bare bones” affirmation by counsel, the Court is unable to appropriately exercise its discretionary authority to determine the

requested relief by balancing Plaintiff's privacy interest against the presumption in favor of open trials and against the risk of prejudice to Defendant").

Accordingly, in the exercise of the Court's discretion, Plaintiff is granted leave to renew this request for relief within thirty (30) days of the date of this Order.

7/31/2025
DATE


ALEXANDER M. TISCH, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: