

Doe v Kulha

2025 NY Slip Op 33700(U)

October 2, 2025

Supreme Court, New York County

Docket Number: Index No. 152549/2025

Judge: Leslie A. Stroth

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

-----X

JOHN DOE,

Plaintiff,

- v -

KARIN ELSESSER KULHA,

Defendant.

-----X

INDEX NO. 152549/2025

MOTION DATE N/A

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 7, 8, 16, 22, 23, 24

were read on this motion to/for AMEND CAPTION/PLEADINGS

Plaintiff moves, by Order to Show Cause, for permission from this court to proceed anonymously during this action.

Plaintiff argues that allowing plaintiff to proceed under a pseudonym would protect plaintiff from the stigma associated with sexual assault that may result upon disclosure of their identity in the instant matter. Plaintiff, like many other similarly situated plaintiffs, is concerned that disclosure of their identity will cause further emotional distress, embarrassment, and ridicule (NYSCEF Doc No. 4 ¶ 11).

The Victims of Gender-Motivated Violence Protection Law ("GMVA"), revives previously time-barred claims for "crime[s] of violence motivated by gender." (New York Administrative Code, Chapter 11 §§ 10-1101 – 10-1107).

While the relief herein is largely unopposed, the court has determined that a decision reflecting its deliberation on the application herein is warranted.

In general, "[t]he determination of whether to allow a plaintiff to proceed anonymously requires the court to use its discretion in balancing plaintiff's privacy interest against the

presumption in favor of open trials and against any prejudice to defendant” (*Anonymous v. Lerner*, 124 AD3d 487, 487 [1st Dept 2015] [internal quotation marks and citations omitted]; see *J. Doe No. 1 v. CBS Broadcasting, Inc.*, 24 AD3d 215 [1st Dept 2005]; see also *Doe v. Szul Jewelry, Inc.*, 2008 NY Slip Op 31382 [U] [Sup Ct, NY County 2008]). 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, *supra*).

However, the right of the public, and the press, to access judicial proceedings is not absolute or unfettered, and involves judicial discretion (*Lerner*, 124 AD3d at 487, *supra*). Moreover, access may still be respected in keeping with constitutional requirements while sensitive information is restricted in keeping with “the State's legitimate concern for the well-being” of an individual (*Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606 [1982]).

In addition, while “[i]t is elementary that the primary function of a pleading is to apprise an adverse party of the pleader's claim”, the same does not necessarily apply to a pleader's name (*Cole v. Mandell Food Stores, Inc.*, 93 NY2d 34, 40 [1999]).

Here, there can be little doubt that plaintiff's case will involve information of a personal and highly sensitive nature. Plaintiff alleges that they are the victim of sexual assault and that as a result they have suffered significant physical, emotional, and psychological injuries (NYSCEF Doc No. 4 ¶ 8-9).

Defendant does not oppose Plaintiff's request to proceed under a pseudonym or to redact his name from filings that would tend to identify him. However, Defendant, however, opposes paragraphs three and four of Plaintiff's Proposed Order, which would prohibit Defendant from disclosing Plaintiff's identity to anyone other than her attorneys, insurers, and expert witnesses, and from publicly disclosing his true identity. Defendant argues that such restrictions would substantially prejudice her ability to investigate and defend against the serious allegations asserted, by preventing disclosure to potential witnesses, family members, friends, and treating physicians who may hold critical information bearing on Plaintiff's credibility. Accordingly, the motion is opposed to the extent it seeks to impose the restrictions set forth in paragraphs three and four of the Proposed Order

An express purpose of the GMVA is to revive previously time-barred claims. (New York Administrative Code, Chapter 11 § 10-1105) Revealing plaintiff's identity may have a chilling effect on plaintiff in litigating the instant matter, and on other plaintiffs from pursuing similar litigation. Such would directly contradict the express legislative purpose of the GMVA. (New York Administrative Code, Chapter 11 § 10-1102)

Granting anonymity to Plaintiff is a far less drastic limitation on the public's right to open proceedings than the sealing of records. (*Doe v New York Univ.*, 6 Misc 3d 866, 878 [Sup Ct 2004]). Plaintiff has not moved for sealing the records. The public interest in seeing this case determined on the merits outweighs the public interest in knowing plaintiff's identity. Anonymity at this stage in the proceeding ensures that plaintiff will proceed with the action and effectuate that goal. As such, Plaintiff's motion to proceed anonymously is granted in part to the extent that Plaintiff's name shall be referred to under a pseudonym in all documents filed in this action, and that any documents identifying plaintiff shall be redacted. The need for any *in*

camera inspection by the court shall be addressed on a case-by-case basis. However, Plaintiff's motion is denied in part inasmuch as the parties shall be allowed to disclose Plaintiff's name or identity to their attorneys, experts, consultants, private investigators, third-party witnesses for the sole purpose of obtaining discovery. The parties are otherwise enjoined from sharing Plaintiff's name or identity.

Accordingly, it is, for the reasons stated above, hereby

ORDERED that plaintiffs' motion to file a complaint and proceed herein under a pseudonym, rather than in plaintiff's legal name, and to proceed throughout this action under such pseudonym, rather than in plaintiff's own name, is granted; and it is further

ORDERED that the parties shall be allowed to disclose Plaintiff's name or identity to their attorneys, experts, consultants, private investigators, third-party witnesses for the sole purpose of obtaining discovery. The parties are otherwise enjoined from sharing Plaintiff's name or identity.

The foregoing constitutes the decision and order of this court.

10/2/2025
DATE

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION OTHER

APPLICATION: GRANTED SETTLE ORDER GRANTED IN PART SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE

HON. ~~ELSESSER~~ **ELIETHA S. BROTH** J.S.C.