

<b>Doe v Lenox Hill Hosp.</b>
2026 NY Slip Op 30482(U)
February 9, 2026
Supreme Court, New York County
Docket Number: Index No. 157606/2019
Judge: Brendan T. Lantry
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. BRENDAN T. LANTRY PART 46M**

*Justice*

-----X

JOHN DOE,

Plaintiff,

- v -

LENOX HILL HOSPITAL, NORTHWELL HEALTH, INC.,  
MAJA ZARIC

Defendants.

-----X

INDEX NO. 157606/2019

MOTION DATE 01/20/2026

MOTION SEQ. NO. 011

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 011) 240, 241, 242, 243, 244, 271, 272, 273, 278, 279, 280, 281, 282, 283, 284, 285, 286

were read on this motion to MISCELLANEOUS

This action arises from the alleged disclosure of Plaintiff John Doe’s (“Plaintiff”) human immunodeficiency virus (HIV) status by Defendant Dr. Maja Zaric (“Dr. Zaric”) to a third-party individual. On November 12, 2019, the Honorable Lucy Billings sealed the court file and allowed Plaintiff to proceed under the pseudonym “John Doe,” on consent of Defendants only through the filing of the Note of Issue. *See* New York State Courts Electronic Filing (“NYSCEF”) Doc. No. 27. On July 18, 2023, pursuant to stipulation by the parties, the Honorable Richard Latin ordered that Plaintiff continue to proceed under the pseudonym John Doe and for “all documents and records of any nature filed with the clerk in connection with the action to be unsealed,” subject to exceptions delineated therein. *See* NYSCEF Doc. No. 93.

Defendants Lenox Hill Hospital (“LHH”), Northwell Health, Inc. (“Northwell”), and Dr. Zaric (collectively, the “Defendants”) thereafter moved for Summary Judgment. On February 24, 2025, the Honorable Richard Latin granted Defendants’ motion for Summary Judgment as to all causes of action of the complaint, except for Plaintiff’s claim for damages for an alleged violation of Article 27-F of the New York Public Health Law. Trial in this matter is scheduled to begin on February 10, 2026.

Defendants now move by Order to Show Cause pursuant to CPLR § 2101(c) for an order to compel Plaintiff to use his legal name at trial and to direct the County Clerk to permanently restrict access to NYSCEF Doc. Nos. 241-244, except as to the parties, the County Clerk, the Court and the Court’s personnel. For the reasons set forth herein, Defendants’ motion is denied in part and granted in part.

### Defendants' Contentions

Defendants argue that, at this stage in the proceedings, Plaintiff should be required to use his legal name at trial to “allow for meaningful *voir dire* of prospective jurors, effective cross-examination of Plaintiff, and, most importantly, avoid clear prejudice.” Relying on *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185 [2d. Cir. 2008], Defendants note that courts have considered a non-exhaustive list of factors to consider when determining whether to permit a plaintiff to proceed pseudonymously. Defendants argue that, here, these factors “[tip] overwhelmingly in Defendant’s favor,” focusing on the following factors: the sensitive and personal nature of the action, the prejudice to Defendants, and the fact that Plaintiff’s identity has not been kept confidential.

Defendants argue that the sensitive and personal nature of this action does not support anonymity because, although Plaintiff’s HIV status involves a highly personal matter, courts have held that this factor alone is not dispositive and have in fact rejected similar requests for plaintiffs to remain pseudonymous. Defendants further argue that they would be “significantly and unfairly prejudiced” if Plaintiff is permitted to proceed to trial pseudonymously, in part because, without disclosure of Plaintiff’s name, the parties will be unable to ensure that prospective jurors are free of bias or conflict. Defendants argue that allowing Plaintiff to proceed as John Doe will deprive Defendants of a “full and fair cross examination,” especially where the Court’s Summary Judgment decision turned on the issue of witness credibility.

Defendants contend that “permitting Plaintiff to proceed anonymously against well-known health care institutions creates a clear imbalance and perception for the jury,” and that there is a risk that the pseudonym “might skew the jury’s assessment of [Plaintiff’s] credibility and [his claims.” (quoting *Doe v. Delta Airlines, Inc.*, 310 F.R.D. 222 [S.D.N.Y. 2015]).

Defendants further argue that Plaintiff’s actions of (1) electing to partially vacate the Court’s sealing order; and (2) writing to Northwell’s Board twice (once using his legal name) making “express threats to publicize the litigation and publicly attack Defendants” weighs against anonymity. Defendants contend that Plaintiff should not be permitted to proceed under a pseudonym.

### Plaintiff’s Opposition

Plaintiff opposes Defendants’ motion. Plaintiff contends that, in balancing his privacy interest against the presumption in favor of open trials and against any potential prejudice to Defendants, Plaintiff should be permitted to proceed using a pseudonym. Plaintiff argues that his identity is protected by Article 27-F of the N.Y. Pub. Health Law and that he is therefore entitled to “maximum confidentiality” (quoting *Doe v. Roe*, 190 A.D.2d 463 [4<sup>th</sup> Dept., 1993]). Plaintiff asserts that “exposure of [his] identity poses a risk of exposing him to ridicule or personal embarrassment,” and “acute and sharp psychological distress.” Plaintiff further argues that Defendants have failed to set forth evidence of prejudice sufficient to overcome Plaintiff’s compelling privacy interest, one that is specifically protected by statute.

Plaintiff emphasizes his right to maximum privacy protections and the public policy and intent behind Article 27-F of the N.Y. Pub. Health Law. Plaintiff argues that if he were to be compelled to proceed publicly, that would have “the effect for punishing him for enforcing his rights under Article 27-F by eviscerating the confidentiality of his HIV status,” and that “that is the evil that Article 27-F legislative scheme is meant to prevent.”

### Plaintiff’s Cross-Motion

Plaintiff cross-moves by Notice of Motion dated February 4, 2026, pursuant to 22 NYCRR § 216.1, to permit confidential exhibits to be used at trial be redacted for his identity and any other identifying information and to seal the trial record thereafter. Plaintiff argues that, to protect his statutory right to confidentiality, any exhibits filed should be redacted as to his name and any other identifying information. Plaintiff notes that the Court’s November 12, 2019 Order provided for Defendants to seek unsealing of the court file within 10 days after the Note of Issue is filed and served. Plaintiff argues that any application by Defendants is untimely, as the Note of Issue was filed on June 2, 2023.

### Defendants’ Reply

Defendants again argue that Plaintiff’s HIV status is not dispositive of the issue of anonymity, and that courts have in fact rejected requests in similar situations. Defendants argue that the central issue in the case concerns witness credibility and has “little to do with Plaintiff and his HIV status at all.” Defendants again note that Plaintiff disclosed his identity to Northwell’s Board and that such “torpedoes his claim to continued anonymity.” Defendants further argue that Plaintiff’s anonymity would prejudice Defendants.

### Defendant’s Opposition to Plaintiff’s Cross-Motion

Defendants argue that, pursuant to CPLR § 2214(b), Plaintiff’s notice of cross-motion is procedurally improper. Defendants argue that, in any event, Plaintiff’s relief sought is premature as neither the Court nor the parties are able to determinate what, if anything, should remain under seal from the trial record.

### Discussion

#### *Plaintiff’s Pseudonymity*

“[W]hen determining whether a plaintiff may be allowed to maintain an action under a pseudonym, the plaintiff’s interest in anonymity must be balanced against both the public interest in disclosure and any prejudice to the defendant.” *See Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185 [2nd Cir. 2008]. The court further noted that, in balancing such interests, courts should consider the following list of non-exhaustive factors:

- (1) [W]hether the litigation involves matters that are “highly sensitive and [of a] personal nature; (2) “whether identification poses a risk of retaliatory physical or mental harm to the ... party [seeking to proceed anonymously] or even more

critically, to innocent non-parties; (3) whether identification presents other harms and the likely severity of those harms, including whether “the injury litigated against would be incurred as a result of the disclosure of the plaintiff’s identity”; (4) whether the plaintiff is particularly vulnerable to the possible harms of disclosure; (5) whether the suit is challenging the actions of the government or that of private parties; (6) whether the defendant is prejudiced by allowing the plaintiff to press his claims anonymously, whether the nature of that prejudice (if any) differs at any particular stage of the litigation, and whether any prejudice can be mitigated by the district court; (7) whether the plaintiff’s identity has thus far been kept confidential; (8) whether the public’s interest in the litigation is furthered by requiring the plaintiff to disclose his identity; (9) “whether, because of the purely legal nature of the issues presented or otherwise, there is an atypically weak public interest in knowing the litigants’ identities; and (10) whether there are any alternative mechanisms for protecting the confidentiality of the plaintiff. *See Id* at 189-190 (internal citations omitted).

Courts should further “exercise discretion to limit the public nature of judicial proceedings ‘sparingly’ and ‘then, only when unusual circumstances necessitate it.’” *See Anonymous v. Anonymous*, 27 AD3d 356 [1<sup>st</sup> Dept, 2006] (citing *People v. Jones*, 47 NY2d 409 [1979]). “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.” *See Twersky v. Yeshiva University*, 201 AD3d 559 [1<sup>st</sup> Dept, 2022].

In balancing Plaintiff’s interest against the public interest in disclosure and any prejudice to Defendants, the Court finds that Plaintiff should be permitted to proceed pseudonymously, subject to the limitations discussed herein. The parties do not dispute that this litigation involves a highly sensitive and personal matter, namely, Plaintiff’s HIV status, the confidentiality and disclosure of which is protected by statute and to be afforded “maximum confidentiality.” *See* N.Y. Pub. Health Law § 2782; *Doe v. Roe*, 190 A.D.2d 463 [4<sup>th</sup> Dept, 1993]. The Court is unpersuaded by Defendants’ reliance on *Twersky* and *Anonymous v. Lerner*, 124 AD3d 487 [1<sup>st</sup> Dept, 2015] – cases in which the request for pseudonymity as to matters involving sexual assault and genital herpes, respectively, was denied. While those cases involved sensitive and personal matters, this Court is faced with wholly different circumstances, namely, the confidentiality of Plaintiff’s HIV status, which is protected by statute. Therefore, this factor weighs in favor of Plaintiff’s pseudonymity.

The Court further finds that identification of Plaintiff poses a risk of mental harm, embarrassment, or ridicule, and that Plaintiff is vulnerable to these harms. Due to the intimate and personal nature of his HIV status, the Court finds that Plaintiff would face “considerable embarrassment and social stigmatization” were his identification exposed. *See Stevens v. Brown*, 2012 WL 2951181 [N.Y. Sup. Ct., 2012]. Plaintiff has affirmed that, throughout the duration of this litigation, he has already experienced panic attacks and has had difficulty in social settings. *See* NYSCEF Doc. No. 214. These factors further weigh in favor of Plaintiff’s pseudonymity.

The Court notes that this action has been brought against a private party, a factor which weighs against Plaintiff’s anonymity, as such actions “may cause damage to their good names and

reputations.” *See Doe v. McLellan*, 2020 WL 7321377 [E.D.N.Y., 2020] (quoting *North Jersey Media Group Inc. v. Doe Nos. 1-5*, 2012 WL 5899331 [S.D.N.Y., 2012]).

Regarding the potential prejudice to Defendants, the Court finds that any potential prejudice to Defendants may be abated by the Court’s imposed limitations discussed herein. Defendants argue that they would be prejudiced by Plaintiff’s pseudonymity because (1) a jury cannot be empaneled without knowing Plaintiff’s identity; (2) Defendants would be deprived of a full and fair cross examination; and (3) there would be a clear imbalance and perception for the jury. The Court credits Defendants’ concerns regarding jury selection. It is certainly paramount to ensure that an empaneled jury is free of any bias or conflict. To abate this concern, the Court orders the parties to include Plaintiff’s legal first name and last name among a list of “potential witnesses or interested individuals” to prospective jurors during *voir dire*.<sup>1</sup> This relief presents the parties with the opportunity to question prospective jurors about any potential knowledge of, or involvement with, Plaintiff. Prospective jurors will also be able to physically see Plaintiff during *voir dire*, further abating concerns regarding the empaneling of a fair and bias-free jury.

Turning to Defendants’ concerns regarding cross examination, the Court finds that Defendants’ ability to conduct a full and fair cross examination and to impeach Plaintiff’s credibility through the introduction of personal evidence at trial will not be impaired. While Plaintiff’s name may not be mentioned in connection to any potential impeachment material, Defendants will surely be able to cross examine Plaintiff on the substance of same, subject to admissibility rulings of the trial court. Indeed, “[d]emeanor is demeanor, however the witness is identified, and it would seem to make no difference to a jury in assessing whether such things as the particular occupation or place of residence of a witness might bear upon his credibility whether the witness bore the name John Smith or Henry Williams.” *See James v. Jacobson*, 6 F.3d 233 [4th Cir. 1993]. The Court further reserves the scope of cross examination and any curative instructions regarding same to the trial judge.

Regarding Defendants’ concerns about imbalance and perception for the jury, the Court finds that any such prejudice in this regard is outweighed by Plaintiff’s statutorily protected privacy interest in his HIV status. The Court further finds that any prejudice that may flow from Plaintiff’s anonymity may likewise be abated by a curative instruction, which is reserved to the trial judge. *See Id* at 242.

The Court is further unpersuaded by Defendants’ argument that Plaintiff has publicly disclosed his identity by twice writing to Northwell’s Board using his legal name. While Plaintiff’s actions were misguided and, concededly by counsel for Plaintiff, inappropriate, his messages were sent to the board of directors of a Defendant entity. Plaintiff did not expose his legal name to the public at large or to “35 strangers” as Defendants suggest. To the contrary, Plaintiff directly communicated with the officers of a named Defendant. That prior counsel for Plaintiff elected to unseal portions of the court file is of no moment.<sup>2</sup> Plaintiff has proceeded using a pseudonym and this action has been under seal, except for the portion referenced *supra*, for approximately 7 years. Therefore, this factor weighs in favor of Plaintiff’s pseudonymity.

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<sup>1</sup> On February 6, 2026, counsel for Plaintiff consented to same via e-mail to the Court and counsel for Defendants.

<sup>2</sup> While movants aver that Plaintiff’s counsel’s partial unsealing of the record is “an apparent effort to publicize this litigation,” no evidence is before the Court to support this hypothesis.

The Court recognizes Defendants' remaining contentions but finds that Plaintiff's privacy interest outweighs same and that the limitations discussed, *supra*, are appropriate under the circumstances.

Accordingly, the Court finds that Plaintiff has properly relied upon his rights pursuant to N.Y. Pub. Health Law § 27-F and has provided facts specific to support his need for pseudonymity at this stage in the proceedings. In balancing Plaintiff's interest in anonymity against the public interest in disclosure and any prejudice to Defendants, the Court finds that Plaintiff should remain pseudonymous, subject to limitations set forth *supra*.

*Plaintiff's Cross-Motion*

Plaintiff's cross-motion is denied as procedurally defective pursuant to CPLR § 2215, as Plaintiff's papers were not served at least three days prior to the time at which this motion was to be heard. The Court further finds that Plaintiff's cross-motion is premature. Any applications regarding redaction of exhibits to be used at trial and sealing of the trial record is reserved to the trial judge. The Court further notes that Defendants have indicated a potential willingness to consent to the sealing of the entire trial record, but that such determination cannot be made at this juncture. Accordingly, Plaintiff's cross-motion is denied as procedurally defective and premature.

Accordingly, it is hereby

ORDERED that Plaintiff may continue to proceed in this action under the pseudonym John Doe;

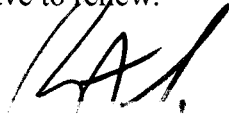
ORDERED that the parties provide Plaintiff's legal first name and last name to prospective jurors during jury selection;

ORDERED that the County Clerk should permanently restrict access in NYSCEF to the documents filed at NYSCEF Doc. Nos. 241-244, except as to the parties, the County Clerk, the Court and the Court's personnel;

ORDERED that Plaintiff's cross-motion is denied with leave to renew.

2/9/2026

DATE



BRENDAN T. LANTRY, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE