

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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AB 1 Doe

Petitioner,

vs.

John Doe(s) 1 - 5

Respondents.

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EX PARTE PETITION

Index No.:

1. I am an attorney at law licensed practice in the State of New York and I am a member of the law firm of Steve Boyd, PC. As such, I am fully familiar with the facts and circumstances of this case and affirm the truth of the following statements under penalty of perjury.

**A. Request for an Order Allowing Petitioner to Proceed Under the Pseudonym "AB 1 Doe"**

2. This matter involves the sexual abuse of a minor by various Erie County based defendants to be named later. As a result, any future litigation against Defendants John Doe(s) 1-5 would be under the jurisdiction of the Erie County Supreme Court.

3. Petitioner was sexually abused in Erie County as a child. The statute of limitations has run.

4. Petitioner intends to file a claim against Defendants John Doe(s) 1-5 under the Child Victims Act and is seeking leave to file anonymously.

5. "The 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).

6. While public embarrassment alone is not sufficient to allow a plaintiff to proceed anonymously, the Court must also consider whether the plaintiff's situation is compelling, involves highly sensitive matters, including social stigmatization, or involves real danger of physical harm, *see Doe v New York Univ.*, 6 Misc3d 866 (Sup Ct, NY County 2004).

7. Petitioner in this matter is alleging that he was sexually abused as a child by an adult. The sexual abuse of a child by an adult is a highly sensitive matter. Survivors do not just suffer embarrassment and shame over having been the victim of abuse, but have historically been subjected to social stigma. These are the very same factors that have caused abused children not to come forward with their allegations until after the statute of limitations had expired and necessitated the passage of the Child Victims Act.

8. With respect to any prejudice to the Defendants John Doe(s) 1-5, Petitioner's identity can be confidentially disclosed to Defendants John Doe(s) 1-5, along with the identity of the abuser and the approximate dates of abuse in paper discovery not to be filed publicly. It is not Petitioner's intent to hide Petitioner's identity for Defendants John Doe(s) 1-5. Under such circumstances, there is no prejudice to John Doe(s) 1-5; *see E.K. v New York Hosp. Cornell Med. Ctr.*, 158 Misc2d 334 (Orange Co. Sup. Ct., Orange County 1992) (plaintiff allowed to proceed using her initials because her identity had previously been disclosed to defendants).

9. Nor does allowing Petitioner to proceed under a pseudonym significantly hamper the public's interest in open trials. While Petitioner would be proceeding anonymously, Petitioner is not seeking sealing of the record and the public would still have access to the court records for this case; *see Anonymous v. Anonymous*, 191 Misc.2d 707, 708 (NY Co. Sup. Ct. 2002).

10. Based on the foregoing, it is respectfully requested that Petitioner be allowed to

proceed with a claim under the Child Victims Act using the pseudonym “AB 1 Doe” and with the caption “AB 1 Doe vs. John Doe(s) 1-5”; that the parties, their attorneys, and their agents be directed by the Court to refrain from publishing the Petitioner’s true identity; and that all papers filed in this action, and all judgments, orders, decisions, notices to the Court and any other document relating to such action refer to the Petitioner as “AB 1 Doe”, bear the caption “AB 1 Doe vs. John Doe(s) 1-5” and be filed under such caption.

**B. Request that All Plaintiffs Submitting Claims to this Court under the Child Victims Act in the Eighth Judicial District be Granted the Same Relief**

11. As this Court is aware, on August 14, 2019, the one year window for plaintiffs previously time-barred from bringing claims of sexual abuse as a child will open pursuant to CPLR § 214(g). At that time, it is anticipated that a great number of survivors will desire to pursue claims. Such survivors have the same concerns as Petitioner regarding the highly sensitive nature of their claims and the associated social stigma. In some cases, survivors may decline to proceed with their claim if their identity were to be made public.

12. As a result, it is respectfully requested that this Court grant all other Plaintiffs filing claims under the Child Victims Act in the Eighth Judicial District the same relief as Petitioner with respect to proceeding under a pseudonym and allow them to file their claims under pseudonyms.


13. Petitioner has not previously sought the relief requested herein.

WHEREFORE, Petitioner prays for an Order:

1. Deeming Petitioner’s use of the pseudonym “AB 1 Doe” and the caption “AB 1 Doe vs. John Doe(s) 1-5,” in a claim to be brought under the Child Victims Act to be proper;

2. Permitting Petitioner to file an action under the Child Victims Act using the pseudonym "AB 1 Doe" and with the caption "AB 1 Doe vs. John Doe(s) 1-5";
3. Directing the parties, their attorneys, and their agents to refrain from publishing the Petitioner's true identity;
4. Directing that all papers filed in the Child Victims Act action, and all judgments, orders, decisions, notices to the Court and any other documents relating to the action refer to the Petitioner as "AB 1 Doe" and bear the caption "AB 1 Doe vs. John Doe(s) 1-5", and directing the Court Clerk to enter and record all papers in such action under the caption "AB 1 Doe vs. John Doe(s) 1-5"; and
5. Granting all other Plaintiffs filing claims under the Child Victims Act the same relief with respect to proceeding under a pseudonym that consists of the law firm's initials and a numeric designation (for example, clients represented by Jeff Anderson & Associates, PA, and Steve Boyd, PC, would be AB 1 Doe, AB 2 Doe, etc.; clients of O'Brien and Ford, PC would be OF 1 Doe, OF 2 Doe, etc.);
6. Granting such other and further relief as the Court deems just and proper; and it is further

DATED: August 6, 2019



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Stephen Boyd, Esq.

TO: Hon. Deborah A. Chimes, J. S.C.  
Supreme Court, Eighth Judicial District  
Erie County Courthouse, Part 33  
50 Delaware Avenue  
Buffalo, NY 14202  
(716) 845-7201

CC: Randall D. White, Esq.  
Connors LLP  
Attorneys for Defendant  
1000 Liberty Building  
424 Main Street  
Buffalo, NY 14202  
(716) 852-5649

Michael Reck, Esq.  
Jeff Anderson & Associates, PA  
Co-Counsel for Plaintiff  
52 Duane Street, 7th Floor  
New York, NY 10007  
(646) 759-2551

Daniel J. Marren , Esq.  
Confidential Law Clerk to  
Paula L. Feroletto, J.S.C.  
Supreme Court, Eighth Judicial District  
Erie County Courthouse, Part 1  
92 Franklin Street  
Buffalo, NY 14202  
(716) 845-9439

John Fenz  
Deputy Erie County Clerk  
Erie County Clerk's Office  
92 Franklin Street  
Buffalo, NY 14202  
(716) 858-8785