

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JANE DOE,

Plaintiff,

v.

VINCENT T. ARRISI, *ET AL.*,

Defendants.

Civil No. 16-8640

ORDER

This matter comes before the Court on Plaintiff's unopposed Motion to Proceed in Anonymity [ECF No. 2]. For the reasons set forth below, Plaintiff's motion is **GRANTED**.

I. Background

This matter involves Plaintiff, Jane Doe, a trans woman¹ seeking to change the gender reflected on her New Jersey birth certificate from an original gender assigned at birth to her correct gender. The New Jersey Office of Vital Statistics and Registry will not permit the change without proof that Plaintiff has undergone Sexual Reassignment Surgery. Plaintiff challenges this requirement as violating her rights under the U.S. Constitution and the Americans with Disabilities Act. Plaintiff has filed this motion to proceed anonymously based on a history of estrangement, isolation, assault, and discrimination because of her trans status. She fears severe harm and additional discrimination if her identity is disclosed through this lawsuit.

II. Legal Standard

Federal Rule of Civil Procedure 10(a) generally requires parties to a lawsuit to identify themselves. However, in "exceptional cases", parties are permitted to proceed anonymously.

¹ Plaintiff refers to her status as "transgender," "trans," or "transsexual" in her Motion to Proceed in Anonymity. For simplicity, the Court will refer to her status as "trans."

Doe v. Megless, 654 F.3d 404, 408 (3d Cir. 2011). In order to proceed anonymously, “a plaintiff must show ‘both (1) a fear of severe harm, and (2) that the fear of severe harm is reasonable.’”

Id. quoting *Doe v. Kamehameha Sch./Pauahi Bishop Estate*, 596 F.3d 1036, 1043 (9th Cir. 2010). Courts should “balance a plaintiff’s interest and fear against the public’s strong interest in an open litigation process.” *Id.* The Third Circuit Court of Appeals has used a balancing test, with the following factors weighing in favor of anonymity:

- (1) the extent to which the identity of the litigant has been kept confidential;
- (2) the bases upon which disclosure is feared or sought to be avoided, and the substantiality of those bases;
- (3) the magnitude of the public interest in maintaining the confidentiality of the litigant’s identity;
- (4) whether, because of the purely legal nature of the issues presented or otherwise, there is an atypically weak public interest in knowing the litigant’s identities;
- (5) the undesirability of an outcome adverse to the pseudonymous party and attributable to his refusal to pursue the case at the price of being publicly identified; and
- (6) whether the party seeking to sue pseudonymously has illegitimate ulterior motives.

Doe v. Megless, 654 F.3d at 408, quoting *Doe v. Provident Life and Acc. Ins. Co.*, 176 F.R.D. 464, 467 (E.D.Pa. 1997).

Factors disfavoring anonymity include: (1) “the universal level of public interest in access to the identities of litigants”; (2) “whether, because of the subject matter of this litigation, the status of the litigant as a public figure, or otherwise, there is a particularly strong interest in knowing the litigant’s identities, beyond the public’s interest which is normally obtained”; and (3) the opposition to proceeding anonymously is illegitimately motivated. *Id.*

Courts have allowed cases involving transsexuality, among other things, to proceed anonymously. *Id.*

(1) Analysis

In weighing the *Megless* factors, Plaintiff’s identity has thus far been kept confidential. In her Declaration [ECF No. 2-2], Plaintiff identifies numerous negative reactions from family

and friends that lead her to fear additional discrimination and stigmatization based on her trans status. No one disputes that she has a legitimate fear of severe harm, should her identity and trans status be made public. In her brief [ECF No. 2-1], Plaintiff cites The National Transgender Discrimination Survey Report² which details the harassment, discrimination, and mistreatment reported by trans individuals, often leading to serious economic and personal consequences. There is a public interest in preventing further stigmatization of trans individuals and little public interest in knowing Plaintiff's identity because the issues in this case are purely legal. There is no reason to believe that Plaintiff has illegitimate ulterior motives in proceeding anonymously. There are no compelling interests that weigh against allowing Plaintiff to proceed anonymously. Plaintiff has a reasonable fear of severe harm that sufficiently outweighs the public's interest in open judicial proceedings.

(2) Conclusion and Order

The Court has examined the relevant considerations and, as set forth above, concludes that the relevant factors weigh in favor of maintaining Plaintiff's anonymity. Accordingly,

IT IS on this 16th day of February, 2017,

ORDERED that:

Plaintiff's Motion to Proceed in Anonymity [ECF No. 2] is hereby **GRANTED**.

s/ Douglas E. Arpert
DOUGLAS E. ARPERT
UNITED STATES MAGISTRATE JUDGE

² This report can be found at <http://endtransdiscrimination.org/report.html> (last visited Feb. 14, 2017).