

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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NICHOLAS K. MERIWETHER,	:	
	:	
Plaintiff,	:	
	:	Case No. 1:18-cv-753
vs.	:	
	:	Judge Susan J. Dlott
THE TRUSTEES OF SHAWNEE STATE	:	Magistrate Judge Karen L. Litkovitz
UNIVERSITY, ET AL.	:	
	:	
Defendants.	:	
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JANE DOE’S MOTION TO PROCEED PSEUDONYMOUSLY AND TO REDACT REFERENCES TO HER NAME IN THE COMPLAINT AND ATTACHED EXHIBITS

Jane Doe seeks to proceed under a pseudonym due to the highly sensitive and private nature of facts involved in this case and will safeguard Ms. Doe’s privacy as well as her physical and emotional wellbeing without prejudicing the existing parties in this case. Because Ms. Doe’s name was publicly disclosed in the complaint and attached exhibits, Ms. Doe also requests an order removing the complaint and attached exhibits from the public record.

1. Jane Doe is the transgender student at the center of this lawsuit. Ms. Doe’s complaint about Professor Meriwether’s differential treatment of her because she is transgender precipitated the investigation and disciplinary action Meriwether alleges violate his legal rights.

2. All of the applicable factors courts consider in determining whether to permit a party to proceed pseudonymously warrant granting Ms. Doe that relief in this matter. Ms. Doe’s very identity as transgender is information of the utmost intimacy. Using a pseudonym would also protect Ms. Doe from exacerbating the significant psychological distress she has already experienced due to Meriwether’s prior disclosures of her identity and reduce the risk that Ms. Doe will be discriminated against when she enters the job market. Finally, requiring Ms. Doe to

proceed using her legal name would have the paradoxical effect of destroying the privacy interest she seeks to vindicate via her intervention.

3. Although Ms. Doe's privacy has already been compromised by Meriwether's unnecessary references to her name throughout his complaint and the accompanying exhibits, she is still entitled to seek protection from further disclosure of that information and restore her privacy.

4. Permitting Ms. Doe to proceed under a pseudonym will not prejudice any of the parties because the existing parties already know her identity and she only seeks to conceal her identity from further disclosure to the public.

5. No public interest is served by revealing Ms. Doe's legal name to the public.

6. Ms. Doe has conferred with the parties to determine their positions with respect to this motion. Plaintiff opposes this motion and Defendants take no position.

For the foregoing reasons, as well as those expressed in the accompanying memorandum of law, Jane Doe respectfully urges this Court to GRANT this motion and permit her to proceed under a pseudonym, remove the complaint and accompanying exhibits from the public docket, and direct Plaintiff to file redacted versions of those documents that remove any and all references to Ms. Doe's name.

Dated: December 24, 2018

Respectfully submitted,

/s/ Jennifer L. Branch

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*Attorneys for JANE DOE and SEXUALITY AND
GENDER ACCEPTANCE*

**UNITED STATES DISTRICT COURT
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NICHOLAS K. MERIWETHER,	:
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Plaintiff,	:
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vs.	:
	:
THE TRUSTEES OF SHAWNEE STATE	:
UNIVERSITY, ET AL.	:
	:
Defendants.	:
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**MEMORANDUM OF LAW IN SUPPORT OF
JANE DOE’S MOTION TO PROCEED PSEUDONYMOUSLY AND
TO REDACT REFERENCES TO HER NAME IN THE COMPLAINT AND EXHIBITS**

Jane Doe seeks to proceed under a pseudonym due to the highly sensitive and private nature of facts involved in this case, the psychological harm she has experienced as a result of her name being unnecessarily disclosed, and the retaliation and discrimination she may experience if her identity remains public. Proceeding pseudonymously will safeguard Ms. Doe’s privacy as well as her physical and emotional wellbeing without prejudicing the existing parties in this case. Ms. Doe’s substantial interest in using a pseudonym outweighs the generalized public interest in disclosure of Ms. Doe’s legal name.

Ms. Doe’s name was publicly disclosed in the complaint and attached exhibits. Thus, Ms. Doe also requests an order removing the complaint and attached exhibits from the public record. Professor Meriwether would then refile the complaint refer to Ms. Doe pseudonymously, and would refile the exhibits with Ms. Doe’s name redacted.

FACTUAL BACKGROUND

Jane Doe is a young transgender woman and has been living as female in all aspects of her life for over five years. (Doe Decl. ¶¶ 1-3.) Several years after beginning her transition, Ms. Doe enrolled at Shawnee State University (“Shawnee”) to restart her college education. (Doe Decl. ¶ 3.) Before enrolling, Ms. Doe legally changed her name and corrected her identity documents to ensure that she could enroll as a female student and would be treated accordingly. (*Id.*) It was important to Ms. Doe that she be able to choose whether to disclose her transgender status to peers and others at Shawnee because she generally prefers to keep that information private. (*Id.*) To date, Ms. Doe has voluntarily disclosed her transgender status to just a few close friends and a couple of administrators at Shawnee. (Doe Decl. ¶ 4.)

Professor Meriwether’s refusal to use female honorifics when referring to Ms. Doe had the effect of “outing” her to her classmates as a transgender woman. (Doe Decl. ¶ 6.) Because of the care with which Ms. Doe safeguards her privacy, Professor Meriwether’s actions caused her acute psychological distress. (Doe Decl. ¶ 7.) Attending Professor Meriwether’s class was emotionally distressing and draining, despite Ms. Doe’s interest in the subject. (*Id.*) Professor Meriwether’s discriminatory conduct affected Ms. Doe outside of class too. (*Id.*) Ms. Doe developed anxiety, worrying that other students would find out that she is transgender, and experienced a significant increase in her gender dysphoria. (Doe Decl. ¶¶ 7-8.) She also had regular crying spells outside of class and withdrew from friends and social activities. (Doe Decl. ¶ 7.)

Shawnee’s response to Professor Meriwether’s discriminatory conduct, combined with the summer break, helped Ms. Doe start to heal from psychological distress she experienced during the Spring 2018 semester. (Doe Decl. ¶ 9.) Believing that her interactions with Professor Meriwether were behind her, Ms. Doe became more social again and involved on campus.

But Professor Meriwether then sued Shawnee, repeatedly identifying Ms. Doe by her real name in his complaint. (Doe Decl. ¶ 9.) In addition, the publicly filed exhibits to the complaint also identify Ms. Doe by her real name. (*Id.*) Ms. Doe never consented to having her name used publicly, and Professor Meriwether never asked permission. (*Id.*) Rather, Professor Meriwether simply went ahead and disclosed Ms. Doe’s transgender status in a public filing. (*Id.*)

Seeing her name used unnecessarily in the complaint filed by Professor Meriwether brought back the psychological distress that marred Ms. Doe’s experiences in the previous semester. (Doe Decl. ¶ 9.) Ms. Doe is now anxious that the broader Shawnee community—not just those in Professor Meriwether’s class—and others will learn of her transgender status, despite her efforts to keep that information private. (*Id.*) Although Professor Meriwether has already breached Ms. Doe’s privacy by disclosing her name publicly, the breach will only get worse as this litigation is likely to receive significant media attention as it progresses. (Doe Decl. ¶¶ 10-11.) Making her identity and other related information publicly available also exposes Ms. Doe to an increased risk of discrimination, which is particularly concerning as Ms. Doe is a renter in the local area and will soon be entering the job market. (Doe Decl. ¶¶ 9, 11.)

ARGUMENT

I. Jane Doe May Proceed Pseudonymously Because Revealing Her Name Would Require Her To Disclose Information of the Utmost Intimacy.

In *Doe v. Porter*, the Sixth Circuit identified four factors courts must consider to determine whether a party’s interest in anonymity outweighs the presumption of open proceedings:

- (1) whether the plaintiffs seeking anonymity are suing to challenge governmental activity;
- (2) whether prosecution of the suit will compel the plaintiffs to disclose information “of the utmost intimacy”;
- (3) whether the litigation compels plaintiffs to disclose an intention to violate the law, thereby risking criminal prosecution;
- and (4) whether the plaintiffs are children.

370 F.3d 558, 560 (6th Cir. 2004). Courts may also account for the effect a litigant’s anonymity will have on the defendant’s ability to defend against plaintiff’s claims. *Id.* at 561.

In this case, “prosecution of the suit will compel the plaintiff[] to disclose information ‘of the utmost intimacy’”—transgender status. *Id.* at 560. Courts routinely permit transgender litigants who seek to maintain the privacy of their transgender status to proceed pseudonymously. For instance, in *Doe v. City of Detroit*, No. 18-cv-11295, 2018 WL 3434345, at *2 (E.D. Mich. July 17, 2018), the court permitted a transgender woman who was suing the City of Detroit for sex discrimination to proceed pseudonymously. The court observed that “[s]everal courts have held that an individual’s transgender identity can carry enough of a social stigma to overcome the presumption in favor of disclosure.” *Id.* at *2. It explained that although “her employer and coworkers” were aware of her transition, “the general public is not necessarily aware that Doe is transgender,” and “the fact that she previously presented as male . . . qualifies as information ‘of the utmost intimacy.’” *Id.* The court also found that Doe had a legitimate fear of harm if her real name was used, taking “judicial notice of the increased threat of violence to which transgender individuals are exposed.” *Id.* The court concluded that the City would not be prejudiced if she proceeded pseudonymously. *Id.* at *3.

Similarly, in *Board of Education of the Highland Local School District v. U.S. Department of Education*, No. 2:16-CV-524, 2016 WL 4269080 (S.D. Ohio Aug. 15, 2016), a transgender student sought to intervene in litigation concerning her right to nondiscriminatory treatment at school, and the court permitted her to proceed pseudonymously. *Id.* at *5. The court emphasized that “many courts have found Jane’s circumstances to be the kind in which a plaintiff would be required to disclose information ‘of the utmost intimacy’ throughout the course of litigation.” *Id.* It noted that although the student in that case was a minor, “some courts have allowed non-minor

transgender plaintiffs to proceed anonymously due to the social stigma associated with their gender identity.” *Id.* The court found “compelling reasons to protect Jane’s privacy and shield her from discrimination and harassment, and no apparent prejudice to the other parties in this suit.” *Id.*¹

Here, too, the court should permit Ms. Doe to proceed pseudonymously. Public disclosure of Ms. Doe’s name would compel her to “disclose information of the utmost intimacy.” *Doe*, 370 F.3d at 560 (internal quotation marks omitted). Ms. Doe treats her transgender status as private information and has undertaken considerable efforts to ensure that information remains private, including legally changing her name and correcting her identity documents to reflect her identity before enrolling at Shawnee. Although some trusted friends and administrators are aware of Ms. Doe’s transgender status, “the general public is not necessarily aware that [she] is transgender.” *Doe*, 2018 WL 3434345, at *2. “[T]he fact that she previously presented as male . . . qualifies as information of the utmost intimacy.” *Id.* (internal quotation marks omitted).

Pseudonymity in this case is particularly warranted because when Ms. Doe communicated her concerns to Shawnee’s Title IX coordinator, she had the reasonable expectation of confidentiality. Shawnee’s policy is that, to the extent possible, sex discrimination complaints should remain confidential:

The university cannot promise complete confidentiality. The privacy of all parties to a complaint of sexual discrimination or harassment must be strictly observed, except insofar as it interferes with the campus’ obligations to fully investigate allegations of sexual discrimination or harassment. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. In

¹ Several other courts have similarly permitted transgender litigants to proceed anonymously. *See, e.g., Doe v. Volusia Cnty. Sch. Bd.*, No. 6:18-cv-102, Dkt. 8 (M.D. Fla. Jan. 30, 2018); *Stockman v. Trump*, No. 5:17-cv-1799, Dkt. 13 (C.D. Cal. Sept. 28, 2017); *Doe I v. Trump*, No. 1:17-cv-1597, Dkt. 3 (D.D.C. Aug. 10, 2017); *Doe v. United States*, No. 3:16-cv-0640, 2016 WL 3476313 (S.D. Ill. June 27, 2016); *Doe v. District of Columbia*, No. 1:13-cv-878, Dkt. 4 (D.D.C. Jun. 11, 2013); *Doe v. Blue Cross & Blue Shield of R.I.*, 794 F. Supp. 72, 74 (D.R.I. 1992).

all complaints of sexual discrimination or harassment, both the accused and complainant will be informed of the outcome.

<http://www.shawnee.edu/offices/title-IX/faq.aspx>. As a Shawnee professor, Professor Meriwether was presumably on notice of that policy. Yet, rather than respecting Ms. Doe's privacy, Professor Meriwether filed a public complaint identifying her by name and even describing a portion of her conversation with Shawnee's Title IX coordinator (Complaint ¶ 158). Permitting Ms. Doe to proceed under a pseudonym will minimize the breach of Ms. Doe's privacy.

This breach of Ms. Doe's privacy would be harmful to Ms. Doe. Ms. Doe experienced significant anxiety and distress as a result of Professor Meriwether's refusal to use female honorifics when referring to her in class because of the possibility that it would disclose her transgender status to her peers. Widespread disclosure of her transgender status would make the situation worse.

Moreover, if Ms. Doe is forced to proceed in this case under her real name, disclosure of her transgender status might become *very* widespread. This case has already received significant news coverage nationally and internationally from media outlets such as Newsweek,² NBC News,³

² <https://www.newsweek.com/professor-nicholas-meriwether-religion-philosophy-shawnee-state-university-1205561>

³ <https://www.nbcnews.com/feature/nbc-out/professor-sues-over-rebuke-calling-female-transgender-student-sir-n935296>

Fox News,⁴ RushLimbaugh.com,⁵ Breitbart,⁶ the Daily Mail.⁷ If Ms. Doe’s name appears in public filings and orders, it is easy to envision her name continuing to regularly appear in local, national, and international news coverage.

Public disclosure of Ms. Doe’s name could also “subject [her] to considerable harassment.” *Doe*, 370 F.3d at 560 (permitting plaintiffs challenging teaching of Bible in public schools to proceed pseudonymously). Professor Meriwether’s counsel has published a press release casting Ms. Doe in an extremely negative light⁸ while characterizing Professor Meriwether as a protector of the First Amendment.⁹ Indeed, Ms. Doe has already been the target of threats and harassment on the Internet based solely on the filing of the complaint. Hundreds of Internet comments have been posted about this case, many of which are extremely hostile. In some cases, commenters

⁴ <https://www.foxnews.com/us/prof-sues-over-rebuke-for-calling-transgender-student-male>

⁵ <https://www.rushlimbaugh.com/daily/2018/11/26/292854/>

⁶ <https://www.breitbart.com/border/2018/11/07/professor-sues-university-after-order-to-use-transgender-pronouns/>

⁷ <https://www.dailymail.co.uk/news/article-6377451/Prof-sues-rebuke-calling-transgender-student-male.html>.

⁸ <http://www.adfmedia.org/News/PRDetail/10640> (“After the class, the student approached Meriwether, stated that he was transgender, and demanded that the professor refer to him as a woman, with feminine titles and pronouns. When Meriwether did not instantly agree, the student became belligerent, circling around Meriwether and getting in his face in a threatening fashion while telling him, “Then I guess this means I can call you a c**t.” Before walking away, the student promised to get Meriwether fired if he did not agree to the student’s demands.”).

⁹ *Id.* (“This isn’t just about a pronoun; this is about endorsing an ideology. The university favors certain beliefs, and it wants to force Dr. Meriwether to cry uncle and endorse them as well. That’s neither legal nor constitutional, and neither was the process the university has used to get to this point. We are asking the court to order the university to respect Dr. Meriwether’s freedoms.”).

have threatened physical violence.¹⁰ Given the potential for continued widespread coverage of this case, combined with Professor Meriwether’s counsel’s extremely negative portrayal of Ms. Doe, it is easy to imagine Ms. Doe being the subject of verbal or physical harassment. As the Sixth Circuit held in *Doe v. Porter*, the potential for harassment is a powerful basis for permitting Ms. Doe to litigate pseudonymously in its own right, 370 F.3d at 560; in addition, Ms. Doe’s anxiety over the likelihood of such harassment has already negatively affected her social, emotional, and academic wellbeing, further underscoring the need for Ms. Doe to litigate pseudonymously.

The Court should also protect Ms. Doe’s substantial privacy interests in light of the effect that public disclosure of her name could have on her ability to obtain and maintain stable housing. A recent national survey of transgender adults found that nearly one quarter of transgender people experienced some form of housing discrimination in the prior year, including refusal to rent and eviction. Sandy E. James, et al. *The Report of the 2015 U.S. Transgender Survey* 178 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (last accessed Dec. 19, 2018). The community in and around Shawnee is small and Ms. Doe is currently living in an off-campus rental. Based on the 2010 Census, Portsmouth is home to approximately 20,000 people, in a county of about 80,000 people. Census Information, City of Portsmouth, Ohio, <http://portsmouthoh.org/about/census> (last visited Dec. 19, 2018). Given the size of the rental

¹⁰ See, e.g., Dan Shaprio, Comment to *Professor In Ohio Sues Over Transgender Pronoun Flap*, Hot Air (Nov. 25, 2018, 2:01 PM), <https://hotair.com/archives/2018/11/25/professor-ohio-sues-transgender-pronoun-flap/> (last accessed Dec. 23, 2018) (“The ‘student’ needs a swift kick in the ass.”); Aleric, Comment to *Professor Sues University After Order to Use Transgender Pronouns*, Brietbart (Nov. 7, 2018), <https://www.brietbart.com/border/2018/11/07/professor-sues-university-after-order-to-use-transgender-pronouns/> (last accessed Dec. 23, 2018) (“I would have slapped the little manbytch to the ground had he gotten in my face. NO ONE not even the government will tell me what to say or how to say it.”)

market, and the community, having her identity publicly known could interfere with her ability to live off campus or remain in the Portsmouth area after graduation.

Ms. Doe has similar concerns about her employment prospects after graduation. That same survey found that the unemployment rate within the transgender community is fifteen percent, which is three times the national average. James, et al., *Transgender Survey* at 141. That survey also revealed that transgender people experience significant levels of harassment, mistreatment, and discrimination while at work, including verbal harassment, denial of advancement opportunity, and termination. *Id.* at 147-55. Not only may Ms. Doe encounter discrimination because she is transgender, but she might encounter additional discrimination if a Google search of her reveals Internet commenters publicly attacking and harassing her on websites like RushLimbaugh.com and Breitbart. Thus, the ability to proceed pseudonymously is critical to Ms. Doe's continued privacy interests and her short- and long-term health and wellbeing.

Denying Ms. Doe's request to proceed pseudonymously would also have the paradoxical effect of destroying the very interest she seeks to vindicate via her intervention. Courts have consistently permitted parties asserting privacy claims to proceed pseudonymously.¹¹ Here, Ms. Doe is intervening in order to defend a university policy that protects her privacy by preventing professors from "outing" her as transgender in class. Forcing her to proceed via her real name would defeat the purpose of that intervention by breaching her privacy not only to her classmates

¹¹ See *U.S. Dep't of Justice v. Utah Dep't of Commerce*, Case No. 2:16-cv-611-DN-DBP, 2017 WL 963203, *1 (D. Utah Mar. 20, 2017); *M.J. v. Jacksonville Hous. Auth.*, No. 3:11-cv-771-J-37MCR, 2011 WL 4031099, *3 (M.D. Fla. Sept. 12, 2011); *Doe v. Alaska*, No. 96-35873, 1997 WL 547941, *1 (9th Cir. Aug. 9, 1997); *Lindsey v. Dayton-Hudson Corp.*, 592 F.2d 1118, 1125 (10th Cir. 1979); *M.S. v. Wermers*, 557 F.2d 170, 176 (8th Cir. 1977); *Roe v. Ingraham*, 364 F. Supp. 536, 541 (S.D.N.Y. 1973).

and peers, but to the entire world. The only way for Ms. Doe to meaningfully protect her interest in privacy is to proceed pseudonymously.

No party will be prejudiced by Ms. Doe proceeding under a pseudonym. All the parties involved in this case knew Ms. Doe's true identity prior to the filing of this lawsuit, and there will be no hindrance to fact-gathering, discovery, or the ability to raise legal arguments. This case in no way turns on Ms. Doe's specific identity. To the extent that any party to this litigation needs to file a document that contains Ms. Doe's name, the party can publicly file a redacted version of the document and file the unredacted document under seal.

II. The Complaint's Disclosure of Ms. Doe's Identity Does Not Moot Ms. Doe's Request.

Regrettably, Professor Meriwether has already breached Ms. Doe's privacy by publishing her name in the publicly filed complaint and exhibits. This was unnecessary and inappropriate. Ms. Doe was never asked, and did not consent, to her name being used publicly. She is not openly transgender and is not a public figure. While Ms. Doe has disclosed her transgender status to a few trusted peers and administrators, she has done so on her own terms. She is not "out" as a transgender woman to everyone, and Professor Meriwether had absolutely no need to "out" her in the complaint. Using "Doe" or "Student A" rather than Ms. Doe's real name, and redacting her name from the exhibits, would not have prejudiced Professor Meriwether in any way whatsoever.

The fact that Professor Meriwether improperly published Ms. Doe's name does not render this sealing request moot. An order granting Ms. Doe's right to proceed pseudonymously would not "restore the secrecy that has already been lost" but could "grant partial relief by preventing further disclosure." *United States v. Sells Eng'g, Inc.*, 463 U.S. 418, 422 n. 6 (1983); *see United States v. Smith*, 123 F.3d 140, 155 (3d Cir. 1997) ("Although the district court could not prevent the newspapers from publishing the sentencing memorandum once they came into possession of

it, the court properly prevented further government disclosures Even if the dissemination by members of the public continues, the order . . . will at least narrow that dissemination.”). Future filings in this case may receive widespread publicity—and the publicity will be even greater if the case goes to the Sixth Circuit or Supreme Court. If Ms. Doe is permitted to proceed pseudonymously from this point forward, future filings—and news articles commenting on those future filings—will not reveal her full name. Thus, an order allowing Ms. Doe to proceed pseudonymously will benefit Ms. Doe by narrowing the dissemination of Ms. Doe’s name.

III. The Court should remove the complaint and exhibits from PACER, and direct Professor Meriwether to refile redacted versions.

If the Court grants Ms. Doe’s motion to proceed pseudonymously, it should also remove the complaint and exhibits from the public docket, and direct Professor Meriwether’s counsel to refile those documents with Ms. Doe’s name removed (either redacted or replaced with a pseudonym). Courts have broad discretion to remove publicly filed documents that improperly reveal confidential information. *See, e.g., Zwerin v. 533 Short North LLC*, 568 F. App’x 374, 375 (6th Cir. 2014) (“With respect to the third alleged breach, in which the plaintiffs again wrongfully uploaded the confidential agreement to the electronic docket, the district court did not abuse its discretion by providing tailored relief in the form of an order to the clerk to remove the document from the docket and place it under seal.”); *Brown & Williamson Tobacco Co. v. FTC*, 710 F.2d 1165, 1177 (6th Cir. 1983) (quoting *Nixon v. Warner Comms., Inc.*, 435 U.S. 589, 598 (1978)) (the public can be denied access to court files that “might have become a vehicle for improper purposes.”) For instance, in *Nazih v. Café Istanbul of Columbus, LLC*, No. 2:17-cv-947, 2018 WL 4334613 (S.D. Ohio Sept. 11, 2018), a party improperly filed an exhibit that published the names of certain employees. The court issued the following order:

“[T]he Clerk of Courts is hereby **DIRECTED** to remove Document Number 11 from the public docket. Defendants are **DIRECTED** to re-file their Memorandum in Opposition to Plaintiff’s Motion to Conditionally Certify an FLSA Collective Action and to Authorize Notice (ECF No. 11) without the Annual Reconciliations exhibit, pages 9-14 (PAGE ID # 130-135). Defendants are further **DIRECTED** to re-file one copy of Annual Reconciliations Exhibit (pages 9-14) as is **UNDER SEAL**, and file one copy with the names of all employees other than Mr. Nazih and Mr. Bouhajra **REDACTED** within **SEVEN (7) DAYS** from the date of this Order.”

Id. at *7. Here, if the Court concludes that Ms. Doe should be permitted to proceed pseudonymously, it should issue a similar order ensuring that Ms. Doe’s name is not publicly revealed on the public docket.

CONCLUSION

For the foregoing reasons, Jane Doe respectfully requests that this Court GRANT her Motion to Proceed Pseudonymously. In addition, the Court should remove the complaint and exhibits from the public docket and direct Professor Meriwether to refile redacted versions.

Dated: December 24, 2018

Respectfully submitted,

/s/ Jennifer L. Branch

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*Attorneys for JANE DOE and SEXUALITY AND
GENDER ACCEPTANCE*

CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2018, a copy of the foregoing pleading, including Jane Doe's Brief and Declaration in Support of the Motion to Proceed Pseudonymously, was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Jennifer L. Branch
Attorney for Defendant-Intervenors

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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NICHOLAS K. MERIWETHER,	:	
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Plaintiff,	:	
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THE TRUSTEES OF SHAWNEE STATE	:	Magistrate Judge Karen L. Litkovitz
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	:	
Defendants.	:	
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**DECLARATION OF JANE DOE IN SUPPORT OF
MOTION TO PROCEED PSEUDONYMOUSLY**

I, Jane Doe, under penalty of perjury, hereby state as follows:

1. I am a transgender woman and the student referred to in Professor Meriwether’s complaint against Shawnee State University. I have personal knowledge of the matters stated in this declaration, and, if called as a witness, could and would competently testify to these facts.

2. Being transgender is an important part of who I am, but it is an aspect of my identity that keep private. Disclosing that information reveals highly personal information about me and my medical history. As a result, I am very selective about to whom I share that information and have taken steps to prevent that information from being public.

3. My privacy was one of the reasons that I delayed my return to Shawnee until 2017. I needed that time to obtain the transition-related care that would allow me to correct my identity documents and provide me with the choice to disclose my transgender status, if at all. Having corrected identity documents, for example, allowed me to enroll at Shawnee as female and now all my student records and identification list me as female.

4. Since starting at Shawnee, I have voluntarily disclosed my transgender status to only a few close friends and a couple of administrators at Shawnee. When I disclose my transgender status, I do so on my own terms, in a way I feel comfortable, to others I feel comfortable speaking to. Each time I shared that information, I made sure to share it with people I trusted would treat my transgender status as private information and would not share it with anyone else without my permission.

5. Despite having the opportunity, I am not “out” as transgender to the entire world. I have chosen not to speak openly or publicly about my transgender status.

6. When Professor Meriwether refused to use female honorifics and pronouns to refer to me, he interfered with my ability to keep my transgender status private. By treating me differently than the other females in the class, Professor Meriwether signaled to those around me that I am not female; this was particularly true when he incorrectly referred to me using male honorifics and pronouns.

7. As noted in greater detail in the accompanying motion to intervene and my declaration in support of that motion, Professor Meriwether’s insistence on treating me differently than all the other female students caused me significant psychological distress. I felt the effects of that added strain both in his class and in other aspects of my life from my general mental health to my relationships with friends.

8. Professor Meriwether’s class continues to cause me anxiety because I do not know how many of my peers and others in the Shawnee community know that I am transgender because of Professor Meriwether’s mistreatment.

9. Although that anxiety had been lessening over the past few months, I was shocked when I learned that Professor Meriwether had publicly named me in a complaint. I am a private

citizen. I never agreed to have my name publicly disclosed. Seeing my name used unnecessarily in a complaint brought back the emotional distress I experienced following Professor Meriwether's prior conduct, but this time it was much worse. Not only do I have worry again about my peers and others at Shawnee finding out that I am transgender, but now I also have think about the potential that future employers, future landlords, acquaintances, and others may know private, intimate details about my life that I would not have otherwise disclosed.

10. Those private details are not limited to the fact that I am transgender. As this litigation progresses, additional information about the treatments I have received for gender dysphoria may also become part of this litigation. Those treatments are also sensitive and private information. Like my transgender status, I intentionally keep that information private and often do not discuss that information even with people who know that I am transgender.

11. Proceeding under a pseudonym and preventing further disclosure of my identity to the public through this litigation will help reduce my psychological distress and worries about being discriminated against or mistreated for being transgender so that I can continue focusing on my academics and social life, like the other students at Shawnee.

This declaration was executed on this 21 day of December, 2018, in Scioto County, Ohio.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Jane Doe

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Jane Doe 21 December 2018
Jane Doe