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11 *Attorneys for Plaintiffs*

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13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent  
16 and next friend Lizette Trujillo; Jane Doe, a  
17 minor, by and through her parent and next  
18 friend Susan Doe; and Helen Roe, a minor,  
by and through her parent and next friend  
Megan Roe,

19 Plaintiffs,

20 v.

21 Dr. Cara M. Christ, in her official capacity  
as State Registrar of Vital Records and  
22 Director of the State of Arizona’s  
Department of Health Services; Thomas  
23 Salow, in his official capacity as Branch  
Chief of the State of Arizona’s Division of  
24 Public Health Licensing Services at the  
Department of Health Services; and Krystal  
25 Colburn, in her official capacity as Bureau  
Chief and Assistant State Registrar of the  
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.  
28

Case No. 4:20-cv-484-JAS

**JANE DOE’S MOTION TO SEAL  
DOCUMENTS LODGED IN SUPPORT OF  
HER MOTION FOR PRELIMINARY  
INJUNCTION**

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1 **I. INTRODUCTION**

2 Plaintiff Jane Doe moves to seal a confidential medical note written by her mental  
3 health provider and several photographs of her and her family, which she seeks to submit  
4 in support of her Motion for Preliminary Injunction. (Doc. 3.)<sup>1</sup> Jane and her co-plaintiff,  
5 Helen Roe, also filed a Motion to Proceed Under a Pseudonym (“Doe Motion”), which  
6 sought permission from the Court to proceed anonymously in order to protect their privacy  
7 and allow them to vindicate their rights without exposing them to harassment, injury,  
8 ridicule, or personal embarrassment. (Doc. 2.) The Court granted the Doe Motion in an  
9 Order that it issued yesterday. (Doc. 8 at 2.)

10 Although the public has a presumptive right of access to court records, there are  
11 compelling reasons to seal these documents. *First*, the medical note reveals intimate  
12 details about Jane’s physical and mental health that she shared with her mental health  
13 provider during confidential counseling sessions. As courts in this district and throughout  
14 the Ninth Circuit have recognized, the need to protect a party’s sensitive medical  
15 information is a compelling reason to seal otherwise public court records, even when that  
16 party’s medical condition is at issue. *Second*, public disclosure of the medical note and  
17 the photographs of Jane and her family would jeopardize her anonymity, exposing her to  
18 the exact mental health ramifications she seeks to avoid by challenging A.R.S. § 36-  
19 337(A)(3) and A.A.C. R9-19-208(O), and defeating the purpose of allowing her to proceed  
20 anonymously in this litigation.

21 If filed publicly, the medical note and photographs would expose Jane’s true identity,  
22 invade her privacy, expose her to harassment, injury, ridicule, or personal embarrassment,  
23 and defeat the purpose of the Doe Motion and the lawsuit generally. Because the reasons  
24 to seal these documents are compelling and plainly outweigh the public’s minimal interest  
25 in accessing them, Jane’s motion to seal should be granted.

26 \_\_\_\_\_  
27 <sup>1</sup> Counsel for Plaintiffs conferred with attorneys at the State of Arizona Attorney General’s  
28 office to request Defendants’ position on this Motion. Defendants declined to take a  
position until they can view the documents. To that end, the parties agreed to promptly  
negotiate and submit to the Court a protective order that will enable Plaintiffs to share the  
Goodman Note and Doe Photos with Defendants.

1 **II. DOCUMENTS LODGED WITH THE COURT**

2 Jane seeks an order to seal the following documents, each of which has been lodged  
3 with the Court in accordance with Local Rule 5.6(c):

- 4 (i) Photographs of Jane Doe and her family (“Doe Photos”), filed as **Exhibit A**  
5 to the Declaration of Susan Doe (“Susan Doe Declaration”) (Doc. 3-6); and  
6 (ii) A medical note from Jane Doe’s confidential medical records that was  
7 written by her treating mental health provider, Patrick Goodman (“Goodman  
8 Note”), filed as **Exhibit B** to the Susan Doe Declaration.

9 **III. ARGUMENT**

10 **A. Legal standard**

11 Under the local rules of this district, the Court may order the sealing of any document  
12 pursuant to a motion. *See* LRCiv. 5.6(b). Although there is a strong presumption that the  
13 public has a right to inspect court filings, “access to judicial records is not absolute.”  
14 *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). To overcome  
15 the presumption of public access, a party seeking to file documents under seal must provide  
16 “sufficiently compelling reasons for doing so.” *Foltz v. State Farm Mutual Auto Ins. Co.*,  
17 331 F.3d 1122, 1135 (9th Cir. 2003); *see also* *Ctr. for Auto Safety v. Chrysler Grp., LLC*,  
18 809 F.3d. 1092, 1103 (9th Cir. 2016) (remanding to trial court with instructions to apply  
19 “compelling reasons” standard to sealing request made in connection with a preliminary  
20 injunction motion). The court must then “conscientiously balance[]” the public’s interest  
21 and the interest of the party seeking to file under seal. *Foltz*, 331 F.3d at 1135.

22 “What constitutes a ‘compelling reason’ is ‘best left to the sound discretion of the  
23 trial court.’” *Ctr. for Auto Safety*, 809 F.3d at 1097 (quoting *Nixon v. Warner Commc’ns,*  
24 *Inc.*, 435 U.S. 589, 599 (1978)). “In general, ‘compelling reasons’ sufficient to outweigh  
25 the public’s interest in disclosure and justify sealing court records exist when such ‘court  
26 files might have become a vehicle for improper purposes,’ such as the use of records to  
27 gratify private spite, promote public scandal, circulate libelous statements, or release trade  
28 secrets.” *Kamakana*, 447 F.3d at 1179 (quoting *Nixon*, 435 U.S. at 598).

1           **B. Protecting Jane’s private medical information is a compelling reason to**  
2           **seal the Goodman Note**

3           Jane does not seek to hide from public view her gender dysphoria diagnoses or the  
4           harm caused by the challenged statute to her mental health and well-being. Indeed, the  
5           Complaint openly alleges numerous intimate details about her mental health; for example,  
6           it describes the physical manifestations of her anxiety caused by the teasing and bullying  
7           she suffered at school. (Compl., Doc. 1, ¶¶ 60–70.) She agrees that this information should  
8           be part of the public record.

9           But not all information is public. Jane seeks to seal the detailed, underlying medical  
10          information contained in the Goodman Note, such as the specific results of a “mental status  
11          exam,” which is not necessary to the public’s understanding of the lawsuit. The Goodman  
12          Note is therefore properly subject to a sealing order by the Court. *See Kamakana*, 447 F.3d  
13          at 1186-87 (affirming trial court decision to keep medical records sealed); *Lombardi v. Tri*  
14          *West Healthcare Alliance Corp.*, No. 08-cv-02381, 2009 WL 1212170, at \*1 (D. Ariz. May  
15          4, 2009) (granting motion to seal documents containing “sensitive personal and medical  
16          information”) (citing *Kamakana*, 447 F.3d at 1179); *see also Gary v. Unum Life Ins. Co. of*  
17          *Am.*, 17-cv-01414, 2018 WL 1811470, at \*3 (D.Or. Apr. 17, 2018) (collecting Ninth Circuit  
18          cases); *San Ramon Reg’l Med. Ctr., Inc. v. Principal Life Ins. Co.*, No. C 10–02258, 2011  
19          WL 89931, at \*1 n.1 (N.D. Cal. Jan. 10, 2011) (same).

20          **C. Protecting Jane’s anonymity is a compelling reason to seal the Goodman**  
21          **Note and Doe Photos**

22          Jane’s interest in remaining anonymous is an independent “compelling reason” to  
23          seal documents that would otherwise be part of the public record. She sought in the Doe  
24          Motion, and the Court granted her request, to proceed under a pseudonym so that she will  
25          not be “outed” as transgender to the public, which could have severe ramifications for her  
26          mental health and well-being. *See Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No.*  
27          *I Bd. of Educ.*, 858 F.3d 1034, 1051 (7th Cir. 2017) (“There is no denying that transgender  
28          individuals face discrimination, harassment, and violence because of their gender

1 identity.”); *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327, 333 (D.P.R. 2018)  
 2 (finding that forcing transgender people “to disclose their transgender status . . . . exposes  
 3 [them] to a substantial risk of stigma, discrimination, intimidation, violence, and danger.”).  
 4 Protecting the anonymity of minor litigants, particularly when they have moved to proceed  
 5 under pseudonyms, is a compelling reason to seal documents because the “privacy interest  
 6 is both precious and fragile.” *Doe v. Blue Cross & Blue Shield of R.I.*, 794 F. Supp. 72, 74  
 7 (D.R.I. 1992). Additionally, courts have recognized that minors are uniquely vulnerable to  
 8 the potential harm caused by disclosure of identity. *See, e.g., Al Otro Lado, Inc. v. Nielsen*,  
 9 No. 17-CV-02366, 2017 WL 6541446, at \*5 (S.D. Cal. Dec. 2017) (“[C]hild-plaintiffs are  
 10 deemed to be especially vulnerable, warranting their anonymity.”).

11 As alleged in the Complaint, Jane has already experienced significant harassment  
 12 and mistreatment that has harmed her mental health and compromised her physical safety.  
 13 (Compl., Doc. 1, ¶¶ 65–66; *see also* Declaration of Jane Doe, Doc. 3–5, ¶¶ 4–9.) The  
 14 Goodman Note and Doe Photos, if filed publicly, would exacerbate those harms. For  
 15 example, the Goodman Note contains identifying information about Jane, including her  
 16 birth name and the name she currently uses. And the therapist’s narrative in the Goodman  
 17 Note is highly personal and could reveal Jane’s real identity. Finally, for obvious reasons,  
 18 photos of Jane and her family would identify them publicly. These documents should be  
 19 sealed to protect Jane’s identity and forestall the risk of further harm during this case.

20 **D. Protecting Jane’s private medical information and anonymity**  
 21 **outweighs the public’s right of access**

22 Courts have long recognized—and Jane does not dispute—that the public has a  
 23 general right to access court filings. But the public has no articulable need to know the  
 24 specific contents of Jane’s confidential medical records or the intimate details of  
 25 conversations that she had in confidence with her mental health provider. They also have  
 26 no legitimate interest in knowing her identity, especially given that she is a minor. None of  
 27 this information would assist the public in understanding the litigation, and courts  
 28 throughout this Circuit have treated such information as sufficiently private to outweigh

1 any need for the court filing to be public. *See, e.g., Lombardi*, 2009 WL 1212170, at \*1  
2 (sealing exhibits because these “documents contain sensitive personal and medical  
3 information”), *D.T. ex rel L.T. v. Armstrong*, No. 17-cv-00248, 2017 WL 2636519, at \*2–  
4 3 (D. Idaho June 16, 2017) (finding child’s privacy interest outweighed public interest in  
5 access where exhibits contain child’s private medical information, including diagnostic and  
6 medical opinions). Here, Jane is a very young child who seeks to seal information of the  
7 utmost intimacy. On balance, no public interest would justify its disclosure.

8 **IV. CONCLUSION**

9 For the foregoing reasons, Jane Doe respectfully requests that this Court grant her  
10 Motion to Seal Documents Filed in Support of Her Motion for Preliminary Injunction.

11 Respectfully submitted,

12 Dated: November 5, 2020

OSBORN MALEDON, P.A.

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

D.T., a minor, by and through his parent and next friend Lizette Trujillo; Jane Doe, a minor, by and through her parent and next friend Susan Doe; and Helen Roe, a minor, by and through her parent and next friend Megan Roe,

Plaintiffs,

v.

Dr. Cara M. Christ, in her official capacity as State Registrar of Vital Records and Director of the Arizona Department of Health Services; Thomas Salow, in his official capacity as Branch Chief of the Division of Public Health Licensing Services at the Arizona Department of Health Services; and Krystal Colburn, in her official capacity as Bureau Chief and Assistant State Registrar of the Bureau of Vital Records at the Arizona Department of Health Services,

Defendants.

Case No.

**PROPOSED ORDER GRANTING JANE  
DOE’S MOTION TO SEAL DOCUMENTS  
LODGED IN SUPPORT OF HER MOTION  
FOR PRELIMINARY INJUNCTION**

Having considered Jane Doe’s Motion to Seal Documents Lodged in Support of Her Motion for Preliminary Injunction (“Motion”), and finding good cause,

**IT IS HEREBY ORDERED:**

The Motion is **GRANTED**;

1. The following documents that have been lodged with the Court shall be sealed in their entirety: Exhibits A and B to the Declaration of Susan Doe in Support of

1 Jane Doe’s Motion for Preliminary Injunction and Jane Doe and Helen Roe’s Motion to  
2 Proceed Under a Pseudonym.

3 2. The Clerk’s Office shall file this Order to Seal and secure the lodged versions  
4 of the foregoing documents from public access.

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6 **IT IS SO ORDERED.**

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