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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

**PLAINTIFFS’ UNOPPOSED MOTION TO
SEAL DOCUMENT LODGED IN SUPPORT
OF JANE DOE’S MOTION FOR
PRELIMINARY INJUNCTION**

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1 **I. INTRODUCTION**

2 Plaintiffs move to seal a court order from the Arizona Superior Court of Pima
3 County arising from Plaintiff D.T.’s petition to change his name and the sex listed on his
4 birth certificate. Declaration of Lizette Trujillo, Exhibit A (“D.T. Order”). Plaintiffs seek
5 to submit the D.T. Order with Jane Doe’s Reply in support of her Motion for Preliminary
6 Injunction (Doc. 3). Defendants do not oppose this Motion to Seal.¹

7 Although the public has a presumptive right of access to court records, there are
8 compelling reasons to seal the D.T. Order. This document was previously sealed by order
9 of the Arizona Superior Court of Pima County. And, if filed publicly, the D.T. Order
10 would defeat the purpose of the requirement in Federal Rule of Civil Procedure 5.2 that he
11 proceed in this litigation using only his initials, and would further reveal D.T.’s identity,
12 invade his privacy, and expose him to harassment, injury, ridicule, or personal
13 embarrassment, the exact mental health ramifications he seeks to avoid by challenging
14 A.R.S. § 36-337(A)(3) and A.A.C. R9-19-208(O). The reasons to seal the D.T. Order are
15 compelling and outweigh the public’s minimal interest in accessing it, and the Court
16 granted Jane Doe’s Motion to Seal on similar grounds. Doc. 17. It should also grant this
17 unopposed Motion.

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

19 Plaintiffs seek an order to seal a court order issued by the Arizona Superior Court
20 of Pima County arising from Plaintiff D.T.’s petition to change his name and the gender-
21 marker listed on his birth certificate, attached as **Exhibit A** to the Declaration of Lizette
22 Trujillo (“Trujillo Declaration”). Doc. 30-4. The D.T. Order has been lodged with this
23 Court in accordance with Local Rule 5.6(c).

24 **III. ARGUMENT**

25 **A. Legal standard**

26 Under the local rules of this district, the Court may order the sealing of any document
27

28 ¹ Counsel for Plaintiffs conferred with attorneys at the State of Arizona Attorney General’s
office, who stated that Defendants do not oppose this Motion.

1 pursuant to a motion. *See* LRCiv. 5.6(b). Although there is a strong presumption that the
2 public has a right to inspect court filings, “access to judicial records is not absolute.”
3 *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). To overcome
4 the presumption of public access, a party seeking to file documents under seal must provide
5 “sufficiently compelling reasons for doing so.” *Foltz v. State Farm Mutual Auto Ins. Co.*,
6 331 F.3d 1122, 1135 (9th Cir. 2003); *see also* *Ctr. for Auto Safety v. Chrysler Grp., LLC*,
7 809 F.3d. 1092, 1103 (9th Cir. 2016) (remanding to trial court with instructions to apply
8 “compelling reasons” standard to sealing request made in connection with a preliminary
9 injunction motion). The court must then “conscientiously balance[]” the public’s interest
10 and the interest of the party seeking to file under seal. *Foltz*, 331 F.3d at 1135.

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

18 **B. Protecting D.T.’s identity is a compelling reason to seal the D.T. Order.**

19 D.T.’s interest in preventing information that could be used to identify him from
20 public disclosure is a “compelling reason” to seal documents that would otherwise be part
21 of the public record. Under Rule 5.2, “the U.S. District Court for the District of Arizona
22 [requires that] personal identifiers such as names of minor children must be either excluded
23 or partially redacted from the Complaint” and “[o]nly the minor’s initials may be used in
24 court filings.” *Daschke v. Hartenstein*, No. 17-CV-00456, 2018 WL 3619956, at *2 (D.
25 Ariz. July 30, 2018); *see also* *Buccheri-Bianca v. Ryan*, No. 15-CV-00229, 2017 WL
26 5905642, at *1 n.1 (D. Ariz. Nov. 1, 2017) (“In accordance with Fed. R. Civ. P. 5.2(a) . . .
27 , this Court refers to the children by their first initials.”). Preventing disclosure of D.T.’s
28 identity serves the additional purpose of ensuring that he will not be “outed” as transgender

1 to the public, which could have severe ramifications for his mental health and well-being.
2 *See Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034,
3 1051 (7th Cir. 2017) (“There is no denying that transgender individuals face discrimination,
4 harassment, and violence because of their gender identity.”); *Arroyo Gonzalez v. Rossello*
5 *Nevaras*, 305 F. Supp. 3d 327, 333 (D.P.R. 2018) (finding that forcing transgender people
6 “to disclose their transgender status exposes [them] to a substantial risk of stigma,
7 discrimination, intimidation, violence, and danger”).

8 Protecting the identities of minor litigants is a compelling reason to seal documents
9 because the “privacy interest is both precious and fragile.” *Doe v. Blue Cross & Blue Shield*
10 *of R.I.*, 794 F. Supp. 72, 74 (D.R.I. 1992). Courts also recognize that minors are uniquely
11 vulnerable to the potential harm caused by disclosure of identity. *See, e.g., Al Otro Lado,*
12 *Inc. v. Nielsen*, No. 17-CV-02366, 2017 WL 6541446, at *5 (S.D. Cal. Dec. 2017)
13 (“[C]hild-plaintiffs are deemed to be especially vulnerable, warranting their anonymity.”).

14 As alleged in the Complaint, D.T. has already experienced significant harassment
15 and mistreatment that has harmed his mental health and compromised his physical safety.
16 (Compl., Doc. 1, ¶¶ 55–58; *see also* Trujillo Decl. ¶¶ 12–14.) The D.T. Order, if filed
17 publicly, would exacerbate those harms because it contains identifying information about
18 D.T., including his birth name, the name he currently uses, and his birth date. It should be
19 sealed to protect D.T.’s identity and forestall the risk of further harm during this case.

20 **C. Protecting D.T.’s identity outweighs the public’s right of access.**

21 Courts have long recognized—and Plaintiffs do not dispute—that the public has a
22 general right to access court filings. But that right is diminished here where the Arizona
23 Superior Court of Pima County already sealed the document D.T. seeks to seal before this
24 Court. Further, the public has no articulable need to know D.T.’s identity, especially given
25 that he is a minor. Knowing his identity would not assist the public in understanding the
26 litigation, and courts throughout this Circuit have treated such information as sufficiently
27 private to outweigh any need for the court filing to be public. *See, e.g., Dashke*, 2018 WL
28 3619956 (noting submission “contains the minors’ full names” and thus “the Court will

1 direct the Clerk to seal the document”). Here, D.T. is a child who seeks to seal information
2 revealing his identity. On balance, no public interest would justify its disclosure.

3 **IV. CONCLUSION**

4 Plaintiffs respectfully request that the Court grant this unopposed Motion to Seal.

5 Respectfully submitted,

6 Dated: November 22, 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. 4:20-cv-484-JAS

[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION TO SEAL DOCUMENT LODGED IN SUPPORT OF JANE DOE'S MOTION FOR PRELIMINARY INJUNCTION

Having considered Plaintiffs' Unopposed Motion to Seal Documents Lodged in Support of Jane Doe's Motion for Preliminary Injunction ("the Motion") (Doc. 31),

IT IS HEREBY ORDERED:

The Motion is **GRANTED**;

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1. Exhibit A to the Declaration of Lizette Trujillo in Support of Jane Doe’s Motion for Preliminary Injunction, Doc. 30-4, which has been lodged with the Court, shall be sealed in its entirety.

2. The Clerk’s Office shall file this Order to Seal and secure the lodged version of the foregoing document from public access.

IT IS SO ORDERED.