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12
13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent and
next friend Lizette Trujillo; Jane Doe, a
16 minor, by and through her parent and next
friend Susan Doe; Helen Roe, a minor, by
17 and through her parent and next friend
Megan Roe; James Poe, a minor by and
18 though his parent and next friend Laura Poe;
and Carl Voe, a minor by and though his
19 parent and next friend Rachel Voe,

20 Plaintiffs,

21 v.

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

28 Defendants.

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

**JAMES POE AND CARL VOE’S
CONSENT MOTION TO PROCEED
UNDER A PSEUDONYM**

Judge: Hon. James A. Soto

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1 **I. INTRODUCTION**

2 Pursuant to Federal Rule of Civil Procedure 5.2(e), Plaintiffs James Poe and
3 Carl Voe, by and through their respective parents, Laura Poe and Rachel Voe, request this
4 Court’s leave to proceed using pseudonyms for themselves and their parents to protect their
5 identities from public disclosure. Plaintiffs met and conferred with Defendants, who agreed
6 in writing that James, Carl, Laura, and Rachel should be allowed to proceed using
7 pseudonyms in this case. Additionally, the Court previously granted a similar motion for
8 Plaintiffs Jane Doe and Helen Roe, as well as their mothers, Susan Doe and Megan Roe.
9 (Doc. 8 at 2.) For those reasons, and as outlined below, the Court should grant this motion.

10 James and Carl meet each element of the Ninth Circuit’s standard for allowing a
11 plaintiff to proceed anonymously. Because James and Carl are especially vulnerable to
12 severe harm if required to disclose their identities, their “need for anonymity outweighs”
13 any “prejudice to the opposing party” caused by allowing them to proceed anonymously
14 and “the public’s interest in knowing” their identity. *Publius v. Boyer-Vine*, 321 F.R.D.
15 358, 361 (E.D. Cal. 2017).

16 **II. ARGUMENT**

17 The Ninth Circuit permits “parties to use pseudonyms . . . when nondisclosure of the
18 party’s identity is necessary to protect a person from harassment, injury, ridicule or personal
19 embarrassment.” *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067–68
20 (9th Cir. 2000) (cleaned up). Whether to permit a party to proceed under a pseudonym
21 requires balancing three factors—“(1) the severity of the threatened harm; (2) the
22 reasonableness of the anonymous party’s fears; and (3) the anonymous party’s vulnerability
23 to such retaliation”—against “the general presumption that parties’ identities are public
24 information.” *Doe v. Ayers*, 789 F.3d 944, 945 (9th Cir. 2015) (quoting *Advanced Textile*
25 *Corp.*, 214 F.3d at 1068). “Applying this balancing test, courts have permitted plaintiffs to
26 use pseudonyms . . . when identification creates a risk of retaliatory physical or mental
27 harm” or “when anonymity is necessary to preserve privacy in a matter of sensitive and
28 highly personal nature.” *Advanced Textile Corp.*, 214 F.3d at 1068 (citation omitted).

1
2 “[W]hen the party’s need for anonymity outweighs prejudice to the opposing party
3 and the public’s interest in knowing the party’s identity,” that party may proceed
4 anonymously. *Publius*, 321 F.R.D. at 361. “The decision of whether or not to allow a party
5 to remain anonymous is within” a district court’s “discretion and will not be reversed unless
6 the [district c]ourt relies on an erroneous view of the law, makes an erroneous assessment
7 of the evidence, or strikes an unreasonable balance of the relevant factors.” *Id.*

8 Here, James and Carl reasonably fear severe harm in the form of lost privacy,
9 discrimination, and harassment if forced to publicly disclose their names and consequently
10 their transgender identity as part of this litigation. That disclosure would also undermine
11 the very constitutional interests they seek to safeguard through this litigation. They are
12 particularly vulnerable to this type of harm as transgender youth. Defendants will suffer no
13 prejudice by allowing James and Carl to proceed anonymously because they do not intend
14 to withhold their identities from Defendants (which will be disclosed under the protective
15 order entered by the Court (Doc. 25)) or the Court (which may be disclosed in sealed
16 submissions), and allowing them to proceed anonymously is in the public interest. As such,
17 the Court should exercise its discretion to grant James and Carl, and their parents Laura Poe
18 and Rachel Voe, leave to proceed under pseudonyms.¹

19 **A. James Poe and Carl Voe reasonably fear severe harm if their identities**
20 **were to become public.**

21 “In order to proceed anonymously, a plaintiff must show both (1) a fear of severe
22 harm, and (2) that the fear of severe harm is reasonable.” *Doe v. Kamehameha Sch./Bernice*
23 *Pauahi Bishop Estate*, 596 F.3d 1036, 1043 (9th Cir. 2010); *see also id.* (noting that these
24 two showings are “intricately related and should be addressed together”). A harm is
25

26 ¹ The Court should also grant Laura Poe and Rachel Voe leave to proceed under
27 pseudonyms because identifying them would inexorably expose the identities of their
28 children. Therefore, Ms. Poe and Ms. Voe should remain anonymous for the same reasons
that their sons, James and Carl, warrant the protection of pseudonyms. *See Doe ex rel.*
Doe 2 v. Elmbrook Sch. Dist., 658 F.3d 710, 724 (7th Cir. 2011), *vacated on other grounds*,
687 F.3d 840, 842–43 (7th Cir. 2012).

1 sufficiently “severe” to allow a plaintiff to proceed anonymously where she “face[s] greater
2 threats of retaliation than the typical [] plaintiff” in civil litigation would. *Advanced Textile*
3 *Corp.*, 214 F.3d at 1070–71 (alterations omitted). The threatened retaliatory harm does not
4 need to be physical in nature. For example, the Ninth Circuit has recognized the loss of
5 privacy “in a matter of [a] sensitive and highly personal nature” as a harm that can
6 necessitate allowing a plaintiff to proceed anonymously. *Id.* at 1068 (quoting
7 *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993)); *see also United States v. Doe*, 655 F.2d
8 920, 922 n.1 (9th Cir. 1980) (“Where it is necessary, however, to protect a person from
9 harassment, . . . ridicule or personal embarrassment, courts have permitted the use of
10 pseudonyms.”). A loss of privacy harm is likely to be especially severe where, as here, the
11 plaintiff is “compelled . . . to disclose information of the utmost intimacy.” *Doe v. Stegall*,
12 653 F.2d 180, 185 (5th Cir. 1981).

13 Courts “have long recognized that the harms arising from disclosing a person’s
14 transgender status are among those that make protection by pseudonym appropriate.”
15 *See, e.g., Doe v. Pa. Dep’t of Corr.*, No. 19-CV-01584, 2019 WL 5683437, at *2 & nn.12–
16 13 (M.D. Pa. Nov. 1, 2019) (collecting cases); *see also Doe v. City of Detroit*,
17 No. 18-CV-11295, 2018 WL 3434345, at *2 (E.D. Mich. July 17, 2018) (“Several courts
18 have held that an individual’s transgender identity can carry enough of a social stigma to
19 overcome the presumption in favor of disclosure.”). This is so because “[t]he excruciatingly
20 private and intimate nature of transsexualism, for persons who wish to preserve privacy in
21 the matter, is really beyond debate.” *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999).
22 Courts also regularly extend this protection to guardians and next kin in cases involving
23 transgender youth. *See, e.g., Highland Local Sch. Dist. v. U.S. Dep’t of Educ.*,
24 No. 2:16 CV-524, 2016 WL 4269080, at *5 (S.D. Ohio Aug. 15, 2016); *Doe v.*
25 *United States*, No. 16-CV-0640-SMY-DGW, 2016 WL 3476313, at *1 (S.D. Ill.
26 June 27, 2016).

27 Requiring James and Carl to disclose their identities as part of this litigation—and,
28 by extension, the fact that they are transgender—will cause severe harm. James has

1 experienced bullying and mistreatment from his peers because he is transgender, which
2 upset and frightened him. (Declaration of Laura Poe (“Laura Decl.”), Doc.48-1, ¶ 9.) His
3 parents are concerned that, if more of his peers or other people discover that James is
4 transgender without his permission, they will mistreat or discriminate against him and
5 thereby harm his well-being. (*Id.* ¶¶ 9–12.) Carl likewise has suffered mistreatment from
6 some classmates. (Declaration of Rachel Voe (“Rachel Decl.”), Doc. 48-2, ¶ 6.) In
7 kindergarten, several of his peers continually asked him if he was a boy or a girl and would
8 not believe him regardless of how he answered, and would not stop even after he repeatedly
9 requested. (*Id.* ¶ 6.) His resulting fear and anxiety caused him to refuse to eat his lunch
10 and avoid using the restroom at school, as well as become angry and defiant at home. (*Id.*
11 ¶¶ 5–7.) His parents are worried that disclosing his identity would further affect his mental
12 and physical health. (*Id.* ¶ 11.)

13 Having to share that they are transgender and the intimate details of their gender
14 dysphoria in the public record will only exacerbate the emotional distress James and Carl
15 already face. (Laura Decl. ¶ 12; Rachel Decl. ¶ 11; Declaration of Dr. Linda Hawkins
16 (“Hawkins Decl.”), Doc. 3-1, ¶¶ 37, 42–47; Declaration of Dr. Daniel Shumer (“Shumer
17 Decl.”), Doc. 3-3, ¶¶ 28, 47.) They also fear the response from their peers and members of
18 the public. (Laura Decl. ¶ 12; Rachel Decl. ¶ 11.)

19 Being a party to this lawsuit will also require James and Carl to disclose private
20 information about their medical and mental health care, amplifying the importance of
21 proceeding under a pseudonym. *See Powell*, 175 F.3d at 111 (recognizing “[t]he
22 excruciatingly private and intimate nature of transsexualism”); *Doe v. Blue Cross & Blue*
23 *Shield of R.I.*, 794 F. Supp. 72, 74 (D.R.I. 1992) (holding transgender “plaintiff’s privacy
24 interest is both precious and fragile, and this [c]ourt will not cavalierly permit its invasion”).
25 Because Arizona requires transgender people to undergo certain types of care as a
26 prerequisite to correcting their birth certification using the private administrative process
27 codified at A.R.S. § 36-337(A)(3)—the statute at issue in this lawsuit—James and Carl
28 must provide evidence that they have not—and cannot—meet that requirement. (Amended

1 Compl., Doc. 47, ¶¶ 5, 46–48; Shumer Decl. ¶ 40; Susan Decl. ¶ 25.) As such, intimate
2 details about their physical and mental health will be in the record and publicly associated
3 with them in perpetuity if they are not allowed to proceed anonymously. In other words,
4 the type of information that will be at issue at this litigation is “of the utmost intimacy,”
5 *Stegall*, 653 F.2d at 185, and thus “anonymity is necessary to preserve privacy in” this
6 matter of a “sensitive and highly personal nature,” *Advanced Textile Corp.*, 214 F.3d
7 at 1068 (quoting *James*, 6 F.3d at 238).

8 Moreover, James and Carl’s fear of lost privacy, discrimination, and harassment is
9 reasonable. As the Seventh Circuit has observed, “[t]here is no denying that transgender
10 individuals face discrimination, harassment, and violence because of their gender identity.”
11 *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034,
12 1051 (7th Cir. 2017); *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327, 333
13 (D.P.R. 2018) (finding that forcing transgender people “to disclose their transgender
14 status exposes [them] to a substantial risk of stigma, discrimination, intimidation,
15 violence, and danger.”). Numerous studies support the *Whitaker* court’s observation. For
16 example, the *Whitaker* court itself cited a 2011 survey which found that “78% of students
17 who identify as transgender or as gender non-conformant[] report being harassed while in
18 grades K-12.” 858 F.3d at 1051 (citing Jaime M. Grant et al., *Injustice at Every Turn: A*
19 *Report of the National Transgender Discrimination Survey*, Nat’l Center for Transgender
20 Equality, at 33 (2011), [http://www.transequality.org/sites/default/files/docs/resources/](http://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf)
21 [NTDS_Report.pdf](http://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf)). Likewise, a 2017 national school climate survey found that more than
22 60% of respondents in Arizona reported verbal harassment based on gender expression and
23 more than a quarter reported experiencing physical harassment and hearing negative
24 remarks about transgender people. GLSEN, *School Climate in Arizona (State Snapshot)*,
25 at 1 (2019), [https://www.glsen.org/sites/default/files/2019-11/Arizona_Snapshot_2017_](https://www.glsen.org/sites/default/files/2019-11/Arizona_Snapshot_2017_2.pdf)
26 [2.pdf](https://www.glsen.org/sites/default/files/2019-11/Arizona_Snapshot_2017_2.pdf); see also, Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey*, at
27 4 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report->
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1 Dec17.pdf (survey of nearly 28,000 transgender individuals from across the United States
2 found “high levels of mistreatment, harassment, and violence in every aspect of life.”).

3 In sum, James and Carl reasonably fear discrimination and harassment directed at
4 them and their families if their identities are disclosed to the public. (Laura Decl. ¶¶ 9–13;
5 Rachel Decl. ¶¶ 5–8, 10–12.) The attendant loss of privacy will also cause James and Carl
6 significant psychological harm and distress if the intimate details of their medical and
7 mental health care are connected to them in publicly available documents. (Hawkins Decl.
8 ¶ 42; Laura Decl. ¶¶ 12–13; Rachel Decl. ¶¶ 11–12.)

9 **B. Transgender youth, like James and Carl, are particularly vulnerable to**
10 **harm from the disclosure of their identities.**

11 “[T]he anonymous party’s vulnerability to” the harm they fear is a third factor a court
12 considers in determining whether proceeding anonymously is appropriate. *Ayers*, 789 F.3d
13 944, 945. James and Carl are particularly vulnerable to the harm they fear for two reasons:
14 their young age and, as discussed above, unlike most litigants, transgender individuals are
15 a target of pervasive harassment and discrimination in our society. *See* Section II.A, *supra*.
16 Recognizing that many state laws “shield[] the identities of child-litigants from public
17 disclosure in certain circumstances, . . . the youth of” plaintiffs is often “a significant factor
18 in the matrix of considerations arguing for anonymity.” *Stegall*, 653 F.2d at 186 (finding
19 the plaintiffs’ youth to be an “especially persuasive” factor justifying anonymity); *see also*
20 *Al Otro Lado, Inc. v. Nielsen*, No. 17-CV-02366-, 2017 WL 6541446, at *5 (S.D. Cal.
21 Dec. 20, 2017) (“[C]hild-plaintiffs are deemed to be especially vulnerable, warranting their
22 anonymity.”). That James and Carl belong to two groups that are particularly vulnerable to
23 harm weighs strongly in favor of anonymity in this case.

24 **C. Proceeding under a pseudonym is essential to safeguarding the rights**
25 **that James and Carl seek to protect in this litigation.**

26 Denying James and Carl’s request to proceed pseudonymously would also have the
27 paradoxical effect of destroying the very constitutional interests they seek to vindicate as
28 plaintiffs in this litigation. Courts have consistently permitted parties asserting privacy

1 claims to proceed pseudonymously. *See, e.g., Doe v. Alaska*, No. 96-35873, 1997 WL
 2 547941, at *1 (9th Cir. Aug. 9, 1997); *U.S. Dep’t of Justice v. Utah Dep’t of Commerce*,
 3 No. 16-cv-611, 2017 WL 963203, at *1 (D. Utah Mar. 20, 2017); *M.J. v. Jacksonville Hous.*
 4 *Auth.*, No. 11-cv-771, 2011 WL 4031099, at *3 (M.D. Fla. Sept. 12, 2011). Here, James
 5 and Carl filed this lawsuit to vindicate their constitutional right to privacy, among other
 6 constitutional rights. (Amended Compl., Doc. 47, ¶¶ 7, 121–44; Laura Decl. ¶¶ 12–13;
 7 Rachel Decl. ¶¶ 11–12.) Forcing them to proceed by their real names would undermine the
 8 relief James and Carl seek through this litigation by disclosing their transgender status—the
 9 very information they are entitled to keep private.

10 **D. Allowing James and Carl to proceed anonymously will not prejudice**
 11 **Defendants and is in the public interest.**

12 Courts must balance the factors in favor of anonymity against the prejudice that a
 13 defendant might suffer as a result and determine whether allowing the plaintiff to proceed
 14 anonymously serves the public interest. *Ayers*, 789 F.3d at 945; *Publius*, 321 F.R.D. at 361.
 15 The defendant’s knowledge of the plaintiff’s identity “lessens” any claims the defendant
 16 can make that it is “prejudiced by the use of pseudonyms.” *Advanced Textile*, 214 F.3d at
 17 1069 n.11, because this knowledge gives a defendant “the information [it] need[s] to defend
 18 against the claims” brought against it, *Al Otro Lado, Inc.*, 2017 WL 6541446, at *6.

19 Additionally, though the public has a “right to open courts,” it also “has an interest
 20 in seeing” cases involving important issues “decided on the merits.” *Kamehameha Sch.*,
 21 596 F.3d at 1042–43 (quoting *Advanced Textile*, 214 F.3d at 1073). In these cases,
 22 “permitting plaintiffs to use pseudonyms” can “serve the public’s interest in th[e] lawsuit
 23 by enabling it to go forward.” *Advanced Textile*, 214 F.3d at 1073. This is especially true
 24 in cases “[w]here a plaintiff attacks governmental activity, for example a governmental
 25 policy or statute,” because “[i]n such circumstances the plaintiff presumably represents a
 26 minority interest (and may be subject to stigmatization), and there is arguably a public
 27 interest in a vindication of his rights.” *EW v. N.Y. Blood Ctr.*, 213 F.R.D. 108, 111
 28 (E.D.N.Y. 2003) (citation omitted).

1 Here, James and Carl do not object to revealing their identity to Defendants under
2 the Protective Order entered by the Court, (Doc. 25), and thereby giving Defendants the
3 information they need to defend against the claims in this suit. As such, Defendants will
4 not be prejudiced if James and Carl are permitted to proceed anonymously. *See Advanced*
5 *Textile*, 214 F.3d at 1069 n.11. Similarly, because James and Carl are challenging Arizona’s
6 requirements for correcting the gender marker on birth certificates that effectively exclude
7 them from obtaining an accurate birth certificate, there is a public interest in the
8 “vindication” of their rights and in seeing this case “decided on the merits.”
9 *See Kamehameha Sch.*, 596 F.3d at 1043; *N.Y. Blood Ctr.*, 213 F.R.D. at 111.

10 **III. CONCLUSION**

11 Because Plaintiffs James Poe and Carl Voe are especially vulnerable to severe harm
12 in the form of “harassment, . . . ridicule or personal embarrassment,” *Advanced Textile*
13 *Corp.*, 214 F.3d at 1067–68, their “need for anonymity outweighs” any “prejudice to the
14 opposing party” or “the public’s interest in knowing” his identity, *Publius*, 321 F.R.D.
15 at 361. The Court should grant them and their parents leave to proceed under pseudonyms.

16
17 Dated: January 8, 2021

Respectfully submitted,
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**JAMES POE AND CARL VOE’S
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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 and
next friend Lizette Trujillo; Jane Doe, a
16 minor, by and through her parent and next
friend Susan Doe; Helen Roe, a minor, by
17 and through her parent and next friend
Megan Roe; James Poe, a minor by and
18 though his parent and next friend Laura Poe;
and Carl Voe, a minor by and though his
19 parent and next friend Rachel Voe,

20 Plaintiffs,

21 v.

22 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
23 Director of the Arizona Department of
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24 official capacity as Branch Chief of the
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25 Services at the Arizona Department of
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26 her official capacity as Bureau Chief and
Assistant State Registrar of the Bureau of
27 Vital Records at the Arizona Department of
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28 Defendants.

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

**DECLARATION OF LAURA POE IN
SUPPORT OF JAMES POE AND
CARL VOE’S MOTION TO PROCEED
UNDER A PSEUDONYM**

Judge: Hon. James A. Soto

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1 I, Laura Poe, declare as follows:

2 1. I am the mother of James Poe, one of the plaintiffs in this case. I have personal
3 knowledge of the matters stated in this declaration.

4 2. Ever since James could express himself, he would find ways to communicate
5 that he is a boy. At first, he started with clothing; both fighting me whenever we attempted
6 to dress him in feminine clothing and choosing to wear boys' clothing for dress up,
7 including converting any girl accessories into boy accessories, most commonly bows for
8 ponytails into a bowtie on the collar of his shirts.

9 3. Not long after, when James started talking more, he consistently referred to
10 himself as a boy. I initially tried to pass those comments off as accidental mistakes young
11 kids often make when they are learning language. But he then would point to me and say
12 "girl," and I knew I could no longer dismiss his words as just a slip of the tongue.

13 4. I had countless conversations with my husband and mother about James's
14 behavior. My mother often reminded me that I was a very strong-willed child, too, and that
15 he must have acquired that gene from me. Not to mention that James's willingness to
16 express his opinions and self-advocate were not qualities that I wanted to discourage in my
17 child, especially when I thought he was a girl. Unsure about what to do, we decided to let
18 James continue to lead and watch as he progressed.

19 5. In 2018, when James was three years old, my husband and I decided not to
20 fight James on clothing. It was emotionally taxing on all of us and did not feel consequential
21 enough to allow it to interfere with James's happiness and comfort. James was beyond
22 excited. That small, and seemingly insignificant, change to our daily routine had a
23 tremendous positive effect on James's attitude and behavior.

24 6. Seeing James flourish simply because we allowed him to wear boys' clothes
25 coupled with his continued insistence that he was a boy, was a clear signal that this was not
26 a phase. We recognized at that point that we needed help from professionals because we
27 had no idea what to expect or how to support James.

28

1 7. We received information and referrals from James’s pediatrician, which
2 helped guide our research and to locate providers that had the expertise to assist us. We
3 started taking James to see Dr. Dr. Richard Muszynski, a psychologist with extensive
4 experience working with transgender children, including those as young as James.

5 8. Based on the advice we got from James’s treating providers, we helped James
6 socially transition. We followed James’s lead and got him a boys’ haircut when he asked
7 for one. Unbeknownst to us, after getting that haircut, James started instructing his peers
8 to refer to him using male pronouns, which we later found out from his teacher. Again,
9 following his lead, we started referring to him using male pronouns as well and also began
10 using the name “James.” Even though we had mentally prepared ourselves, and had seen
11 this coming, the change was hard for us at first. But not for James. He was ready for this
12 change long before we were. And, just like when we started allowing him to wear boys’
13 clothes, James blossomed even more.

14 9. Although James has had nearly universal support from those around him, he
15 has experienced bullying and mistreatment because he is transgender. In 2019, he attended
16 a program during fall break, as he had for several years before. During that program an
17 older student started insisting that James is a girl, not a boy. Upset, frustrated, and unsure
18 what to do, James did not respond and did not report that this was happening until several
19 days later. When he finally did tell me what was happening, it was clear that he was
20 frightened by those interactions and they were negatively affecting his well-being.

21 10. I helped James figure out how to respond to those incidents in hopes that it
22 would resolve the issue. But, a day or two later the problem persisted so I pulled him from
23 the program because it was the only option I had to keep him safe without disclosing that
24 he is transgender to all the staff. Since that incident, he has not experienced any other
25 incidents of bullying or harassment, but we remain vigilant and concerned about the
26 possibility of incidents like this happening in the future because of serious harm they could
27 cause to James’s well-being.
28

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12
13 **UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF ARIZONA

14 D.T., a minor, by and through his parent and
15 next friend Lizette Trujillo; Jane Doe, a
minor, by and through her parent and next
16 friend Susan Doe; Helen Roe, a minor, by
and through her parent and next friend
17 Megan Roe; James Poe, a minor by and
though his parent and next friend Laura Poe;
18 and Carl Voe, a minor by and though his
parent and next friend Rachel Voe,

19 Plaintiffs,

20 v.

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

28 Defendants.

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

**DECLARATION OF RACHEL VOE IN
SUPPORT OF JAMES POE AND
CARL VOE’S MOTION TO PROCEED
UNDER A PSEUDONYM**

Judge: Hon. James A. Soto

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1 I, Rachel Voe, declare as follows:

2 1. I am the mother of Carl Voe, one of the plaintiffs in this case. I have personal
3 knowledge of the matters stated in this declaration.

4 2. Carl began expressing his gender identity just before he turned two years old.
5 For example, he would always choose boy clothes when they were available to him, rather
6 than the girls' clothes that I bought him. When Carl was younger, we lived near relatives
7 with boys just a little older than him, and he was always putting on their hand-me-down
8 clothes. Carl also insisted on wearing suits, not dresses, for fancy occasions. While my
9 husband and I never denied Carl his choice of clothing, he nevertheless always made his
10 preference for boys' clothes well known to us.

11 3. Carl used to have long, curly hair that strangers would often tell him was
12 beautiful. Carl would turn to us after those comments to say that he hated his hair, and
13 eventually demanded that we cut it short like a boy's. When he was four, I finally agreed
14 and cut his hair in a Mohawk. After that, strangers would say "what a cute boy" instead.
15 When we asked Carl whether he wanted us to correct them, he told us no.

16 4. Carl would also ask me from time to time, "When am I going to get a boy's
17 body?" At first, we dismissed his questions as my child just being silly or going through a
18 phase. But while Carl does have a great sense of humor, my husband and I came to realize
19 that his questions meant far more than that.

20 5. Around the same time, Carl was becoming increasingly angry and defiant at
21 home. We could not figure out why. He would throw enormous fits that went beyond
22 tantrums that are typical of kids of that age, including even try to harm himself, such as by
23 shutting his hand in cabinets. He also started telling us that he hated girls and wished he
24 was a boy. We were very concerned for his health and safety and in late 2017 we began
25 taking him to Dr. Richard Muszynksi, a psychologist with extensive experience working
26 with transgender children.

27 6. When Carl was in kindergarten, I learned that other children were asking him
28 whether he was a boy or a girl and would not believe him regardless of how he answered.

1 Carl decided to address his class to tell them that he did not like their questions. His peers
2 initially stopped asking him those questions, but the reprieve was short lived. We also
3 learned that Carl was not eating his lunch and refusing to use the restroom during the school
4 day out of fear, which we've come to learn is a common behavior among transgender youth
5 because of the distress they experience using a restroom that does not match their gender
6 identity.

7 7. At the end of kindergarten, Carl told us "I am a boy." After that, and with the
8 advice and guidance of Dr. Muszynski, we helped Carl socially transition. He adopted male
9 pronouns and the name "Carl." His anger eased during camp in the summer following
10 kindergarten, but renewed when he entered first grade. In his new grade, we learned that
11 his peers and even school staff continued to question his gender and constantly referred to
12 him as a girl. Despite many attempts to educate the school staff and administrators, I could
13 not stop the harassment, and Carl's anger and defiance at home once again returned.

14 8. My husband and I moved Carl to a new school for second grade. He insisted
15 that no one at his new school be told about his transgender status. In his words, he wanted
16 to go into second grade "stealth." Unfortunately, a few other students from Carl's old
17 school moved to the new school as well. Carl's anger was thereafter replaced by anxiety
18 and fear that he would soon be outed and again face the questions and mistreatment by his
19 peers and school staff.

20 9. We hoped that the move to remote learning in March 2020 would lessen those
21 anxieties, but instead it exacerbated his gender dysphoria, resulting in him experiencing
22 significant anxiety about this appearance and the sound of his voice on the videoconference
23 platform. As a result, I have home-schooled Carl since October 2020, and have continued
24 to do so even after our family moved from Arizona to Maryland last year.

25 10. Carl is very interested in joining extra-curricular or community sports
26 programs, like cross-country running and swimming, and even expressed interest in
27 participating in a ballet program as a boy dancer. Unfortunately, these activities would
28 require Carl to provide his birth certificate to sign up. We have not enrolled him in any of

1 these activities because we learned from other parents that he would not be well received
2 as a transgender boy, and we cannot keep that information private without corrected identity
3 documents.

4 11. Carl does not want to use his real name or initials as part of this lawsuit
5 because he does not want people to know that he is transgender unless he chooses to tell
6 them. If his real name was disclosed as part of this case, it would create a public paper trail
7 that discloses he is transgender and would follow him around the rest of his life, which is
8 exactly what he is trying to avoid by challenging Arizona's surgery requirement for
9 correcting the sex listed on his birth certificate. Without the protection of a pseudonym,
10 Carl would be even more anxious that people he knows would find out that he is
11 transgender, which is the same thing that happened when Carl moved to a new school in
12 second grade. If others did learn that information, as they did when he was in kindergarten
13 and first grade, it would expose him to the same harassment and mistreatment because he
14 is transgender and cause him even more unnecessary psychological distress. Therefore, he
15 would like to use a pseudonym.

16 12. I need to proceed under a pseudonym for the same reasons. Carl and I share
17 a last name that is not common, which would make it easy to identify him through me. I
18 also do not want to make our family a target for harassment or mistreatment, but filing this
19 lawsuit is the only way that I know that will fully protect Carl's privacy and protect his
20 health and well-being.

21
22 This declaration was executed this 8th day of January, 2021, in Baltimore County,
23 Maryland.

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

26
27 By: Rachel Voe
Rachel Voe

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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; Helen Roe, a minor, by and through her parent and next friend Megan Roe; James Poe, a minor by and though his parent and next friend Laura Poe; and Carl Voe, a minor by and though his parent and next friend Rachel Voe,

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
JAMES POE AND CARL VOE’S MOTION
TO PROCEED UNDER A PSEUDONYM**

Judge: Hon. James A. Soto

Having considered James Poe and Carl Voe’s Motion to Proceed Under a Pseudonym (“Motion”) (Doc. 48),

IT IS HEREBY ORDERED:

The Motion is **GRANTED**, and James Poe and Carl Voe, and their parents and next friends, Laura Poe and Rachel Voe, may proceed using pseudonyms.

IT IS SO ORDERED.