

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**
Richmond Division

JANIE DOE, by her next friends and parents, JILL
DOE and JOHN DOE,

Plaintiff,

v.

HANOVER COUNTY SCHOOL BOARD,

ROBERT J. MAY in his official capacity as Chair of
the Hanover County School Board, and

MICHAEL B. GILL in his official capacity as
Superintendent of Hanover County Public Schools,

Defendants.

Civil Action No. 3:24-cv-00493

**MOTION FOR LEAVE TO FILE
COMPLAINT UNDER
PSEUDONYM AND
MEMORANDUM OF LAW IN
SUPPORT OF MOTION**

Plaintiff Janie Doe, by and through her next friends and parents, Jill Doe and John Doe, respectfully requests leave to file the attached Complaint under pseudonym, based on her status as a minor and the sensitive and highly personal nature of her transgender status, and the risk of retaliatory harm that could result from the public disclosure of her true name.

BACKGROUND

Plaintiff is an 11-year-old transgender girl. Like many other girls her age, Plaintiff wishes to play on her middle school's girls' tennis team. In August 2023, she tried out for the team and was selected. But shortly after, the Superintendent, the Chair of the Hanover County School Board, and the School Board (the Defendants in this matter) intervened to prevent Plaintiff from playing girls' tennis solely on the basis of her transgender status. Two months later, Defendants instituted a policy prohibiting all transgender students from playing on sports teams in accordance with their gender identity. Plaintiff is filing this suit alleging that Defendants' actions are in violation of Title IX and the Equal Protection Clause of the

Fourteenth Amendment of the United States Constitution. Plaintiff seeks injunctive relief prohibiting Defendants from discriminating against her on the basis of her gender identity.

ARGUMENT

Courts in the Fourth Circuit typically assess five factors in ruling on a motion to proceed by pseudonym:

- 1) “Whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature;
- 2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent nonparties;
- 3) the ages of the persons whose privacy interests are sought to be protected;
- 4) whether the action is against a governmental or private party; and
- 5) relatedly, the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously.”

Doe v. Doe, 85 F.4th 206, 211 (4th Cir. 2023) (quoting *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993)).

First, proceeding pseudonymously is necessary because of the highly sensitive nature of Plaintiff’s claims and status as a transgender girl. District courts have, for decades, routinely allowed transgender plaintiffs to proceed pseudonymously “because of the social stigma associated with non-conforming gender identities.” *Doe v. United States*, 2016 WL 3476313, at *1 (S.D. Ill. June 27, 2016).

Second, identification poses a significant risk or retaliatory harm to Plaintiff. District courts have also routinely held that mere public identification of a plaintiff as transgender can subject them to retaliatory physical or mental harm in the form of violence, harassment, and discrimination. *See Doe v. City of Detroit*, 2018 WL 3434345, at *2 (E.D. Mich. July 17, 2018)

(taking judicial notice of the increased threat of violence to transgender people); *Foster v. Andersen*, 2019 WL 329548, at *2 (D. Kan. Jan. 25, 2019) (finding plaintiff's fears of harm resulting from possible disclosure of his transgender status justified); *Doe v. Genesis Healthcare*, 535 F. Supp. 3d 335, 340 (E.D. PA 2021), (concluding that plaintiff's fears of discrimination were justified based on "statistical evidence and media reports describing the danger faced by transgender individuals in the community" and plaintiff's personal experiences). As noted in the Complaint, Plaintiff has lived as a girl since 2020, and fears being outed as transgender. Compl. ¶¶ 52-54, 67. As a transgender minor, Plaintiff faces significant risk of harm if she is publicly identified as transgender.

Third, the fact that Plaintiff is presently only 11 years old weighs heavily in favor of granting leave to proceed under pseudonym. Plaintiff is a minor of exceedingly young age. As alleged in the Complaint, the risk of serious psychological harm caused by bullying, harassment, and other forms of exclusion to transgender minors is extremely high. Plaintiff's status as a minor thus weighs heavily in favor of filing pseudonymously. *See Doe v. Doe*, 85 F.4th at 214-15 (explaining that district court correctly noted that minors are "entitled to special protection based on age"). Additionally, Plaintiff's parents' should be allowed to proceed pseudonymously as well, because their identification "could easily lead to identification of the minor plaintiff[]." *Doe v. United States*, 2017 WL 11610523, at *3 (M.D.N.C. Sept. 12, 2017).

Fourth, the fact that Defendants are all government entities or government officials sued in their official capacity weighs in favor of proceeding by pseudonym. As Plaintiff sues no private parties in their individual capacities, this factor also weighs strongly towards allowing her to file pseudonymously. *See Doe v. Doe*, 85 F.4th at 215.

Lastly, there is little risk of harm to other parties if Plaintiff is granted leave to file under pseudonym. Simply put, proceeding pseudonymously incurs no risk of unfairness for Defendants. Defendants are likely aware of Plaintiff's identity, so there is little risk of unfairness in discovery or with respect to trial preparation. *See Doe v. Doe*, 85 F.4th at 216.

CONCLUSION

Here, Plaintiff's legitimate and well-founded privacy interests and safety concerns far outweigh any interest in her name being publicly disclosed. Denial of this motion would require Plaintiff, an 11-year-old transgender girl, to publicly out herself as transgender at enormous personal risk. The Court should therefore grant Plaintiff's Motion for Leave to File Complaint Under Pseudonym.

Dated: July 3, 2024

Respectfully Submitted,

/s/ Eden Heilman

Eden Heilman, VSB #93554
Wyatt Rolla, VSB #85625
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF VIRGINIA
P.O. Box 26464
Richmond, VA 23261
Tel: (804) 491-8584
eheilman@acluva.org
wrolla@acluva.org

Boyd Johnson
(*pro hac vice* forthcoming)
Alan Schoenfeld
(*pro hac vice* forthcoming)
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
Tel: (212) 230-8800
boyd.johnson@wilmerhale.com
alan.schoenfeld@wilmerhale.com

Shelby Martin
(*pro hac vice* forthcoming)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1225 17th Street, Suite 2600
Denver, CO 80202
Tel: (720) 274-3135
shelby.martin@wilmerhale.com

Ian A. Vitalis
(*pro hac vice* forthcoming)
Andre Manuel
(*pro hac vice* forthcoming)
WILMER CUTLER PICKERING
HALE AND DORR LLP
2100 Pennsylvania Ave. NW
Washington, DC 20037
Tel: (202) 663-6000
ian.vitalis@wilmerhale.com
andre.manuel@wilmerhale.com

*Attorneys for Plaintiff Janie Doe by her next
friends and parents, Jill Doe and John Doe*

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**
Richmond Division

JANIE DOE, by her next friends and parents, JILL
DOE and JOHN DOE,

Plaintiff,

v.

Civil Action No. 3:24-cv-00493

HANOVER COUNTY SCHOOL BOARD,

ROBERT J. MAY in his official capacity as Chair of
the Hanover County School Board, and

MICHAEL B. GILL in his official capacity as
Superintendent of Hanover County Public Schools,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of July, 2024, I electronically filed a true and correct copy of Plaintiff's Motion to File Complaint Under Pseudonym with the Clerk of Court using the CM/ECF system. A copy of the foregoing will be sent to the following parties:

Hanover County School Board
Dennis Walter
Hanover County Attorney
7516 County Complex Road
Hanover, Virginia 23069

Robert May
Chair
Hanover County Public Schools
200 Berkley Street
Ashland, Virginia 23005

Michael B. Gill
Superintendent
Hanover County Public Schools
200 Berkley Street
Ashland, Virginia 23005

/s/ Eden Heilman

Eden Heilman, VSB #93554
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF VIRGINIA
P.O. Box 26464
Richmond, VA 23261
Tel: (804) 491-8584
eheilman@acluva.org

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**
Richmond Division

JANIE DOE, by her next friends and parents, JILL
DOE and JOHN DOE,

Plaintiff,

v.

HANOVER COUNTY SCHOOL BOARD,

ROBERT J. MAY in his official capacity as Chair
of the Hanover County School Board, and

MICHAEL B. GILL in his official capacity as
Superintendent of Hanover County Public
Schools,

Defendants.

Civil Action No. 3:24-cv-00493

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO FILE
COMPLAINT UNDER
PSEUDONYM**

This matter comes before the Court on Plaintiff's Motion for Leave to File Complaint Under Pseudonym ("the Motion"). Plaintiff, Janie Doe by and through her next friends and parents, Jill Doe and John Doe, by and through their attorneys, moves this Court for permission to proceed pseudonymously. Whereas, through her Motion and accompanying materials, Plaintiff has satisfied the applicable legal standard to proceed under pseudonym, Plaintiff's motion is Hereby GRANTED.

Accordingly, it is it is this ____ day of _____, 2024, by the United States District Court for the Eastern District of Virginia, Richmond Division, hereby ORDERED that Plaintiff may proceed by pseudonym.

IT IS SO ORDERED.

Date: _____

United States District Judge
United States District Court for the Eastern
District of Virginia, Richmond Division