

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

LHF PRODUCTIONS, INC.,
Plaintiff,

v.

JOHN DOE 26, subscriber assigned to IP
Address 71.194.42.60,
Defendant.

Case No. 1:16-cv-9324

Judge

Magistrate Judge

MOTION TO PROCEED ANONYMOUSLY

Now Comes Defendant JOHN DOE, subscriber assigned to IP Address 71.194.42.60 , by and through counsel, Susan Malter of Chicago Volunteer Legal Services, who moves this Honorable Court for leave to proceed anonymously. In support of this Motion Defendant Doe states to the Court as follows:

I. Introduction

1. Based on an email correspondence of April 11, 2017, and April 13, 2017, between Defendant and Plaintiff, by and through counsel for both parties, Defendant believes that this motion is unopposed. Defendant, recognizing that Plaintiff knows Defendant's identity, seeks anonymity only from public mention unless this goes to trial.

2. However, even if unopposed, this Court must still consider both the merits of the Motion and the harm to the public. *Doe v. Smith*, 429 F.3d 706, 710 (7th Cir. 2005).

3. Being unopposed, it is respectfully requests that presentment of the Motion be excused unless the Court seeks oral argument.

4. Defendant Doe ("Defendant") is a natural person who lives in Cook County and does not use the Internet.

5. Plaintiff LHF PRODUCTIONS, INC., ("Plaintiff") allegedly is the owner of the copyright and/or the owner of the pertinent exclusive rights in the United States to the motion picture London Has Fallen.

6. Plaintiff has accused Defendant of using the Internet to commit copyright infringement.

7. Plaintiff's identification of Defendant is based on information that a court in this judicial district has found to be insufficient to state a claim upon which relief may be granted.

8. That Order is linked hereto from *PTG Nevada, LLC v. Chan*, 1:16-cv-01621[#75].

9. Defendant seeks to avoid any and all publicity when possible and has no personal presence on the Internet.

10. Defendant believes that it would be in the interests of justice to allow Defendant to proceed anonymously unless and until the case goes to trial.

II. Argument

A. Legal Standard - District Court May Grant Anonymity

11. While a party is required to provide both his name and "full residence address" in his first filing with the Court, it is within the discretion of the district court to grant the dispensation of anonymity, see *U.S. v. Microsoft*, 56 F. 3d 1448, 1464 (D.C. Cir. 1995). Despite "this country's strong tradition of access to judicial proceedings," there are situations in which "a party's interest in privacy or confidentiality. . . outweighs this strong presumption in favor of public access." See *Johnson v. Great Se. Cmty. Hosp. Corp.*, 951 F. 2d 1268, 1277 (D.C. Cir. 1991).

B. Shame and Embarrassment to Defendant

12. In many file-sharing cases, courts have recognized that the potential shame and embarrassment of being accused of online piracy is often used as unfair

leverage by plaintiffs. See, e.g. *Sunlust Pictures v. Does 1-75*, Case No. 12-cv-1546, 2012 WL 3717768, at *5 (N.D. Ill. Aug. 27, 2012) ("Judges within this district have recognized that plaintiffs in these types of cases might unfairly threaten to disclose defendants' identities in order to improperly leverage settlement negotiations."), citing *Hard Drive Productions v. Does 1-48*, Case No. 11-cv-962, 2012 WL 2196038 (N.D. Ill. June 14, 2012).

13. Merely being named in a file-sharing case can be damaging. At this point in litigation, plaintiffs have submitted no proof that defendant has committed infringement, and yet because they are accused—and because they have been required to file their correct contact information—their reputations may be at permanent risk.

(a) Employers, landlords, and other interested parties can identify defendants through publicly available information, and in some cases such parties conducting a routine search of potential employees or tenants may discover a defendant's involvement in a file-sharing case entirely by accident.

(b) In at least one file-sharing case, a court has *sua sponte* recognized this danger and ordered that all Doe defendants should proceed anonymously until further notice. See *Manny Film, LLC v. Doe*, 3:15-cv-00103 (S.D. Ohio 2015) (Dkt. 7, *Order Granting John Doe Defendant a Protective Order to Proceed Anonymously*).

C. No Harm to the Public

14. An important consideration in whether to grant a motion to proceed anonymously is whether allowing anonymity would harm the public. See, *Doe v. Smith*, 429 F. 3d 706, 710 (7th Cir. 2005) ("The public has an interest in knowing what the judicial system is doing, an interest frustrated when any part of litigation is conducted in secret.")

15. There is no potential for public harm from the granting of this motion, because anonymity will not substantially affect this proceeding.

(a) Doe is merely seeking to proceed under a pseudonym until dispositive motions, and aside from this pseudonym, no aspect of litigation will change.

(b) Further, Doe is a defendant, inappropriately dragged into this embarrassing litigation by Plaintiff. He is certainly not a plaintiff availing himself of this Court seeking to benefit from this litigation.

(c) A similar situation existed in the *Malibu Media v. Reynolds* case. Cse No. 12-cv-6672, (ECF Doc. 51, at 11) (N.D. Ill. Mar. 7, 2013). In that case, involving only the possibility of embarrassment, the Court allowed the Doe to proceed anonymously.

III. Conclusion

For the foregoing reasons, Defendant Doe respectfully requests that this Honorable Court grant leave for Doe to proceed anonymously through dispositive Motions in this action, under the pseudonym of Doe 26 unless or until a trial begins.

Respectfully submitted,

/s/Susan Malter
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