

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

IN THE VANDERBURGH CIRCUIT COURT

JOHN DOE )  
 Plaintiff )  
 )  
 v. ) CAUSE NO.  
 )  
UNIVERSITY OF SOUTHERN INDIANA )  
 Defendant )

**MOTION TO PROCEED UNDER PSEUDONYM**

Plaintiff, by counsel, hereby moves the Court to allow him to proceed in this cause of action under pseudonym. In support hereof, Plaintiff states the following:<sup>1</sup>

1. Plaintiff, a nineteen-year-old black male and sophomore student at the University of Southern Indiana (“USI”), has exhausted his administrative remedies at USI from a procedurally flawed Title IX proceeding. He was advised during the afternoon on September 22, 2021, that he would be suspended in less than three (3) days from USI beginning at 12:00 p.m. Central Time on September 25, 2021, and until January 1, 2023. At all times, Plaintiff has maintained that he did not violate USI’s Title IX policy and that the alleged sexual encounter with Jane Doe did not occur.<sup>2</sup>

2. Contemporaneously herewith, Plaintiff has filed his Complaint and Verified Application for T.R. 65 Temporary Restraining Order. His undersigned attorney has also filed

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<sup>1</sup> Pursuant to LR82-TR12-1.16, Plaintiff does not supply a “separate brief” in support of this motion.

<sup>2</sup> In his Complaint and other filings, Plaintiff has referred to his accuser as “Jane Doe” to respect her privacy.

with the Court his T.R. 65(B)(2) Affidavit. Plaintiff hereby incorporates the allegations from those filings herein without further reference.

3. Given the highly sensitive nature of the subject matter underlying Plaintiff's claims for relief, compelling reasons exist for allowing him to proceed under pseudonym. Not surprisingly, current law allows students in Plaintiff's position to proceed anonymously under pseudonym. The Indiana Court of Appeals has recognized that, despite the presumption of openness in judicial proceedings, a litigant's compelling privacy interest may justify allowing him to proceed anonymously. *Doe v. Town of Plainfield*, 860 N.E.2d 1204, 1208 (Ind. Ct. App. 2007). Indiana courts look to nine, non-exhaustive factors to assist in this determination. *Id.*

They are:

- whether the plaintiff is challenging governmental activity;
- whether the plaintiff would be required to disclose information of the utmost intimacy;
- whether the plaintiff would be compelled to admit his or her intention to engage in illegal conduct, thereby risking criminal prosecution;
- whether the plaintiff would risk suffering injury if identified;
- whether the party defending against a suit brought under an anonym would be prejudiced;
- whether the interests of children are at stake;
- whether there are less drastic means of protecting legitimate interests of either the party seeking anonymity or the opposing party;
- the extent to which the identity of the litigant has been kept confidential; and
- the public interests in knowing the litigant's identities.

*Id.*

4. Nearly all of the factors favor Plaintiff's use of a pseudonym in this litigation.

5. Plaintiff is clearly challenging governmental activity. USI is a public university.

Plaintiff challenges USI's activity as described in the Complaint and other filings.

6. The record of USI's Title IX investigation and adjudication contains allegations regarding Plaintiff's prior sexual conduct, which constitutes information of utmost intimacy.

7. If identified, Plaintiff is certain to face irreparable injury to his reputation, even if ultimately exonerated of the allegations set forth by Jane Doe.

8. USI is well aware of Plaintiff's true identity, and would face no prejudice if he is allowed to proceed under a pseudonym.

9. While those involved have all attained the legal age of majority, Plaintiff is still a teenage college student and is vulnerable in this context.

10. There are no less drastic means of protecting Plaintiff's legitimate interests.

11. Pursuant to USI's own policy, the underlying investigation and adjudication that give rise to Plaintiff's claims were, are and remain confidential.

12. The same interests supporting confidentiality of the underlying investigation and adjudication outweigh the public's interest in knowing Plaintiff's identity.

13. To further ensure protection of his identity, Plaintiff requests that any papers filed with the Court containing his actual name be immediately sealed and remain under seal.

14. A proposed Order is supplied contemporaneously herewith.

**WHEREFORE**, Plaintiff respectfully requests that this Motion to Proceed Under Pseudonym be granted, that any papers filed with the Court containing Plaintiff's actual name be immediately sealed and remain under seal, and for all other relief just and proper in the premises.

Respectfully submitted,

ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP

BY: /s/ Keith W. Vonderahe

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of September, 2021, the foregoing pleading or paper was electronically filed using the Indiana E-filing System (IEFS).

*/s/ Keith W. Vonderahe*

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Keith W. Vonderahe