

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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| CITIZENS FOR RESPONSIBILITY    | ) |                                     |
| AND ETHICS IN WASHINGTON       | ) |                                     |
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| and                            | ) |                                     |
|                                | ) |                                     |
| ANNE L. WEISMANN               | ) |                                     |
|                                | ) |                                     |
| Plaintiffs,                    | ) |                                     |
|                                | ) |                                     |
| v.                             | ) | Civil Action No.: 17-cv-02770 (ABJ) |
|                                | ) |                                     |
| FEDERAL ELECTION COMMISSION    | ) |                                     |
|                                | ) |                                     |
| Defendant,                     | ) |                                     |
|                                | ) |                                     |
| JOHN DOE 1                     | ) |                                     |
|                                | ) |                                     |
| And                            | ) |                                     |
|                                | ) |                                     |
| JOHN DOE 2                     | ) |                                     |
|                                | ) |                                     |
| Proposed Intervenor-Defendants | ) |                                     |
|                                | ) |                                     |
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**PROPOSED INTERVENOR-DEFENDANTS’ MOTION TO PROCEED UNDER  
A PSEUDONYM AND MEMORANDUM IN SUPPORT**

John Doe 1 and John Doe 2 (together, “John Does”), by and through undersigned counsel, respectfully move pursuant to LCvR 5.1(h) for permission to proceed under a pseudonym. A proposed Order is attached.

Pursuant to LCvR 7(m), counsel for John Doe 1 and John Doe 2 have conferred with counsel for Plaintiffs and the defendant Federal Election Commission (“FEC”). Plaintiffs and Defendants both oppose this motion.

Proposed intervenor-defendants, John Doe 2, a trust, and John Doe 1, a natural person who serves as the trustee for John Doe 2, are the same parties as the plaintiffs in the related case *John Doe 1, et al. v. FEC*, No. 17-cv-2694 (ABJ). John Does filed suit against the FEC in that case to prevent the FEC from disclosing their identities in connection with the investigative file in Matter Under Review (“MUR”) 6920. John Does also moved to be allowed to litigate that action under a pseudonym. The Court granted John Does’ motion and permitted them to proceed under a pseudonym, recognizing that John Does could not vindicate their right not to be identified in the FEC’s investigative file if they were forced to identify themselves in litigation.

The same factors that supported John Does proceeding anonymously in the related case apply to the instant Subsection (a)(8) action. *See J.W. v. District of Columbia*, 318 F.R.D. 196, 198 (D.D.C. 2016); *John Doe Co. No. 1 v. Consumer Fin. Prot. Bureau*, 195 F. Supp. 3d 9, 16-17 (D.D.C. 2016). As demonstrated more fully in John Does’ Motion to Intervene, the D.C. Circuit has recognized that John Does may intervene in this action as a matter of right in order to protect their interest in avoiding FEC enforcement proceedings against them. *See Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 317 (D.C. Cir. 2015). If John Does are not permitted to proceed under a pseudonym in this action, they will be put in the untenable position of having to choose between two rights: the right not to be identified in the FEC’s investigative file in MUR 6920 and their right to intervene in this action. Where a defendant’s anonymity is the very subject of a dispute, this Court has allowed defendants to intervene anonymously to protect their rights. *See In re Grand Jury Subpoena No. 11116275*, 846 F. Supp. 2d 1, 4 n.6 (D.D.C. 2012) (allowing an intervenor to anonymously move to quash a grand jury subpoena for records pertaining to his identity, explaining that “in this case, [the movant’s] identity is unknown to the government or the grand jury, and it is that very anonymity that is the subject of

the dispute.”). Consistent with this principle and with respect to this Court’s ruling in the related case here, John Does seek to be permitted to proceed under the same terms as in the related case.

Moreover, both the FEC and Plaintiffs have stated it is their position that Plaintiffs have the right to learn John Does’ identities in connection with this action. *See* Federal Election Commission’s Opp’n to the Mot. to Intervene by Citizens for Responsibility and Ethics in Washington and Anne Weismann at 5-6, 9, *John Doe v. FEC*, No. 17-2694 (ABJ), ECF No. 57 (“CREW and the FEC agree that CREW can and should have access to the identities of plaintiffs in connection with” this Subsection (a)(8) action). Accordingly, John Does respectfully submit that they should be allowed to intervene in this action under a pseudonym for the additional purpose of opposing any such disclosure, and potentially protecting any relief the Court may grant John Does in the related case, which they cannot do if they are forced to litigate under their true names.<sup>1</sup>

There is no prejudice or unfairness to Plaintiffs or the FEC from permitting John Does to proceed under a pseudonym at this juncture. As the Court observed when denying Plaintiffs’ motion to intervene in the related action, “the outcome of” the related case “will not impair [Plaintiffs’] ability to pursue” this Subsection (a)(8) “action in any way.” Order at 6, *John Doe v. FEC*, No. 17-2694 (ABJ), ECF No. 44. Indeed, the Court noted that Plaintiffs failed to explain “why it would be more difficult to debate the legal issues [they have] raised using pseudonyms.” *Id.* at 7. The Court allowed John Does to proceed under a pseudonym in the related case. The FEC already knows John Does’ identities, and the question of whether anyone else has a right to learn John Does’ identities in connection with MUR 6920 is presently being litigated. Whether

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<sup>1</sup> If the Court is not inclined to permit John Does to proceed under a pseudonym, John Does respectfully request the opportunity to withdraw this motion and their motion to intervene or that they be permitted to seek other relief.

Plaintiffs are entitled to learn John Does' identities in connection with this lawsuit can be determined in this action, and should not be litigated without John Does, who are the true parties in interest in such a decision.

It is necessary for John Does to proceed under a pseudonym in this action in order to vindicate their rights, both to oppose Plaintiffs' claim that the FEC must conduct an enforcement proceeding against them and to protect their identities from unwarranted disclosure. Accordingly, John Does respectfully request that the Court grant them leave to proceed under a pseudonym in this action, as in the related action, No. 17-cv-2694 (ABJ).

March 1, 2018

Respectfully submitted,

*/s/ William Taylor, III*

William Taylor, III (D.C. Bar # 84194)  
ZUCKERMAN SPAEDER LLP  
1800 M Street, NW, Suite 1000  
Washington, DC 20036  
202-778-1800  
202-822-8106 (fax)  
wtaylor@zuckerman.com  
*Counsel for John Doe 1*

*/s/ Kathleen Cooperstein*

Kathleen Cooperstein (D.C. Bar # 1017553)  
VINSON & ELKINS  
2200 Pennsylvania Avenue, NW  
Suite 500 West  
Washington, DC 20037  
202-639-6500  
202-879-8984 (fax)  
kcooperstein@velaw.com  
*Counsel for John Doe 2*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of March, 2018, I served the foregoing papers on all counsel of record in this case by filing them in the Court's electronic filing system, which served these same papers on counsel of record.

/s/ William W. Taylor, III  
William W. Taylor, III