UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, *et al.*,	)	
Plaintiffs,	)	Civ. No. 17-2770 (ABJ)
v.	)	
FEDERAL ELECTION COMMISSION,	)	OPPOSITION TO MOTION TO PROCEED UNDER PSEUDONYM
Defendant.	)	

DEFENDANT FEDERAL ELECTION COMMISSION'S OPPOSITION TO PROPOSED INTERVENOR-DEFENDANTS' MOTION TO PROCEED UNDER A PSEUDONYM

Defendant Federal Election Commission ("FEC" or "Commission") opposes proposed intervenor-defendants' Motion to Proceed Under a Pseudonym (Docket No. 12) ("Doe Mot. for Pseudonym"). Proposed intervenor-defendants are John Doe 1 and John Doe 2 ("Doe entities"), a trust and a trustee who were the subjects of a Commission reason-to-believe vote during the Commission's investigation into Citizens for Responsibility and Ethics in Washington and Anne Weismann's (collectively, "plaintiffs" or "CREW") administrative complaint, designated Matter Under Review ("MUR") 6920. The Doe entities are attempting to intervene under pseudonyms in this action, which plaintiffs brought for review of the Commission's resolution of MUR 6920. There is a strong presumption in favor of identifying parties in litigation, and the Doe entities have not demonstrated that a privacy interest is applicable here, let alone sufficient to override the weighty public interest in open judicial proceedings. Moreover, the Doe entities have provided no evidence that using their names in this litigation would harm them in a particularized, non-speculative manner. Because the Doe entities have not met their burden of demonstrating a legitimate need to proceed under a pseudonym, their motion should be denied.

BACKGROUND

The Commission respectfully requests that, for a more detailed background in this suit, the Court refer to the Commission's opposition to plaintiffs' motion for clarification or, in the alternative, a protective order. (*See* FEC Opp'n to Pls.' Mot. for Clarification at 2-7 (Mar. 13, 2018) (Docket No. 14).) The Commission sets forth the below factual background as relevant to the Commission's opposition to the Doe entities' motion to proceed under a pseudonym.

The Doe entities brought suit against the Commission after the Commission closed its file in MUR 6920 and did not agree to redact the identities of the Doe entities from the public file. (*See* FEC's Resp. to Mot. for TRO and Mot. to Seal at 1-4, *John Doe 1, et al. v. FEC* ("Disclosure Litigation"), No. 17-2694 (D.D.C. Dec. 20, 2017) (Docket No. 16) (unsealed redacted version).) On December 18, 2017, in a hearing following the parties' expedited briefing on the Doe entities' motions for provisional injunctive relief and to seal the case, and prior to a determination on the merits, the Court issued an order pursuant to which the Commission would temporarily redact the Doe entities' names and other identifying information from its public administrative case file pending further order of the Court. In accordance with the Court's instructions, redacted documents from the Commission's file in MUR 6920 were published on December 22, 2017, and these documents will remain redacted until the Court issues an order based upon the merits of that case. (*See* Disclosure Litigation, FEC Notice (Dec. 22, 2017) (Docket No. 20).)

On December 22, 2017, plaintiffs filed a complaint pursuant to 52 U.S.C § 30109(a)(8) and the Administrative Procedure Act against the Commission, seeking judicial review of the Commission's resolution of MUR 6920. In this action, plaintiffs seek review of the Commission's alleged failure to find reason to believe that the Doe entities violated the Federal

Election Campaign Act ("FECA") for making a contribution in the name of another, Compl. ¶ 37, and that the Commission did not "confirm[]" that the Doe entities were the true source of the contribution to Now or Never PAC, *id*. ¶¶ 43, 44. Plaintiffs challenge the Commission's resolution of their administrative complaint by means of the global conciliation agreement as arbitrary, capricious, an abuse of discretion, and contrary to law. Plaintiffs noticed this dismissal suit as a related case to the pending litigation brought by the Doe entities, and the case was assigned to this Court. The Commission's responsive pleading is due on March 30, 2018.

On March 1, 2018, the Doe entities filed a motion to intervene, which is currently pending before the Court, along with a proposed motion to dismiss. (*See* Doe Mot. to Intervene and Proposed Mot. to Dismiss (Docket No. 11, 11-1).) Also on March 1, 2018, the Doe entities filed the instant motion to proceed under a pseudonym, which is opposed by both plaintiffs and the Commission. (*See* Doe Proposed Mot. to Proceed Under a Pseudonym at 1 (Docket No. 12).)

On February 27, 2018, plaintiffs filed a motion for clarification or, in the alternative, a protective order. (*See* Pls.' Mot. for Clarification (Docket No. 10).) On March 13, 2018, the Commission opposed this motion. (*See* FEC Opp'n to Pls.' Mot. for Clarification (Mar. 13, 2018) (Docket No. 14).) Also on March 13, 2018, the Doe entities filed an opposition to plaintiffs' motion for clarification, which the Court upon objection has construed as a motion for leave to file. (*See* Doe Opp'n to Pls.' Mot. for Clarification (Mar. 13, 2018) (Docket No. 13); Minute Order (Mar. 13, 2018).)

ARGUMENT

I. Proceeding in Court Under a Pseudonym is Permitted Only in Exceptional Circumstances

The Federal Rules of Civil Procedure "make no provision for pseudonymous litigation." *Qualls v. Rumsfeld*, 228 F.R.D. 8, 10 (D.D.C. 2005) (citing *Does I Thru XXIII v. Advanced*

Textile Corp., 214 F.3d 1058, 1067 (9th Cir. 2000); *Nat'l Commodity & Barter Ass'n v. Gibbs*, 886 F.2d 1240, 1245 (10th Cir. 1989)). Only in exceptional circumstances may a litigant be permitted to proceed under a pseudonym: The "'rare dispensation' of allowing parties to proceed pseudonymously is only justified in the 'critical' case, or the 'unusual case.'" *Id*. (quoting *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993); *Advanced Textile*, 214 F.3d at 1067); *see United States v. Microsoft Corp.*, 56 F.3d 1448, 1464 (D.C. Cir. 1995) (per curiam) ("[I]t is within the discretion of the district court to grant the 'rare dispensation' of anonymity . . . ." (quoting *James*, 6 F.3d at 238)). These cases include "those in which 'identification creates a risk of retaliatory physical or mental harm,' those in which 'anonymity is necessary to preserve privacy in a matter of [a] sensitive and highly personal nature,' and those in which the anonymous party would be compelled to admit criminal behavior or be subject to punishment by the state." *Qualls*, 228 F.R.D. at 10-11 (quoting *Advanced Textile*, 214 F.3d at 1068). A litigant may not use a pseudonym "'merely to avoid the annoyance and criticism that may attend any litigation.'" *Id*. at 11 (quoting *James*, 6 F.3d at 238).

The allowance for pseudonymous litigation must be narrowly construed in light of the "public's interest in knowing the facts surrounding judicial proceedings," *Qualls*, 228 F.R.D. at 10 (citing *Advanced Textile*, 214 F.3d at 1067), and the "'customary and constitutionally-embedded presumption of openness in judicial proceedings,'" *Microsoft Corp.*, 56 F.3d at 1464 (quoting *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981)); *see Nixon v. Warner Commc'ns, Inc*., 435 U.S. 589, 597 (1978) ("[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents." (footnotes omitted)); *Nat'l Ass'n of Waterfront Emp'rs v. Chao*, 587 F. Supp. 2d 90, 99 (D.D.C. 2008)

("Disclosure of the parties' identities furthers the public interest in knowing the facts surrounding judicial proceedings.").

It is axiomatic that "federal courts operate openly by default." *Qualls*, 228 F.R.D. at 13. Thus, the litigant attempting to proceed under a pseudonym "bears the burden to demonstrate a legitimate basis for proceeding in that manner," *id*., and, given the important countervailing public interest concerns, this is a "heavy burden," *John Doe Co. No. 1 v. Consumer Fin. Prot. Bureau* ("*John Doe I*"), 195 F. Supp. 3d 9, 13 (D.D.C. 2016).

Ultimately, the Court must weigh "'whether the non-speculative privacy interest that the movants have identified outweigh the public's substantial interest in knowing the identities of the parties in litigation, along with any legitimate interest that the non-moving parties [] may have in revealing the identity of the movants.'" *John Doe Co. v. Consumer Fin. Prot. Bureau* ("*John Doe II*"), 321 F.R.D. 31, 34 (D.D.C. 2017) (quoting *John Doe I*, 195 F. Supp. 3d at 17).[1]

II. The Public's Strong Interest in Open Judicial Proceedings Here Dictates that Proposed Intervenors Identify Themselves in Litigation

"'[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.'" *John Doe I*, 195 F. Supp. 3d at 17

[1] Courts in this district have, in some cases, balanced one litigant's desire for anonymity with the concerns of the other litigant and the public interest using a five-factor test drawn from *Chao*, 587 F. Supp. 2d at 99. *See, e.g.*, *Roe v. Bernabei & Wachtel PLLC*, 85 F. Supp. 3d 89, 96 (D.D.C. 2015). Other courts in this district have found that the *Chao* factors "did not 'add in material respects to the inquiry relevant'" in cases where a business sought to proceed under a pseudonym. *See John Doe II*, 321 F.R.D. at 34 (quoting *John Doe I*, 195 F. Supp. 3d at 16). These courts have instead applied to such cases the six-factor test set forth in *United States v. Hubbard*, 650 F.2d 293, 317–21 (D.C. Cir. 1980), concerning whether documents should remain under seal. *See, e.g.*, *John Doe II*, 321 F.R.D. at 33. Regardless of the test used, the overarching balancing of interests as discussed in this Memorandum remains the same. *See id*. at 34 (observing that, "whichever test applies," the court must engage in "the same general balancing inquiry" by weighing any non-speculative privacy interest of the movant's against the public's and non-movants' interests (quoting *John Doe I*, 195 F. Supp. 3d at 17) (internal quotation marks omitted)).

(quoting *Nixon*, 435 U.S. at 597). "Encompassed within this right is 'an interest in knowing the names of the litigants' because 'disclosing the parties' identities furthers openness of judicial proceedings.'" *Id*. (quoting *Doe v. Pub. Citizen*, 749 F.3d 246, 273 (4th Cir. 2014)). This disclosure is especially important to sustain public confidence in the judicial process:

> Disclosure promotes public confidence in the judicial process, permits members of the public to assess for themselves whether the judicial process is fair, and is typically required by the Federal Rules of Civil Procedure. Although not absolute, this interest weighs heavily against pseudonymous treatment.

Id. at 23. Thus, "the identity of those who participate in federal litigation should remain a matter of public record absent substantial countervailing considerations." *Id*. at 18.

III. There Is a Substantial Public Interest In the Identities of Parties to this Case, Which Invokes a Provision for Accountability of the Commission in Its Enforcement of the Campaign Finance Laws

The public has a particularly strong interest in knowing the parties in this suit. Making public the proposed intervenor-defendants' identities allows the public to understand the Commission's applications of FECA and FEC regulations and promotes accountability. The agency has an unchallenged interest in making the agency's enforcement determinations capable of public scrutiny, and this accountability requires that the parties litigating a suit for review of an agency's enforcement decision are identified by name. The Commission "must decide issues charged with the dynamics of party politics." *FEC v. Democratic Senatorial Campaign Comm.*, 454 U.S. 27, 37 (1981). To avoid any appearance of bias in the Commission's investigations, it is entirely reasonable for the public to expect to know the identities of persons who are evaluated during investigations by the Commission and subsequently seek to intervene in reviews of those agency decisions. The Doe entities are attempting to intervene to advocate for their interests as persons from whom evidence was sought during investigatory proceedings and who were subject

to a Commission reason-to-believe vote. The public's access to the identities of these litigants is therefore paramount.

This case may be resolved via dispositive jurisdictional motion, but in case it is not, knowing the Doe entities' identities will be necessary for evaluating the FEC's enforcement decision and understanding the rights that each party seeks to protect. The Commission's resolution of the administrative complaint will have to be evaluated on a full administrative record. Information about the relationships and connections of persons uncovered in investigations is necessary to fulfill part of the purpose of judicial review of FEC enforcement decisions, allowing the public to scrutinize the Commission's evenhandedness in making these decisions. The proposed intervenor-defendants are prominently involved in the Commission's processing of the plaintiffs' administrative complaint. John Doe 2, for instance, provided the funds that Government Integrity LLC sent to ACU. (Compl. Exh. 2 at 1, 4-8, 9-15 (FEC Third General Counsel's Report, MUR 6920 (Sept. 15, 2017)).) If the Doe entities are permitted to intervene, they will defend their interests in relevant legal issues, such as whether the Commission was statutorily required to further investigate John Doe 2 or to include the Doe entities in the global conciliation agreement resolving the matter. The public should know the identities of all parties so the public can verify that the Commission uses its enforcement authority in an evenhanded manner that is free from bias. *See Baltimore Sun v. U.S. Marshals Serv.*, 131 F. Supp. 2d 725, 729-30 (D. Md. 2001) (holding that "a valid public interest exists in the names" at issue because this information "would enable the public to assess law enforcement agencies' exercise" of discretion); *cf. Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 746 F.3d 1082, 1092-93 (D.C. Cir. 2014) (holding that there was a "weighty public interest in shining a light on . . . the DOJ's ultimate decision not to prosecute a prominent

member of the Congress for any involvement he may have had" with public corruption for which others had been convicted); *Jurewicz v. U.S. Dept. of Agric.*, 741 F.3d 1326, 1334 (D.C. Cir. 2014) ("A public interest exists where the public can more easily determine whether an agency is in compliance with [its] statutory mandate." (citation and internal quotation marks omitted)).

If this suit moves forward, it will ultimately involve the regulation of democratic processes, where public accountability is especially acute. The disclosure of the Doe entities' names here is necessary to promote FECA's purpose of public accountability of the Commission and to allow public scrutiny of its enforcement decisions. The Doe entities' request for pseudonymous treatment is misplaced.

IV. The Doe Entities Have Not Demonstrated an Overriding Privacy Interest or Justified Proceeding Under a Pseudonym

The Doe entities assert three principal arguments in their motion, but fail to substantiate a privacy interest sufficient to override the default presumption for openness in judicial proceedings and the need for publicity in this case of fundamental public interest. The Doe entities have not proffered any evidence that they would suffer harm if their identities were disclosed. "[S]peculative and unsubstantiated claims of harm to a company's reputational or economic interests" are insufficient to meet their burden, so the Doe entities must put forth particularized, specific evidence regarding the costs of disclosure to support their motion here. *John Doe I*, 195 F. Supp. 3d at 22 (noting that assertions "about what 'could' happen, without any elaboration, explanation, or support, are inherently speculative"). Yet they have not even attempted to do so.

A. Any Factors Supporting Pseudonymous Treatment in the Disclosure Litigation Are Immaterial to this Suit

First, the Doe entities primarily argue that "[t]he same factors that supported John Does proceeding anonymously in the [Disclosure Litigation] apply to the instant Subsection (a)(8)

action." (Doe Mot. for Pseudonym at 2 (Docket No. 12).) But the Doe entities are not entitled to permanent anonymity for the reasons given in the Commission's briefing in that case, which the Commission will not repeat in full here. Moreover, the Disclosure Litigation and the instant suit differ in material respects. In the Disclosure Litigation, the central issue is "whether the FEC is authorized to disclose [the Doe entities] as part of its public release of the bulk of the MUR 6920 file." (Disclosure Litigation, Order at 7 (Jan. 31, 2018) (Docket No. 44).) In that litigation, the release of the Doe entities' identities may obviate the need for the litigation itself because the action challenges the disclosure to the public of the Doe entities' identities pursuant to Commission policy. Here, however, plaintiffs, who are the administrative complainants in MUR 6920, and the Commission are litigating whether the Commission's resolution of MUR 6920 by means of a conciliation agreement contravened the agency's statutory obligations. (Compl. ¶ 46.) Neither the Commission's disclosure policies nor the scope of the Commission's public file in MUR 6920 are at issue in this matter. Whereas the Disclosure Litigation implicates a risk of mootness should the Doe entities be required to identify themselves, that risk is not present here.

The Doe entities cite two cases to support their wholesale import of the factors supporting pseudonymity in the Disclosure Litigation to this matter, but neither of these cases support their point. In *J.W. v. District of Columbia*, the court weighed the privacy interests of parents who brought suit on behalf of their nine-year-old son against the defendant government's interests and the public interest. 318 F.R.D. 196 (D.D.C. 2016). These parents alleged that their son was autistic and had been denied services required by the Individuals with Disabilities in Education Act ("IDEA"). The court granted the parents' motion to use only their initials when referencing the plaintiffs and to redact plaintiffs' address in filings, finding that the "[minor's] and his

parents' privacy interests are intractably intertwined," and that "parents may proceed anonymously in IDEA cases to 'protect the family and child from further embarrassment and publicity regarding the child's disability.'" *Id*. at 199 (quoting *Chao*, 587 F. Supp. 2d at 99). In determining "'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 a sensitive and highly personal nature,'" the court found that "disclosure risks more than simple annoyance or criticism. Through the disclosure of Plaintiffs' full names and address, the public could easily uncover [the minor's] confidential education records, mental records, and personally identifiable information — information that is statutorily protected . . . ." *Id*. at 198, 200 (quoting *Chao*, 587 F. Supp. 2d at 99). On the other hand, the Doe entities have not made any showing that pseudonymous treatment is warranted here for any reason other than "merely to avoid the annoyance and criticism that may attend any litigation." *Id*. Unlike in *J.W. v. District of Columbia*, the Doe entities cannot credibly claim that the release of their identities as parties to this litigation, should the Court grant their motion for intervention, would allow the public to uncover information that is not otherwise available.

The second case to which the Doe entities cite to support their proposition that the factors underlying pseudonymous treatment in the Disclosure Litigation apply here is similarly unavailing. In *John Doe 1*, the court allowed the plaintiffs, which were subjects in an ongoing government investigation, to proceed under pseudonyms. 195 F. Supp. 3d 9 (D.D.C. 2016). Recognizing that "[t]ransparency is, of course, the norm in federal judicial proceedings," the court nevertheless found that plaintiffs met their "heavy burden" of demonstrating that the costs associated with disclosure of their identities outweighed the public interest in open judicial proceedings. *Id.* at 13. The court identified the plaintiffs' privacy interest as "avoiding public

knowledge of an *inchoate* federal investigation." *Id*. at 18 (emphasis added). The Doe entities, however, are not the subjects of an ongoing government investigation. In fact, plaintiffs challenge the Commission's resolution of their administrative complaint, which resulted in a conciliation agreement signed by the named respondents in the administrative complaint and the Commission's closing of the file. Unlike in *John Doe 1*, the Doe entities here cannot demonstrate a privacy interest in avoiding public knowledge of an ongoing government investigation because there is no such investigation.

Furthermore, the *John Doe 1* court credited a sworn declaration that the plaintiffs submitted to the court demonstrating that the "public disclosure that they are subject to an ongoing [agency] investigation would likely cause them debilitating reputational and financial hardship." 195 F. Supp. 3d at 21. Recognizing that "'speculative and unsubstantiated claims of harm to a company's reputational or economic interests' are insufficient to justify proceeding anonymously," the court found that this sworn declaration provided particularized evidence of the costs of disclosure that surpassed "mere speculation." *Id.* at 22 (citation omitted). The Doe entities have provided no particularized evidence of that magnitude of harm that they would suffer if their identities were disclosed in this suit.

Additionally, the Doe entities contend that if they "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." (Doe Mot. for Pseudonym at 2 (Docket No. 12).) But the Court has not found that the Doe entities enjoy either of these rights. And this is a false dichotomy that the Doe entities create for themselves: The Doe entities have made a voluntary

choice to attempt to intervene in this review of agency action, which the Commission will defend with or without their participation.

Then the Doe entities assert that, "[w]here a defendant's anonymity is the very subject of a dispute, this Court has allowed defendants to intervene anonymously to protect their rights." (Doe Mot. for Pseudonym at 2 (Docket No. 12).) But the Doe entities' identities are not the sole subject of this suit. To be sure, the Doe entities are referenced in documents addressing whether there is reason to believe they committed violations of FECA, whether discovery should be sought from them and other parties, and whether there is probable cause to believe others committed violations of FECA. The Doe entities feature prominently in the Commission's examination of the underlying facts. Given that they appear in the Commission's deliberations, the Doe entities are part of the administrative record in this case. Aside from jurisdictional questions, however, legal issues in this case include the Commission's statutory obligations with regard to enforcement and investigations, and the scope of its prosecutorial discretion. The Doe entities' identities are not the exclusive focus of these issues.

B. Pseudonymous Treatment Is Not Warranted by the Doe Entities' Purported Need to Protect Any Relief They Receive in the Disclosure Litigation

In their motion to intervene, the Doe entities primarily argue that they should be allowed to intervene as a matter of right to protect their interest in not being subject to enforcement action by the Commission, should plaintiffs prevail in this suit. (*See* Doe Mot. to Intervene at 6-8 (Docket No. 11).) Only briefly in their motion to intervene do the Doe entities mention an interest in preventing disclosure of their identities. *Id*. In their motion to proceed under a pseudonym, the Doe entities again assert this basis for intervention. (*See* Doe Mot. for Pseudonym at 3 (Docket No. 12) ("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 . . . .").) The Doe entities then argue that, should the Court allow the Doe entities to intervene in this action as a matter of right, the Doe entities could not exercise this right unless the Court also permits them to use pseudonyms. (*See id*.) But these are separate questions, and the Doe entities do have a choice: They may exercise their right of intervention, should the Court make this determination, while defending this suit as intervenor-defendants in their named capacities. The Doe entities, even while asserting their legal interests in intervening as of right to be a party in this suit, have asserted no sufficient privacy interest to permit the Doe entities to proceed under a pseudonym.

Moreover, the Doe entities improperly elide the relief they seek in each case. In the Disclosure Litigation, the Doe entities seek to prevent the Commission from publishing their identities in the public record after the closing of an administrative complaint, pursuant to the Commission's disclosure policy. (*See* Disclosure Litigation, No. 17-2694, Compl. at 9 (Docket No. 12).) The relief that the Doe entities seek in this action is to avoid any enforcement action by the Commission that may arise if plaintiffs prevail. (*See* Doe Mot. to Intervene at 6-8 (Docket No. 11).) The Doe entities have not demonstrated that if they were to prevail in the Disclosure Litigation, such a determination would apply to the administrative record in this case or necessarily afford them rights in the instant suit that they would need to protect. (*See* Disclosure Litigation, Order at 7 n.4 (Docket No. 44) ("[A] ruling in the FEC's favor in [the Disclosure Litigation] would prevent any dispute about whether [the Doe entities'] identities would need to be redacted . . . in CREW's lawsuit. But a decision in [the Doe entities'] favor here is not determinative of whether CREW[] may obtain that information in its lawsuit.").)

C. The Doe Entities Improperly Attempt to Shift Their Burden To the Parties

The Doe entities then argue that "[t]here is no prejudice or unfairness to Plaintiffs or the FEC from permitting John Does to proceed under a pseudonym at this juncture." (Doe Mot. for Pseudonym at 3 (Docket No. 12).) The Doe entities specifically assert that plaintiffs have failed to explain any hardship that would arise from the Doe entities using a pseudonym in this suit. In effect, however, the Doe entities are improperly attempting to shift their burden to the parties opposing their motion.

To be sure, in denying plaintiffs' motion to intervene in the Disclosure Litigation, this Court recognized that "CREW does not explain why it would be more difficult to debate the legal issues it has raised using pseudonyms." (Disclosure Litigation, Order at 7 (Docket No. 44).) In the context of the proposed intervenor-defendants' motion to proceed under a pseudonym, however, the burden to demonstrate legitimate reasons for pseudonymous treatment rests with the movant. *See supra* p. 5. And because the Doe entities have failed to establish any privacy interest or to demonstrate any harm that would result from a requirement that they litigate without the use of pseudonyms in this suit, they have ultimately failed to carry their burden, regardless of whether the use of pseudonyms prejudices the opposing parties. The use of pseudonyms may be appropriate when requisite conditions are met, but this is not the case here, where the Doe entities have not remotely established a privacy interest that overrides the strong public interest in disclosure.

The Doe entities have not made any showing that they have credible, legally cognizable privacy interests here, let alone privacy interests that outweigh the default principle that "[t]ransparency is . . . the norm in federal judicial proceedings." *John Doe I,* 195 F. Supp. 3d at 13. And they have not attempted to put into the record any evidence as to the costs that disclosure of their identities would entail. Even if the Doe entities had demonstrated a privacy

interest, the public's interest in evaluating the Commission's evenhandedness and diligence in resolving plaintiffs' administrative complaint outweighs the private interests of persons whose activities were evaluated for FECA violations. *See supra* pp. 6-8; *People for the Am. Way Found. v. Nat. Park Serv.*, 503 F. Supp. 2d 284, 306 (D.D.C. 2007) (holding that "the public interest in knowing who may be exerting influence on [agency] officials . . . outweighs any privacy interest in one's name"). As such, the Doe entities cannot meet their burden to demonstrate that their interests outweigh those of the current parties to the litigation or of the public interest.

CONCLUSION

For the foregoing reasons, the Court should deny the Proposed Intervenor-Defendants' Motion to Proceed Under a Pseudonym.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
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Plaintiffs,	)	Civ. No. 17-2770 (ABJ)
v.	)	
FEDERAL ELECTION COMMISSION,	)	[PROPOSED] ORDER
Defendant.	)	

[PROPOSED] ORDER

Upon consideration of Proposed Intervenor-Defendants' motion to proceed under a pseudonym (Docket No. 12), defendant Federal Election Commission's opposition thereto, and the entire record in this matter, it is hereby ordered that the proposed intervenor-defendants' motion is denied.

So ordered.

_____
Honorable Amy Berman Jackson
United States District Judge

Dated: _____, 2018