

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF MISSOURI**

RURAL COMMUNITY WORKERS ALLIANCE
and JANE DOE;

Plaintiffs,

v.

SMITHFIELD FOODS, INC. AND SMITHFIELD
FRESH MEATS CORP.,

Defendants.

Case No. 5:20-cv-06063-DGK

MOTION TO ALLOW PLAINTIFF JANE DOE TO PROCEED UNDER PSEUDONYM

Plaintiff respectfully moves the Court to allow her to proceed in this matter under a pseudonym. Federal Rule of Civil Procedure 10(a) requires that “[t]he title of a complaint must name all the parties.” Under limited circumstances, however, courts allow parties to proceed under a pseudonym like “Jane Doe” to preserve their anonymity.

Neither the Eighth Circuit nor the Supreme Court has expressly addressed the circumstances under which district courts should allow parties to remain anonymous. But several other courts have confronted the issue and articulated a variety of considerations. No single factor is dispositive. The court should “carefully review all the circumstances of a given case and then decide whether the customary practice of disclosing the plaintiff’s identity should yield to the plaintiff’s privacy concerns.” *Heather K. by Anita K. v. City of Mallard, Iowa*, 887 F. Supp. 1249, 1256 (N.D. Iowa 1995) (internal quotation marks omitted). In performing the analysis, the court “must balance the need for anonymity against the general presumption that parties’ identities are public information and the risk of unfairness to the opposing party.” *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000) (citing, *inter alia*, *Doe v.*

Stegall, 653 F.2d 180, 186 (5th Cir. 1981); *M.M. v. Zavaras*, 139 F.3d 798, 803 (10th Cir. 1998); *Doe v. Frank*, 951 F.2d 320, 323-24 (11th Cir. 1992)).

Jane Doe faces real and serious risks if her identity is exposed. She has personally experienced retaliation from her supervisors at Smithfield for raising concerns “much more minor” than her allegations in this lawsuit. Dkt. 35-1 (“Second Doe Decl.”) ¶18. And she is aware of other workers who have sued Smithfield using their names, only one of whom still works at Smithfield’s Milan plant (“Plant”). Plaintiff Doe has personally observed this worker being singled out by supervisors for disciplinary action. Second Doe Decl. ¶17. Plaintiff Doe has children and has “laid down roots” in the Milan area, and given the lack of other job opportunities in the area, losing her job with Smithfield would present hardships for her and her family. Dkt. 3-5 (“Doe Decl.”) ¶20. Thus, despite the serious fears for the health of herself and her family that led Ms. Doe to be a plaintiff in this lawsuit, she also “fear[s] what Smithfield will do to me for making these facts public.” Second Doe Decl. ¶19.

Jane Doe’s fears are consistent with the experiences of workers in meatpacking plants around the country, especially surrounding issues involving workplace safety. In a 2017 report, the federal Government Accountability Office recognized that fears of retaliation are endemic among workers in the industry and that these fears present a substantial impediment to the investigation of workplace safety issues. Gov’t Accountability Office, *Workplace Safety and Health: Better Outreach, Collaboration, and Information Needed to Help Protect Workers at Meat and Poultry Plants*, Nov. 2017, available at www.gao.gov/assets/690/688294.pdf (“GAO Report”). The GAO reported that fears of retaliation are so prevalent in the industry that workers at many meat and poultry processing plants are fearful punishment by their employers if they

“ask to use the bathroom too frequently,” *id.* at 27, “visit[] the first aid station,” *id.* at 30 & 31, or complain in any way about illnesses, injuries, or hazards in the workplace, *id.* at 51.

Courts have often recognized workers’ reasonable fears of reprisal and retaliation, like Jane Doe’s fears, as a factor cutting sharply in favor of allowing anonymity in some form during a proceeding. *See, e.g., Jane Roes 1-2 v. SFBSC Mgmt., LLC*, 77 F. Supp. 3d 990, 995 (N.D. Cal. 2015) (exotic dancers granted anonymity based on concerns about retaliation harming future career prospects); *Gomez v. Buckeye Sugars*, 60 F.R.D. 106, 107 (N.D. Ohio 1973) (migrant farmworkers granted anonymity at initial stage of proceeding, noting that such anonymity provided a “higher degree of security” at “eliminating reprisal” than that afforded by the anti-retaliation provision of the Fair Labor Standards Act).

Allowing Jane Doe to proceed under pseudonym in this case is especially important because her fears of reprisal and retaliation present a substantial obstacle to enforcement efforts of any kind, undermining not only the health and safety of workers in the Plant, but also of the public health more generally. Allowing Jane Doe to proceed anonymously in this case is the only way that a worker at the Plant will be able to assert his or her rights under Missouri law to address an issue that is of critical importance to workers and the state generally.

Moreover, there is no prejudice to Defendants caused by allowing Doe to proceed anonymously. In many cases, discovery of a plaintiff’s identity will be necessary to refute individualized allegations of wrongdoing, but in this case, none of Plaintiff Jane Doe’s allegations are individualized and none of the relief she is seeking is individualized. *Advanced Textile Corp.*, 214 F.3d at 1072. Instead, Doe alleges that she is harmed by practices that are common across the entire workplace at the Plant and she and the other Plaintiff in this case seek an order requiring Smithfield to adjust its practices across the entire Plant for the benefit of

workers and for the benefit of the public generally. Discovery of Ms. Doe's identity would serve no purpose for Defendants' ability to defend themselves in this action other than to chill her and other workers from coming forward to report on conditions at the Plant. *Gomez*, 60 F.R.D. at 107 (weighing heavily in allowing anonymity that plaintiffs did not have information that defendant would need to defend itself at that juncture of the action).

For the same reasons, the public interest in open proceedings is minimally affected by allowing Plaintiff Doe to proceed anonymously. There is little for the public to learn from Doe's identity, particularly because there is another identified plaintiff in this case. Instead, the public interest is served by allowing Doe the reassurances of being able to raise allegations of what is happening at the Plant without fear of reprisal.

Finally, any potential harm to the public interest or to the fair, just, and expedient resolution of this case can be resolved by allowing Doe to answer the Court's questions on an ex parte basis. She is willing to make herself available for this purpose as long as she can do so after hours or at a time when she is not scheduled to work, as an absence from work could reveal her identity to Defendants.

For the foregoing reasons, Plaintiffs respectfully request that Jane Doe be permitted to continue using that pseudonym throughout the pendency of this litigation.

April 29, 2020

Respectfully Submitted,

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