No. 20-6629

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

JANE DOE, Petitioner

vs.

BEN CARSON, as Executive Director
United States Department of Housing and Urban Development;

GARY HEIDEL, as Acting Executive Director
Michigan State Housing Development Authority; and

THE UNITED STATES, Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
The Sixth Circuit

Petition for a Writ of Certiorari

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IV. QUESTIONS PRESENTED

1. Should mentally ill individuals be automatically granted name redaction in administrative and court cases, so that they will be able to vindicate statutory, constitutional and other rights violations without first litigating anonymity?

2. Should it be required that any courts making anonymity determinations be required to consider statutory, constitutional and case law on the subject matter in issue?

3. Should consideration of the government as the defendant render anonymity more desirable to expose wrongdoing and keep govt officials from using publicly exposing mental illness to dissuade pursuit of rights?

4. Should it be required that any court considering the issue of anonymity, factor the risks to a) the ability of a person to work again if they become well, b) rejoining the community and c) how a decision potentially could impact their mental health?

V. LIST OF PARTIES AND RELATED CASES

The names of all parties appear in the caption of the case on the cover page.

There are no related cases.

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OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

IX. OPINIONS BELOW

The opinion of the court of appeals, *Doe v. Carson*, Nos. 19-1566/1714 (6th Cir. May 6, 2020), appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court, *Doe v. Carson*, Case No. 1:18-cv-1231 (W.D. Mich. May 3, 2019); 2019 WL 1978428, appears at Appendix B to the petition and is unpublished.

The report and recommendation of the magistrate regarding anonymity, *Doe v. Carson*, Case No. 1:18-cv-1231 (W.D. Mich. Jan. 4, 2019) 2019 WL 1981886 is at Appendix C of the petition and is unpublished.

X. JURISDICTION

A. Timeliness

The date on which the United States court of appeals decided Doe's case was May 6, 2020. A timely petition for rehearing en banc was denied on July 10, 2020 and a copy of the order denying rehearing appears at Appendix D. This Court issued an order March 19, 2020 extending the deadline to request certiorari to 150

days after denial of a petition to request additional review. Therefore, the last day for Doe to file her petition is Dec. 7, 2020.

B. Statutory Authority

The jurisdiction of this court is invoked under 28 U.S.C. §1254(1).

C. A Justiciable Controversy

Doe has standing in presenting a justiciable controversy in spite of matters in her specific case having been resolved.[i] There is an exception to the federal rule that a controversy exist at the review stages and not just at inception of the case, because matters "capable of repetition, yet evading review" are still matters the court should resolve. *Roe v. Wade*, 410 U.S. 113, 125 (1973). Doe began this litigation due to discrimination under disability laws and the U.S. Constitution by the federal and state housing agencies wherein Doe participates in the Section 8 Program. Doe no longer has the same issues with these defendants due to having moved 1,200 miles away. She needs to live in close proximity to one of her children for emotional and functional support related to her disability. If Doe had not moved, it's likely none of the problems would have been resolved. Doe and many other mentally disabled individuals can be in discriminatory situations anytime and they need a path to recourse which Doe did not have here.

Doe's case is about mental illness and disability information as concerns public exposure or privacy in litigation by name redaction. Her anonymity motion was dismissed with *no* analysis or discussion whatsoever of mental illness, disability, or

privacy law under statutory or constitutional law or case law of the US. Supreme Court. Doe's courts, like many, conflate the redaction of a personal identifier with sealing substantive information in the case, so naturally any discussion proceeds off the mark. Without analysis, deciding that using a real name is in the public interest requires turning on its head the concept of the best interest of the public. Victims of discrimination, encompassing many individuals, want the option of bringing their valid discrimination claims into court—they don't give a hoot about the specific identification of Doe. The reasoning being given for the courts' decisions often support the opposite of the decisions made. Many courts identify when the government is a defendant, but most fail to discuss why it matters. In fact, many of them say, erroneously, that it doesn't matter. In the Sixth circuit the reasoning between types of cases, re subject matter, is inconsistent with lessor consideration given to the privacy of mentally disabled people than to bloggers who are violating copyright law in postings on the internet. And the bloggers can change their online name easier than a Doe can change their real name if theirs is exposed and associated with mental disorders. The U.S. Supreme Court should implement standards, identify what conditions should have anonymity *without* litigation (mental illness, abortion, religion, sex related etc.); what components should be considered in a decision of situations that are not in the specific ones just identified, like a requirement to consider laws that exist for the subject matter being considered.

Most or at least many disabled mentally ill individuals, like Doe, live at poverty level and cannot afford to pay attorneys. In Michigan, Doe's income was 25% of the

median income in her metro area. Now she is at 20% of median income in her new metro area. As would be expected, most mentally impaired individuals are unable to pursue a case pro se. If this Court doesn't accept Doe's case, it will be difficult for someone else to get this subject to this level again. Note, Doe does not personally gain anything from this suit. Her specific case is done. This is being brought on principle. Even with the reduced requirements for filing a pro se petition, copies for this petition alone are costing over a couple hundred dollars. Most people at Doe's income level would not be able to spend this, like if they had children, if they need to have a car, and a host of other reasons that could render it virtually impossible.

XI. CONSTITUTIONAL & STATUTORY PROVISIONS

A. Constitutional provisions implicating access to redress, the right of privacy protection, as well as procedural and substantive due process rights and equal protection guarantees are comprised in this matter. A demand that Doe share private information regarding her mental health disability and its effects with the public in order to be accorded recourse against disability discrimination is a violation of a combination of these.

1. THE FIRST AMENDMENT of the United States, "Congress shall make no law respecting... the right of the people... to petition the government for redress of grievances."

2. THE FIFTH AMENDMENT of the United States, "No person shall...be deprived of life, liberty, or property, without due process of law."

3. THE FOURTEENTH AMENDMENT of the United States, Section 1 "(N)or shall any State ... nor deny to any person within its jurisdiction the equal protection of the laws."

B. STATUTORY PROTECTIONS INCLUDE:

1. THE AMERICANS WITH DISABILITIES ACT OF 1990, (ADA) AND ADA WITH AMENDMENTS ACT OF 2008 (ADAA) 42 U.S.C. Ch. 126 Equal Opportunity for Individuals with Disabilities in sections 12101 et seq.

42 U.S.C. §12101 Findings and Purpose. (a) Findings The Congress finds that-- (1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination; (2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem; (3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services; (4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination; (5) individuals

with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities; (6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally; (7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and (8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and non-productivity.

(b) Purpose It is the purpose of this chapter-- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and (4) to invoke the sweep of congressional authority, including the power to enforce the

fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

42 U.S.C. §12102 Definition of Disability The ADA defines "disability," "with respect to an individual," as (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." Copy of this section in Appendix E.

Part A--PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

42 U.S.C. §12131 Definitions As used in this subchapter: (1) Public entity The term 'public entity' means--(A) any State or local government; (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (C) N/A (2) Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity.

42 U.S.C. §12132 Discrimination Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity.

42 U.S.C. §12133 Enforcement The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights to this subchapter provided to any person alleging discrimination on the basis of disability in violation of section 12132 of this title (Same as under Sec 504 of Rehabilitation Act of 1973).

29 U.S.C. 794a. Remedies and attorney fees (a)(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) shall be available to any person aggrieved by any act or failure to act by any recipient [the state program recipient] of Federal assistance or Federal provider of such assistance under section 794 of this title. (b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. Appendix F.

SUBCHAPTER IV-MICELLANEOUS PROVISIONS

§12201 Construction. (a) In general Except as otherwise provided in this chapter, nothing in this chapter shall be construed to apply a lessor standard than the standards applied under Title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title. (b) N/A (c) N/A (d) N/A (e) N/A (f) fundamental alteration Nothing in this chapter alters the provision of section 12182(b)(2)(A)(ii) of this title, specifying that reasonable modifications in policies, practices, or procedures *shall be required*, unless an entity can demonstrate that making such modifications in policies,

practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved. (emphasis provided) (g) N/A (h) N/A.

42 U.S.C. §12202 State Immunity. A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation under this chapter, remedies (including both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

42 U.S.C. §12203 Prohibition against retaliation and coercion. (a) Retaliation No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this chapter. (b) Interference, coercion, or intimidation It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter. (c) Remedies and procedures The remedies and procedures available under sections 12117, 12133, and 12188 of this title shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to this subchapter I, subchapter II and subchapter III, respectively.

42 U.S.C. §12205 Attorney fees. In any action or administrative proceeding commenced pursuant to this chapter the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

28 CFR § 35.105 Self-evaluation.(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:(1) A list of the interested persons consulted;(2) A description of areas examined and any problems identified; and(3) A description of any modifications made.(d) If a public entity has already complied with the self-evaluation requirement of a regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this section shall apply only to those policies and practices that were not included in the previous self-evaluation.

2. SEC 504 OF THE REHABILITATION ACT OF 1973 Title 29 Labor, Ch.16 Vocational rehabilitation and other rehabilitation services, Subchapter V--Rights and Advocacy, §794 Nondiscrimination under federal grants and programs, and §794a, Remedies and attorney fees. which encompasses remedies from the CIVIL RIGHTS ACT OF 1964 (42 U.S.C. §2000d et seq.) Applicable sections are lengthy and provided in Appendix F (same as in ADA)

3. 42 U.S.C. §1983 CIVIL ACTION FOR THE DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

4. 42 U.S.C. Ch. 114 PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS 42 U.S.C. §10801 Congressional Findings and statement of purposes (a) The Congress finds that--(1) individuals with mental illness are vulnerable to abuse and serious injury;...(b) The purposes of this chapter are--(1) to ensure that the rights of individuals with mental illness are protected;

and (2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will (A) protect and advocate the rights of individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes. (This statute is primarily concerned with mentally ill individuals in relation to hospitalization for their condition, but the expressions of Congress regarding mental illness are still valid.)

5. THE FREEDOM OF INFORMATION ACT (FOIA) Title 5 Government organization and employees, §552 Public information; agency rules; opinions, orders, records and proceedings. "§552(a) Each agency shall make available to the public information as follows:..." (b) This section does not apply to matters that are--(3) specifically exempted from disclosure by statute (other than section 552(b) of this title), if that statute--(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on this issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA ACT OF 2009, specifically cites to this paragraph." THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) is a federal law protecting individuals' health information from dissemination without their knowledge or permission. It falls into this exception (3). The U.S. Department of Health and Human Services (HHS) issued the HIPAA Privacy Rule to implement the requirements of the law. (It was an attachment in the appellate brief.) The agency further issued specific to mental illness, HIPAA Privacy Rule and Sharing

Information Relate to Mental Health. A copy of the first three pages is at Appendix G. The exposure of the records of individuals by federal agencies also does not apply to "(6) personnel *and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."* (emphasis provided)

C. FEDERAL RULES OF CIVIL PROCEDURE

Rule 5.2 Privacy Protection for Filings Made with the Court (e) Protective orders (1) require redaction of additional information.

Rule 10. Form of Pleadings, (a) Caption; Names of Parties. Every pleading must have a caption with the court's name, a title, a file number, and a Rule 7(a) [pleadings which are allowed] designation. The title of the complaint must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties. (emphasis provided)

Rule 17. Plaintiff and Defendant; Capacity; Public Officers. (a) REAL PARTY IN INTEREST (1) Designation in General. "An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute. (2) Action in the Name of the United States for Another's Use or Benefit. When a federal statute provides, an action for another's use or benefit must be brought in the name of the United States. (3) Joinder of the Real Party in Interest. The court may not dismiss an action for

failure to prosecute in the name of the real party in interest until, *after an objection,* a reasonable time has been allowed for the real party in interest to *ratify*, join, or be substituted into the action. (emphasis provided) After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest. (Rule 17, including Notes of Advisory Committee on Rules--1966, which discusses anonymity are in Appendix H)

D. INTERNATIONAL LAW

Convention on the Rights of Persons with Disabilities, United Nations General Assembly is at Appendix I with a map of signatories at Appendix J.

XII. STATEMENT OF THE CASE

Doe is diagnosed with a mood disorder (bi-polar), severe depression and anxiety, attention deficit disorder, and obsessive-compulsive disorder. These manifest in difficulty functioning in daily life in the 'real' world. Doe is not intellectually disabled. Doe has a legal background, but knows virtually nothing about litigation, She got a CALI Award of Excellence in contract law, so she does have some capability in reading caselaw and statutes during those times she has been able to read, but she isn't confident enough to say her work is terrific, but hopefully it's okay. In the district court, filings were sloppier because it's very hard for Doe to organize things and she found writing a complaint for the first time baffling. Doe is filing pro se under limitations which are most pronounced in administrative and presentation matters and requests the court to kindly ignore the errors. Example,

the cover sheet for Doe's appellate brief only identified the case and was missing about everything else. She was embroiled in a confusing paper mess at Fedex most of the day. They copied some things collated, some not. Some on shiny paper that were recopied. Alphabetizing cases was very time consuming (she frequently needs to sing the abc song to remember letter order) and she should never have left physically putting together her brief on the last day it could be mailed. She sent another cover separately and it arrived at the court 15 minutes prior to the brief itself but was filed after it. This is the type of thing people don't understand about mental disabilities. It's stupid everyday decision-making and what most people consider 'common' knowledge where Doe fails the most. The nature of limitations is different for each disabled person. Doe was much more dysfunctional when she first moved to Michigan.

Doe's case is against the U.S. Dept. of Housing and Urban Development (HUD) and the Michigan State Housing Development Authority (MSHDA), but referenced in most filings as ('State'). There are laws giving disabled persons in the Section 8 housing program extra time to find a place to live when they move if they have special needs. 24 CFR §982.303. Upon moving to Michigan in 2013, Doe needed to live in walking distance from her son because she gets critical emotional and functional assistance from her children being essentially unable to form bonds with other people and her children understand her. Doe came within days of losing her housing voucher--and was on the verge of a mental breakdown--because the agency didn't want to give Doe the amount of time she needed to find a place to live. When the building sold she that lived in, she was told by the new owner that she

would need to move because they intended to renovate the unit. Doe found a place very close to her son that had low rent and was willing to take a voucher in a neighborhood where it's very hard to find anything affordable. The State said she had to wait seven weeks to move and she later found out they were supposed to have allowed her to move as soon as the new unit was available (it was vacant). (See, ECF No. 1, Page ID. 10, para.#s 17.5-18) The stress Doe went through over that was excruciating. She didn't expect the apartment owner to hold the unit that long and didn't think she was likely to find another suitable place quickly. It was a miracle that the new place was willing to leave their apartment empty nearly two months so she didn't lose it.

She found out after a couple years in Michigan that they had not deducted all her medical expenses in determining her adjusted income from which the amount of rent she pays is based. The statute says it's "mandatory" for disabled individuals. 42 U.S.C. §1437a(b)(5)(A). They refused to go back and correct their mistakes. The amounts would have been maybe several hundred dollars but that's a large amount when you have an extremely low income. There were other things--too many to list. Doe made extensive attempts to resolve the problems with the State and tried to get assistance from HUD and DOJ to no avail. Doe filed suit in fall 2018.

The initial complaint of Doe was based on The ADA Amendments Act of 2008 which was passed to restore the intent and protections of the Americans with Disabilities Act. The amended complaint was based on the Due Process Clause of the Fifth and Fourteenth Amendments and equal protection. And under 42 U.S.C.

§1983. These pleadings are so deficient Doe is appalled right now, but with medication changes, she is somewhat better since a couple years ago, in addition to having spent a good portion of her time in the last year and a half reading law. Doe also requested to get an attorney and to amend her complaint a second time. These were denied. She felt she had no chance of learning state law simultaneous with learning federal litigation, and housing and disability law, so she had to forgo filing any state law claims. Maybe the procedure in the Code of Federal Regulations in 28 CFR 35.105, that federal agencies are required to police themselves in terms of their success following disability law has something to do with some of them having a virtual indifference to following those laws.

XIII. REASONS FOR GRANTING THE PETITION

A. MENTAL ILLNESS AND DISABILITIES ARE PRIVATE ISSUES FOR WHICH THERE IS GREAT PUBLIC INTEREST IN SEEING STATUTORY AND CONSTITUTIONAL RIGHTS PROTECTED, BUT LITTLE PUBLIC INTEREST IN THE IDENTITY OF LITIGANTS.

The Supreme Court has protected the privacy of mentally ill individuals. "[A]dults previously of sound mental health who are diagnosed as mentally ill may have a need for privacy that justifies the state in confining a commitment proceeding [to the smallest group compatible with due process]. *Heller v. Doe*, 509 U.S. 312 (1993). "Confidential communications in course of diagnosis or treatment are protected from compelled disclosure under Rule 501 of the Federal Rules of Evidence." *Jaffee v. Redmond*, 518 U.S. 1 (1996). "[P]ersons with mental disabilities

have been subject to historic mistreatment, indifference, and hostility." *Olmstead v. L.C.*, 527 U.S. 581, 608 (1999) (Kennedy J. concurring).

Doe's case is a demonstration of mental illness being looked down upon. As quoted in *Cleburne v. Cleburne Living Center, Inc.* 473 U.S. 432, 448 (1985) (overturned on other grounds), " 'Private biases may be outside the reach of law, but the law cannot, directly or indirectly give their effect.' *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984)." Doe thinks that her mental illness was largely a factor in how her case was more brushed aside than evaluated.

The first line in Doe's complaint titled Summary of this Lawsuit was, " Plaintiff, Jane Doe, filing pro se, *is a participant in* the Housing Choice Voucher Program (Section 8), funded by the U.S. Department of Housing and Urban Development (HUD)...", (emphasis provided). ECF No. 1, PageID #2. According to the magistrate in her R&R, adopted by the judge, "Plaintiff alleges violations of the Americans with Disabilities Act with respect to her *attempts to obtain government subsidized housing*." At that point, Doe had filed the complaint, amended complaint, motion for getting an attorney and amending the complaint again and for permission to litigate with anonymity. It is *not possible* to read even a fraction of those without realizing Doe is already a participant in a housing program. *Doe v. Carson,* 2019 WL 1981886, *1 (W.D. Mich. Jan. 4, 2019).

The magistrate also states in the R&R, adopted by the judge, "While Plaintiff repeatedly asserts the conclusion that her free speech rights will be chilled..." *Id.* In Doe's brief in her motion for proceeding anonymously, the first section is *entitled Signature Management Team LLC v. John Doe*, 876 F.3d 831 (6th Cir. 2017).

(centered and in bold type). This case was favorably decided for the anonymous defendant who was blogging materials in violation of someone else's copyright. Doe is reviewing this entire case before beginning her discussion of how she sees her own case in light of Sig. Mgmt. First paragraph is "Facts" (not in bold) where Doe states, "Although based on the post-decision anonymity of a defendant, the case *Signature Management v. John Doe*, 876 F.3d 831 (6th Cir. 2017) has a plethora of points relevant to the case of a Doe plaintiff as well." ECF No. 12, PageID# 80. Second paragraph, still clearly under the Sig. Mgmt case is named "Law." 'The sixth circuit decided that in light of the important conflicting rights involved, primarily the first amendment protections of Doe's free speech that could be chilled as a result of being unmasked" ECF No. 12, PageID.#80 [The Sixth circuit had not decided anything in this Jane Doe's case at that point.] Doe continues her discussion of the Sig. Mgmt case, "D. Presumption in favor of Unmasking" [Doe is using the same paragraph labels used in the court's opinion.] "The court says that like the general presumption of open records, there is also a presumption favor of unmasking anonymous defendants when judgment has been entered for a plaintiff. They say the courts must consider both the public interest in public records and plaintiffs need to learn the anonymous defendant's identity to enforce their remedy. 'The greater a plaintiff's or the public's interest in unmasking a losing Doe defendant's identity, the more difficult it will be for the Doe defendant to overcome the presumption and remain anonymous.' At this point, the court again draws in the constitutional right to free speech and says even if the wrongful speech is not protected under the first amendment, the court looks to see if Doe participates in a

significant amount of protected speech that would be chilled if his identity were revealed." ECF No. 12, PageID # 82-83. And, "A Doe defendant m[a]y rebut the presumption of openness by showing that he engages in substantial protected speech that unmasking will chill." Id. at 83. Jane Doe in this case is not the defendant. At the end of the review of Sig Mgmt, is a paragraph heading "Discussion of this case." *Id.* at 84. "Jane Doe in this case sees a number of issues which overlap this case and the *Signature* case. Doe in this case is also seeking to maintain a first amendment right: the right to petition the Government for a redress of grievances. If a mentally ill person is going to have the right to the redress of issues, it is imperative that they be able to maintain personal privacy while pursuing their rights. The public interest in Jane Doe's identity is minimal and the interest in the subject matter is probably substantial. The public interest in the rights of the mentally disabled cannot be satisfied if every plaintiff risks complete humiliation as a condition of maintaining their rights and therefore does not pursue them. The chill factor will be substantial if mentally ill people have to be individually identified, like in the free speech rights of anonymous Doe defendants who want to speak anonymously on the internet. It is the subject matter they are discussing that is of interest, not the identity of the speaker. Likewise, it is the rights of mentally disabled persons which would be of interest in this case, not the identity of Jane Doe." At this point in Doe's brief there is a new case name in bold that Doe is going to review and discuss, *Doe v. Sessions* . [Civil Action No. 18-0004(RC)(D.D.C. Sep. 27, 2018)] Doe doesn't understand how someone could read Doe's filings and say that she "repeatedly asserts the conclusion that her free speech

rights will be chilled..." R&R at *1. It appears that neither the magistrate nor the judge read what Doe wrote. Doe believes that should have been considered by the circuit court an abuse of discretion regardless of anything else

A case in the 7th Circuit, *Doe v. Blue Cross Blue Shield of Wisconsin*, 112 F.3d 869, 872 (7th Cir. 1997) shows a misunderstanding of mental illness and a reason this Court cannot rely on district and circuit courts to make impartial judgments. "[T]he fact that a case involves a medical issue is not a sufficient reason for allowing the use of a fictitious name, even though many people are understandably secretive about their medical problems. 'John Doe' suffers, or at least from 1989-1991 suffered, from a psychiatric disorder-obsessive compulsive syndrome. This is a common enough disorder--some would say that most lawyers and judges suffer from it to a degree--and not such a badge of infamy or humiliation in the modern world that its presence should be an automatic ground for concealing the identity of a party to a federal suit. To make it such would be to propagate the view that mental illness is shameful. Should 'John Doe's' psychiatric records contain material that would be highly embarrassing to the average person yet somehow pertinent to this suit and so an appropriate part of the judicial record, the judge could require that this material be placed under seal." *Blue Cross* at 872.

A disorder or disability is something that severely impairs your ability to function in daily life and it's not likely that most lawyers and judges "suffer from it." To say that is to heavily discount what it means to have a disability. Also, it seems this judge is going solely on the *term* OCD, the nomenclature, rather than the effects of that condition which have rendered a specific person disabled. Howard

Hughes is said to have had OCD to a disabling degree and we can probably take judicial notice of how well that went. Prior to this statement the court does say, "The motion to proceed in this way was not opposed, and the district court judge granted it without comment. The judge's action was entirely understandable given the absence of objection and the sensitivity of psychiatric records." *Id.* And, "Records or parts of records are sometimes sealed for good reasons, including the protection of state secrets, trade secrets, and informers; and fictitious names are allowed when necessary to protect the privacy of children, rape victims, and other particularly vulnerable parties or witnesses." *Id.* This opinion is understood to mean that other mental disabilities the names of which are seen by society as more socially unacceptable would be granted identity protection. It should also be noted that individuals with mental illness have issues and needs regarding discrimination or accommodations which is not comprised in such a way that they can file a couple of pages of medical records under seal and have their privacy protected. Doe needs the emotional and functional support of her children. That isn't in her medical records. In this type of case, the entire case is a discussion of mental illness and it's disabling effects. The district and circuit courts in Doe's case failed to understand that, and they also recommended a seal, but not one that would shield the information adequately.

In Doe's case, the district and circuit court wanted Doe to post her private information on the Internet by presenting it in court in her real name. The population of the United States as of July 1, 2019, as estimated by the United States Census Bureau, is 328,239,523. If we remove persons under the age of 18

(22.3%), it's 255,042,109. census.gov/fact/table. This is the number of people the courts want to have access to Doe's private information with no protections. You can redact one word from the case, Doe's name, and the public can see all the messy detail of the fact situation, and review a thorough examination by the courts of the issues in the discrimination case. Or you can render mentally disabled individuals vulnerable to mal treatment if a federal agency doesn't follow the law, because the cure is worse than the disease.

Some courts already consider mental illness a sufficient reason to grant anonymity. "Courts have permitted plaintiffs to proceed anonymously in cases involving mental illness, *Doe v. Colautti*, 592 F.2d 704 (3d Cir. 1979)" *Doe v. Frank*, 951 F.2d 320 (11th Cir. 1992). "Examples of areas where courts have allowed pseudonyms include cases involving 'abortion, birth control, transsexuality, mental illness, welfare rights of illegitimate children, AIDS, and homosexuality'." *Doe v. Megless*, 654 F.3d 404, 408 (3d Cir. 2011) (*quoting Doe v. Borough of Morrisville*, 130 F.R.D. 612, 614 (E.D. Pa. 1990). "Courts within our circuit have been balancing these competing interests for the last fifteen years without our guidance...They have primarily relied on a test for the use of pseudonyms set forth in *Doe v. Provident Life and Acc. Ins. Co.*, 176 F.R.D. 464, 467 (E.D. Pa. 1997). That case set forth a non-exhaustive list of factors to be weighed both in favor of anonymity, and also factors that favor the traditional rule of openness." *Megless* at 409. "Because the flyer neither accused Doe of criminal behavior or mental illness, nor disclosed highly sensitive personal information, he did not demonstrate that disclosing his

identity would cause him substantial 'irreparable harm'." *Megless* at 410 (citing their district court case being appealed).

Congress' position regarding such individuals is clear. The vast majority of the Congress co-sponsored the Americans with Disabilities Amendment Act of 2008 (ADAA) (See Appendix K) where under Purpose-- It is the purpose of this chapter--..." to invoke the sweep of Congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities." 42 U.S.C. §12101(b)(4) Congress' express motivation for the Americans with Disabilities Amendments Act (ADAA) which was in response to *Sutton v. v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002). Findings and Purpose of Pub. L. 110-325, (b) (2)-(5) printed below 42 U.S.C. §12101 (These cases have narrowed the broad scope of protection intended to be afforded by the ADA thereby eliminating protection for many individuals whom Congress intended to protect.).

In the vast majority of cases where a government department requires private information in the function of their work with the public, people are concerned about providing it because the information could be exposed publicly. But there are usually privacy protections in place and the question is whether information will escape those and then be exposed to the public. *Whalen v. Roe*, 429 U.S. 589, 601-02,605 (1977) (The right of the government to collect and use data on Schedule II drug prescriptions which is personal in character and potentially embarrassing or harmful if disclosed, is "typically accompanied by a concomitant statutory or

regulatory duty to avoid unwarranted disclosures" and further suggest it's a *remote* possibility that a judge wouldn't protect such information); *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977) (Significant screening process in statute that archivists remove personal information from tapes and documents to be kept by the government); *National Aeronautics and Space Administration v. Nelson*, 562 U.S.134, 155 (2011) (Forms for background checks including request for illegal drug use and counseling as well as open-ended questions to references being objected to are also subject to substantial protections against disclosure to the public).

In a case involving an individual who had been arrested for a crime, and took two psychological tests relating to mental illness, plaintiff Borucki, was found competent to stand trial, but then the criminal charges against him were dropped. The prosecutor, Ryan, held two press conferences with media during which he 'openly discussed the contents of the report on criminal responsibility.' *Borucki v. Ryan*, 827 F.2d 836, 837 (1st Cir. 1987). Borucki brought suit alleging that Ryan's disclosure of his psychiatric report to the press was a violation of his constitutional right of privacy. He stated Ryan was not entitled to qualified immunity because the right of privacy was clearly established. The circuit court held that the privacy right had not been clearly established "as of the date of Ryan's alleged actions" which were June 17, 1983. *Borucki v. Ryan,* 827 F.2d 836 (1st Cir. 1987). *Id.* And so Ryan was found to be entitled to qualified immunity; "Officials can act without fear of harassing litigation only if they reasonably can anticipate when their conduct may give rise to liability for damages." *Id.* This court thoroughly analyzes the development of privacy law. They state, "While Supreme Court cases did not clearly establish a right of privacy applicable to the facts of the present case, the Third and Fifth Circuits had held prior to June 1983 that there is an independent right of confidentiality

applicable to personal information contained in medical, financial, and other personal records." *Id.* At 845 (citing *United States v. Westinghouse Elec. Corp.*, 638 F.2d 570 (3d Cir. 1980) and *Plante v. Gonzalez*, 575 F.2d 1119, 1132 (5th Cir. 1978)). "Additionally, the Nineth Circuit, in *Caesar v. Mountanos*, 542 F.2d 1064, 1067 (9th Cir. 1976), determined that the psychotherapist-patient communications are among the personal areas protected by the right of privacy." *Id.* at 846. It also *cites In re Lifschutz*, 2 Cal. 3d 415 (Cal. 1970) for the proposition that such communications are not privileged when a patient places his mental or emotional condition in issue, but otherwise the patient's interest in keeping communications to therapist confidential draws support from the constitution. *Id.*

B. THE GOVERNMENT AS THE DEFENDANT MATTERS BECAUSE THERE IS A STRONG PUBLIC POLICY TO EXPOSE WRONGDOING BY GOVERNMENT ENTITIES BY BRINGING THEIR ACTIVITIES, POLICIES, AND PROCEDURES TO LIGHT.

It can be suggested Doe is putting her mental illness in issue, however, that would not be an accurate assessment. Defendants are completely aware that Doe is determined by the Social Security Administration to be disabled, is in all the housing program records as disabled, and that her doctor had communicated specific accommodation requests identifying her maladies to them clearly identifying her disability as mental illness, and they are in fact knowingly dragging her condition into court by denying her constitutional rights against discrimination. We need to look at substance over form.

It's important for government agencies to be held accountable. There is a public value to bringing to light discriminatory activities of a federal agency. If people

with mental illness are refused anonymity, they won't bring suit. The defendants by forcing this choice on Doe--to release information that would be protected under the Freedom of Information Act (FOIA) by 5 U.S.C. §552(b)(3) and (6) in a direct request to the agency, is *substantively*, a Freedom of Information Act bypass. They are aware that many people who are mentally ill will not pursue their statutory and constitutional rights given that choice, so they force individuals to forgo privacy rights to obtain relief from violations of their constitutional rights. The result is that federal agencies are not required to follow the Americans with Disabilities Act (ADA), Americans with Disabilities Amendments Act (ADAA), Section 504 of the Rehabilitation Act of 1973, and other laws, as concerns mentally disabled individuals. The reason for the establishment of the Freedom of Information Act (FOIA) laws was so that federal agencies could not hide their activity from the public. It was the effort to prevent unlawful activity by government employees. Doe's underlying case is one of discrimination by federal agencies. Rather than the agencies being made to expose what they have or have not done to support their statutory and regulatory responsibilities, Doe has been 'put on trial' to justify protecting her privacy. Doe is not aware of any of the nine exceptions listed in 5 U.S.C. §552(b) that has not been protected in the courts. But frequently, as in Doe's case, some courts determine that no privacy is merited in cases protecting medical information from public view.

Note in exception 5 U.S.C. 552(6), even beyond medical files being protected from exposure, they reference "similar files the disclosure of which would constitute *a clearly unwarranted invasion of personal privacy.*"

Many courts evaluating anonymity cases take into consideration whether or not the government is a defendant in the suit. This is not a statutory requirement. It's taken from the case *Southern Methodist University Ass'n of Women Law Students (SMU) v. Wynne & Jaffe*, 599 F.2d 707 (5th Cir. 1979) which is very frequently cited in courts. The judge in *SMU* synthesized commonalities from a collection of cases identified by the judge in *Doe v. Deshamps*, 64 F.R.D. 652 (D. Mont. 1974), where anonymity had been granted. "[A]ll of the plaintiffs previously allowed in other cases to proceed anonymously were challenging the constitutional, statutory, or regulatory validity of government activity." *SMU* at 713. This is relevant to Doe's case in that the judge deciding Doe's case uses that as a consideration, but she doesn't understand why having the government as a defendant matters. *G.E.G. v. Shinseki*, 2012 WL 381589 (W.D. Mich. Feb. 6, 2012) (Case No. 1:10-cv-1124) is an anonymity case based on mental illness by the same judge, where an individual was suing the Secretary of Veterans Affairs for his termination as an employee prior to the end of his probationary status and G.E.G. contended his rights were being violated re Section 504 of the Rehabilitation Act of 1973 for not being granted accommodations. The judge states, "Defendant asserts that only factors (1) and (2) ...even arguably apply in this case, and they do not weigh in favor of allowing Plaintiff to proceed under a pseudonym. The Court agrees. Plaintiff provides no persuasive justification under factor (1), a challenge to governmental activity, which

Defendant notes, usually applies to cases in which the plaintiff challenges governmental activity such as a policy or statute." *G.E.G.* at *3. There was not a policy or statute requiring the VA to deny an employee accommodations and then fire him because of his disability. The statement regarding these facts where the government is the sole defendant "do not weigh in favor of" anonymity is an error. From a search of a legal database, it does not appear this plaintiff filed suit again following this in his own name.

With the same judge and magistrate as in Doe's case, *Doe v. University of Pittsburgh*, 2018 WL 3029085 (W.D. Mich. Jan. 12, 2018) is not a mental illness case but is an anonymity case. Doe here is suing the University of Pittsburgh and some of its employees as individuals. The Magistrate's Report states "While Plaintiff is suing a state university and several employees thereof, Plaintiff is not challenging 'governmental activity.' See e.g. *G.E.G. v. Shinseki*, 2012 WL 381589 at *2 (W.D. Mich. Feb. 6, 2012) (in rejecting a request to proceed anonymously, the court noted that "this factor applies to circumstances in which a plaintiff is 'challenging the constitutional, statutory or regulatory validity of government activity' Here, Plaintiff merely alleges tortious conduct against state employees. Thus, this factor weighs against Plaintiff's request.") *Pittsburgh* 2018 WL 3029085 *1. This court citing G.E.G. in 2012 where no cites were provided for a negative determination doesn't help clarify this determination. The statement from *SMU* quoted here doesn't agree with the idea that tortious acts by government employees are *not acts by the government* so that they *weigh against* plaintiff's request for anonymity being granted. Then in the judge's Opinion and Order in *Doe v.*

Pittsburgh, 2018 WL 1312219 *2 (W.D. Mich. Mar. 14, 2018), "Plaintiff asserts that it is 'clear' that she is challenging governmental activity in as much as she is alleging the 'defendants have violated her Constitutional rights and rights that are secured under federal and state law.' (Objs., ECF No. 51 at PageID 313-314."...then the court says, "The distinction drawn by the Magistrate has support in the caselaw. Courts are generally less likely to grant a plaintiff permission to proceed anonymously when the plaintiff sues a private individual than when the action is against a governmental entity 'seeking to have a law or regulation declared invalid.' *Doe v. Merten*, 219 F.R.D. 387, 394 (E.D. Va. 2004) (citing *Southern Methodist Univ. Ass'n of Women Law Students v. Wynne & Jaffe*, 599 F.2d 707, 713 (5th Cir. 1979) (explaining that actions 'challenging the constitutional, statutory or regulatory validity of government activity' generally 'involve no injury to the Government's reputation')." *Pittsburgh*, 2018 WL 1312219 *2 'Having a law or regulation declared invalid' is not in *SMU*. After the citation the court puts a *different* statement from *SMU* in parentheses, a statement that actually *is* in *SMU*, that challenging government activity is not damaging to its reputation. The court in *Pittsburgh*, 2018 WL 1312219 *2 continues, "See e.g. *Doe v. North Carolina Cent. Univ.*, No. 1:98-cv-1095, 1999 WL 1939248 at *4 (M.D.N.C. Apr. 15, 1999) (denying plaintiff's request to proceed anonymously in a suit against a state university where the plaintiff was not seeking to have a law or regulation declared invalid.)" In this *N. Carolina Cent. Univ.* case, the public university is the only defendant. This case says the reputation of a public university will be harmed. This case has misinterpreted *SMU*.

The court in Doe's case does not stand alone in not discussing why the government was the defendant in all the cases identified in *Deshamps*. In *Doe v. Frank*, 951 F.2d 320 (11th Cir. 1992), Doe had "alleged that he was removed from employment because of his alcoholism, a physical handicap, in violation of the Rehabilitation Act of 1973..." *Id.* at 322. In *Frank,* "while most of the cases permitting plaintiffs to proceed anonymously involved actions challenging government activity..." *Id.* at 323. The court in *SMU* actually says that "*all* the plaintiffs previously allowed in other cases to proceed anonymously were challenging the constitutional, statutory or regulatory validity of government activity. While such suits involve no injury to the Government's 'reputation,' the mere filing of a civil action against other private parties may cause damage to their good names and reputation and may also result in economic harm." *SMU* at 713. Inaccurately identifying the statement in *SMU* by saying 'most' of the cases instead of 'all' is an error that possibly leads to missing the point of the relevance of the government being the defendant. *Frank*, "*Wynne and Jaffe* [*SMU*] does not stand, however, for the proposition that there is more reason to grant a plaintiff's request for anonymity if the plaintiff is suing the government. Consequently, the fact that Doe is suing the Postal Service does not weigh in favor of granting Doe's request for anonymity" *Doe v. Frank*, 951 F.2d 320, 324 (11th Cir. 1992). But there is more reason to grant a plaintiff's request for anonymity if the plaintiff is suing the government. The reputation comment in *SMU* is a counterpoint to the reasons about why in suing private individuals there are different concerns. Concluding that

suing the Postal Service does not "weigh in favor of" of granting a request for anonymity is a conclusion for which Doe cannot see the derivation.

The district court in Doe's case cites the so-called '*Porter*' factors from the decision, *Doe v. Porter*, 370 F.3d 558 (6th Cir. 2004). In all the other cases Doe has seen use those factors, and many have, no other case that Doe has seen failed to indicate that they are in fact the three factors identified by the judge in *SMU*—they did not label them as their own. The only case cited as authority in *Porter* is *Doe v. Stegall*, 653 F.2d 180 (5th Cir. 1981), a natural decision since it had virtually identical facts. *Stegall* discussed how the factors used were identified in *SMU*. The courts in *Porter* and *Stegall* both found that the issue of religion is private and individuals can have strong opinions on this issue, and identities should be protected, and in addition, children were also plaintiffs meriting special protection. In basing the negative decision on Doe's case here on *Porter,* which was based on *Stegall*, the district and 6th Circuit courts failed to note that in the case they were using as authority, it also stated "The equation linking the public's right to attend trials and public's right to know the identity of the parties is not perfectly symmetrical. The public right to scrutinize governmental functioning...is not so completely impaired by a grant of anonymity to a party as it is by closure of the trial itself. Party anonymity does not obstruct the public's view of the issues joined or the court's performance in resolving them. The assurance of fairness preserved by public presence at a trial is not lost when one party's cause is pursued under a fictitious name." *Stegall* at 185. Doe's case was also shot down for not having included matters of the 'utmost intimacy'. But *Stegall* and *Porter* granted

anonymity based on religion being 'private' and even *SMU,* the source of the '*Porter*' factors describes, "a compelling need to 'protect privacy in a very private matter'." *SMU* at 713 quoting *Doe v. Deshamps*—the original source of the cases upon which the *SMU* factors were drawn.

Some contrasts in the *Signature Mgmt Team v. Doe* case (mentioned supra, 876 F.3d 831 (6th Cir. 2017)) and Doe's case worth noting, " the ability to speak anonymously on the Internet promotes the robust exchange of ideas and allows individuals to express themselves freely without 'fear of economic or official retaliation...[or] concern about social ostracism*" Signature Mgmt.* at 835-36, *quoting In re Anonymous Online Speakers*, 661 F.3d 1168, 1173 (9th Cir. 2011). There were no concerns about economic or social repercussions in Doe's case. The bottom line in *Signature Mgmt.* was to allow anonymity where "there is no practical need to unmask the defendant." *Signature Mgmt.* at 836. Doe did not see an indication of what the practical need there was for identifying her. It's biased that Doe's request for anonymity was denied and her case dismissed based on Rule 10(a) when another Sixth Circuit case, *Signature Management v. John Doe*, 876 F.3d 831 (6th Cir. 2017) doesn't even mention Rule 10(a). Further Signature equates name redaction, the redaction of a personal identifier, to sealing substantive material in a case and there should be a distinct distinguishing between the two. The only examination should be if the name matters.

C. A DOE LITIGANT IS THE REAL PARTY IN INTEREST WITH THE SUBSTANTIVE RIGHT TO BRING SUIT, AND SO LONG AS THEY ARE

IDENTIFIED TO DEFENDANTS OR THE COURT, RES JUDICATA IS ASSURED.

Doe's case was dismissed based on a violation of Rule 10, not listing a party in the case. Rule 10, "Form of Pleadings," is the rule that identifies the information to put on the cover sheet of the complaint and other pleadings in district court. FRCP Rule 10 doesn't render a lack of jurisdiction unless the alleged party is a phantom with no discernable identity. Lumping known litigants with unknown ones is an error. If a definition of 'parties' is in the rules, and it is in Rule 17 under V. PARTIES, then in Rule 10, the word 'parties' means parties *as defined in Rule 17.* Just like Doe is a disabled 'family' living all by herself in regard to housing law because one disabled individual is still comprised within the definition of 'family' in that statute. 42. U.S.C. §1437a(b)(3)(A). Besides which, a protective order allows for redaction of additional information besides that which is in R. 5.2(a). FRCP 5.2(e)(1). So redacting Doe's name is fine in the rules.

There are numerous situations listed in Rule 17 where it specifies that if you are in one of these categories, it makes no difference whatsoever if the party in interest is also the person whose name is on the pleading. FRCP 17(a)(1). Then in FRCP 17(a)(3) it says "the court may not dismiss an action for failure to prosecute *in the name of* the real party in interest until, *after an objection*, a reasonable time has been allowed for the real party in interest to *ratify*, join, or be substituted into the action." (emphasis provided). How can it be argued that the public needs to know the real party in interest in some types of suits but not others? The categories in (a)(1) are most likely because there won't be an issue of res judicata. This is why

in (3) the procedure in a suit not prosecuted *in the name of* the real party in interest, says after objection, the individual must ratify, join, or be substituted in the action. Primarily for res judicata. It doesn't say that person's real name must be listed on the complaint. If you join or are substituted into the action--then your name is there. The term 'ratify' encompasses ratifying an action taken previously but to which one cannot be held, as in someone who is underage when signing a contract and after turning eighteen ratifies a contract they had already signed. (definition of ratify at Appendix L). It isn't rational to assert that the word ratify means the same as substitute or join. If Doe begins exchanging documents that are in her real name with a defendant and they are reviewing files in her name that are in the federal agency, as happened in Doe's case, that would appear to be an implied ratification of her own act in filing which is also comprised in the word ratify. There are no different procedures indicated here for individuals with mental illness such that the public has to absolutely know their names. By ratifying, either the court or defendant(s) know the identity of the plaintiff, and res judicata is achieved.

In Sealed Plaintiff v. Sealed Defendant:

> In this case, the District Court's decision rests on just such an error of law. The District Court appears to have believed itself strictly bound by the requirement of Rule 10(a) that the title of a complaint include the names of "all the parties," *see* October 24 Order at 3,[3] and did not balance plaintiff's interest in proceeding anonymously against the interests of defendants and the public. In other words, it did not apply the correct legal standard to determine whether plaintiff's application to proceed under a pseudonym should be granted or denied.[4] The decision of the District Court was therefore the product of legal error. *See Zervos,* 252 F.3d at 169. Accordingly, we vacate the October 24 Order insofar as it denied plaintiff's application to prosecute her claims under a pseudonym.
>
> [n.] 3. The District Court also relied on the requirement of Rule 17(a) that the "real party in interest" prosecute the action. It is unclear how the use of a pseudonym conflicts with this requirement. *See Doe v. Del Rio,* 241 F.R.D. 154, 156 (S.D.N.Y.2006)

("The ... reference [in Rule 17(a)] to the `name' of the real party in interest does not concern the formal requirements of captioning, which are governed by Rule 10(a), but rather ensures that the suing party possess the substantive right being asserted, thus protecting defendants against indiscriminate litigation by those lacking a real interest." (citing 6A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure, § 1541 at 321-22 (2d ed.1990))).

537 F.3d 185, 190-91 (2d Cir. 2008)

If Doe files anything in her real name in court, even if under seal, it can be unsealed, deliberately or by mistake in the future and then fail to achieve the purpose of anonymity. It would be impossible to resolve Doe's case without considering the actions and communications between the parties, which necessarily means that her real identity is known by them. Doe does not know of any *valid* reason defendants should object to anonymity since their defenses in the suit are unrelated to Doe's name appearing in the case citation. And Doe doesn't see why it should be necessary to file anything under seal with the court and worry about the court inadvertently or deliberately unsealing the document at a later time which would undo the whole point of being anonymous.

Notes of Advisory Committee on Rules--1966 in Rule 17 at Appendix H is the only place Doe has seen a specific discussion of anonymity in the rules or statutes. It is to be prohibited in cases where the actual identity of the party is not known by the court or opposing side, and it cannot be determined that such an individual actually exists, a condition not applicable in Doe's case. The Note describes a couple situations where the concern about litigants using anonymity is where an attorney can slap "Doe" on a pleading and later find someone to fill in as the plaintiff, thereby circumventing the statutes of limitations. "Despite the use of the pseudonym, no suggestion is made that Roe is a fictitious person. For the purposes of her

case, we accept as true, and established, her existence; her pregnant state, as of the inception of her suit in March 1970 and as late as May 21 of that year when she filed an alias affidavit with the district court." *Roe v. Wade*, 410 U.S. 113, 124 (1973). In order to litigate her case, Doe is required to deal with her files in the housing program which are in her real name.

D. NEGATIVE ANONYMITY DECISIONS CAN CAUSE PERMANENT DAMAGE, OR FORCE INDIVIDUALS TO KEEP FROM PURSUING VALID CLAIMS IN COURT.

Too many courts discount the potential negative effects on someone's career if they file suit in their real name. In *Doe v. Hartford Life and Acc.Ins. Co.*, "There is also a risk of stigmatization in Plaintiff's professional life as a lawyer. Most of Plaintiff's coworkers and customers are attorneys who may arguably follow this case and there is a theoretical possibility that their awareness of his illness will result in damage to his professional reputation... there is substantial public interest in ensuring that cases like the Plaintiff's are adjudicated and the rights of mental illness sufferers are represented fairly and without the risk of stigmatization. However, this goal cannot be achieved if litigants suffering from mental illness are chilled from ever reaching the courthouse steps for fear of repercussions that would ensue if their condition was made public. Although any litigant runs the risk of public embarrassment by bringing their case and revealing sensitive facts in a public courtroom, the situation here is vastly different because Plaintiff's bipolar condition is directly tied to the subject matter of the litigation—his mental illness and the

disability benefits he allegedly is entitled to as a mental illness sufferer. In this case, Plaintiff's situation is analogous to a woman seeking an abortion or a homosexual fired from his job because of his sexual orientation....allowing Plaintiff to proceed under a pseudonym will not interfere with the public's right to follow the proceedings. The proceedings will be kept open to the public while maintaining the confidentiality of Plaintiff's identity." 237 F.R.D. 545, 550 (D.N.J. July 14, 2006). And in *Provident Life and Acc. Ins. Co.*, whose factors for analysis were adopted by the Third Circuit in *Megless*, "[T]here is substantial public interest in maintaining the confidentiality of plaintiff's name. To start, the public has an interest in preventing the stigmatization of litigants with mental illnesses. Further, plaintiff's identity should be protected in order to avoid deterring people with mental illnesses from suing to vindicate their rights. In this case, plaintiff alleges that defendant unilaterally terminated his monthly benefits owing under his disability income insurance policy after improperly concluding that plaintiff's mental illnesses did not render him disabled under the terms of the insurance policy. Plaintiff maintains that defendant terminated these benefits in bad faith. Under the facts of this case, this Court finds that the public has a strong interest in protecting plaintiff's identity. A ruling by this Court, denying plaintiff the use of a pseudonym, may deter other people who are suffering from mental illnesses from suing in order to vindicate their rights, merely because they fear that they will be stigmatized in their community if they are forced to bring suit under their true identity. Indeed, unscrupulous insurance companies may be encouraged to deny valid claims with the expectation that these individuals will not pursue their rights in court. Consequently, this factor weighs in favor of

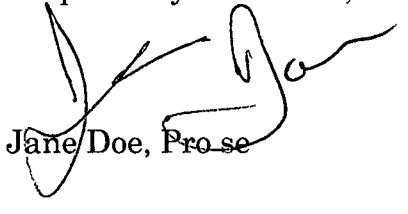
allowing plaintiff to proceed in pseudonym...There exists a possibility that plaintiff may fail to pursue his claim because of potential stigmatization from the community and damage to his professional reputation. This result would be undesirable because the state and/or federal government may be required to support the defendant financially through its welfare programs, despite the fact that defendant may be liable to plaintiff for monthly benefit payments under the terms of the insurance policy upon which plaintiff paid premium payments.[6]If plaintiff's claim proves to be meritorious, then defendant will be required to resume paying plaintiff monthly benefits under the disability income insurance policy. Therefore, the public has an interest in having plaintiff assert a claim which is potentially meritorious." 176 F.R.D. 464, 468-69 (E.D. Pa. Jan. 9, 1997). The district court in Doe's case had the information from day one that Doe had 19 years of education and in her district court filings she noted having spent $100 on a treatise of federal law. In the appellate court Doe indicated that she had a J.D., but Doe's career or education should not be the basis for a decision. Virtually every job requires background checks and having mental illness on a record will impact not only job possibilities, but possibly rental options and who knows what else. Doe does not know if advancements in medication will enable her to be well enough to work again. But she is virtually certain that even if she became well enough to work, a graphic description of her mental disabilities in a court record now would preclude her ever getting a job. The 6th Circuit case *Detroit Free Press Inc. v. United States Dept. of Justice* gave an extensive description of how publishing mug shots would hurt individuals, noting the reach of the internet and potential harm to careers and reputation. 829 F.3d 478 (6th Cir. 2016). How does that

whole line of thinking vanish in Doe's case? The United Nations Convention on the Rights of Persons with Disabilities demonstrates an effort worldwide to actively include and accommodate, and end discrimination of disabled people in light of the discrimination and hardships they have endured. See also map of signatories.

XIV. CONCLUSION

The situation of mentally ill individuals needing anonymity to protect their statutory and constitutional rights is one that does and will re-occur frequently. Doe prays this Court finds that Doe's case should be reviewed and standards set by this Court. The facts in Doe's case should have permitted Doe to file anonymously, without a court battle. That is a good reason to grant certiorari in this case. It has been a huge commitment of emotion and endurance for Doe to get to this point, and it will not be easy, perhaps not even possible for other mentally ill victims of discrimination to fight this battle. Doe prays this could be the last such case.

Respectfully submitted,



Jane Doe, Pro se

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[i]Due to Doe's move, she no longer needs accommodations. When someone moves they need either the receiving housing office or the one transferring from to continue to provide co-pay support for the voucher. The receiving office was not providing support for incoming transfers. The Michigan program committed to continued support and gave Doe an extended period of time to find a place to live, so she abandoned a request for co-pay corrections back to 2014.