

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

[REDACTED]

Plaintiff,

- against -

MERRICK B. GARLAND, in his official capacity as Attorney General of the United States; ALEJANDRO MAYORKAS, in his official capacity as Secretary of Homeland Security; TRACY RENAUD, in her official capacity as Acting Director, United States Citizenship and Immigration Services; CONNIE NOLAN, in her official capacity as Acting Associate Director of Service Center Operations Directorate, United States Citizenship and Immigration Services; and ~~[MICHAEL PAUL]~~¹LAURA B. ZUCHOWSKI, in ~~[his]~~^{her} official capacity as Director of United States Citizenship and Immigration Services Vermont Service Center,

Defendants.

[Civil Action No.]

PLAINTIFF ~~[REDACTED]~~ MOTION FOR LEAVE TO PLACE THE
ACTION UNDER SEAL AND BRIEF IN SUPPORT

¹ ~~Note to Draft: To confirm with USCIS Vermont Service Center.~~

[REDACTED]

PRELIMINARY STATEMENT

2. Plaintiff [REDACTED] through her undersigned counsel, respectfully moves this Court for an order placing this action under seal and permitting her to bring this action anonymously to protect her identity from public disclosure. Plaintiff submits the following brief in support of her motion.

BRIEF IN SUPPORT

3. Plaintiff [REDACTED] is a victim of sex trafficking challenging the USCIS' processing of her Application to Adjust Status. By this motion, Plaintiff seeks an order placing this action in its entirety under seal because disclosure of her identity, including her identity as a victim of sex trafficking, could put her at serious risk of harm. This motion seeks to prevent any harm from public identification of Plaintiff.

4. Granting Plaintiff's motion will not prejudice the Defendants' ability to defend this litigation. In addition, Plaintiff's substantial privacy interest outweighs the public interest in knowing her identity.

5. A proposed sealing order is attached to this motion for the Court's consideration.

ARGUMENT

6. Although a complaint must usually state the names of all parties, Fed. R. Civ. P. 10(a), "[i]f the district court finds that privacy or fair trial interests cannot otherwise be protected and that these interests outweigh the public's interest in access, it should order redaction or sealing." *United States v. Gerena*,

869 F.2d 82, 86 (2d Cir. 1989). Here, Plaintiff's substantial privacy interests provide good cause for the sealing order she seeks. Failure to enter such an order puts her at substantial risk of humiliation and re-victimization, and her family members at risk of harassment and humiliation.

DISCLOSURE OF PLAINTIFF'S IDENTITY WOULD REVEAL SENSITIVE INFORMATION, ~~PUTTING AND PUT~~ HER AT RISK, ~~SO UNDER THE FACTORS RELEVANT IN THIS CIRCUIT, THIS COURT SHOULD GRANT~~ AN OUTCOME THAT CAN BE AVOIDED BY GRANTING HER MOTION

7. Plaintiff has a credible fear that she will come to harm if her identity, including her status as a victim of sex trafficking, becomes known to the public in connection with this litigation. The Second Circuit has identified several factors that courts should consider in determining whether a plaintiff may maintain an action under a pseudonym. *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 189-190 (2d Cir. 2008). Among the factors discussed, two relevant factors here are (1) "whether identification poses risk of retaliatory harm to party seeking to proceed anonymously or even more critically, to innocent non-parties," and (2) "whether identification presents other harms and likely severity of those harms."

8. *First*, Plaintiff's identification as a victim of sex trafficking would expose her to the risk of re-victimization and her family to the risk of harassment. Upon information and belief, Plaintiff does not believe her traffickers in [REDACTED] are currently aware that she is residing in [REDACTED]. Publication of Plaintiff's name and the

~~awareness of such a pending action and expose Plaintiff's family's location to Plaintiff's traffickers or affiliates of Plaintiff's traffickers~~possible retaliation against her family. Id.

10. *Second*, identification of Plaintiff would also expose Plaintiff to other harms, including potential humiliation for both her and her ~~immediate~~ family in [REDACTED] where the details of her sex trafficking in the United States are not known by her ~~wider~~ family ~~and/or~~ acquaintances. ~~Plaintiff will not be fully protected by the [REDACTED] government~~Unfortunately, as in [REDACTED] [REDACTED] law enforcement agencies have [REDACTED] there is a well-documented antipathy toward ~~prosecuting~~ sex crimes. See of this nature and a lack of protection for victims of such crimes. See U.S. DEPARTMENT OF STATE, 2021 Trafficking in Persons Report: South Korea; My Life is Not Your Porn, Human Rights Watch, June 16, 2021; U.S. DEPARTMENT OF STATE, [REDACTED]

[REDACTED] [REDACTED] As further detailed in Plaintiff's T Visa Application, Plaintiff would be ostracized by a relatively conservative society in [REDACTED] if the history of her sex trafficking in the United States became public knowledge.

**GRANTING PLAINTIFF'S MOTION WILL NOT COMPROMISE
DEFENDANTS' ABILITY TO PRESENT A FULL DEFENSE**

11. The Second Circuit also directs trial courts to consider whether "defendant[s are] prejudiced by allowing plaintiff to press claims anonymously." *See Sealed Plaintiff*, 537 F.3d at 189-190.

12. Here, Plaintiff merely seeks an order that would limit disclosure of her name and certain other identifying information to the public, but that would permit disclosure to the Defendants. Thus, the proposed protective order would not hamper the Defendants' ability to present a defense.

CONCLUSION

13. Plaintiff's ~~mere~~public disclosure of her status as a victim of sex trafficking carries a real and substantial risk of causing additional, substantial harm to Plaintiff. This Court should not exacerbate the very harms she is attempting to alleviate through this litigation by requiring that she proceed under her true name rather than anonymously. Plaintiff's privacy interests significantly outweigh any public interest in knowing her identity, and a sealing order would not prejudice Defendants' ability to defend themselves. Plaintiff therefore respectfully moves this Court to grant her motion and enter the Proposed Order provided as Exhibit A to Plaintiff's motion.

Dated: New York, New York
August [•], 2021

By: _____

[REDACTED]

[REDACTED]

Attorneys for Plaintiff

Of counsel:

[REDACTED]

[\(Not admitted in E.D.N.Y.\)](#)

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