

No. S258498

**IN THE
SUPREME COURT OF CALIFORNIA**

JANE DOE,

Plaintiff, Cross-defendant, and Respondent,

v.

CURTIS OLSON,

Defendant, Cross-complainant, and Appellant.

AFTER A DECISION BY THE COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION EIGHT
CASE No. B286105

**RESPONSE TO APPELLANT'S APPLICATION
FOR LEAVE TO FILE OPPOSITION**

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Plaintiff, Cross-Defendant, and Respondent Jane Doe respectfully submits this response in opposition to Defendant, Cross-Complainant, and Appellant Curtis Olson’s application, filed on April 26, 2021 (“Application”), and asks the Court to deny the Application.

On March 22, 2021, Olson filed his consolidated answer to multiple amicus curiae briefs (“Consolidated Answer”) and a request for judicial notice in support thereof (“RJN”), which included more than 250 pages of documents relating to ancillary litigation between himself and Doe (“Court Records”). On April 6, 2021, Doe opposed Olson’s RJN and cross-requested to strike his Consolidated Answer and the Court Records. Those documents were not relevant to the legal questions on which this Court granted review or the broader policy concerns raised by amici, and, worse still, serve only to smear Doe, dispute *the merits* of her abuse allegations against Olson (which are not before the Court), and include information that creates a significant risk of revealing Doe’s identity in violation of section 1708.85 of the Civil Code.

Now, through his Application, Olson seeks leave to oppose Doe’s cross-request to strike. In the proposed opposition, Olson contends that: (1) his Consolidated Answer and Court Records were proper vehicles for “deny[ing]” Doe’s allegations of abuse; and (2) it was “impossible” for Olson’s filings to have risked revealing Doe’s identity because, in other litigation, she has proceeded without a pseudonym. (Opp. 3-4.)¹ In addition, Olson compounded the impropriety of his prior filings by submitting as an exhibit to his opposition *another* 40 pages of records from ancillary litigation between the parties that again risk revealing her identity. (Opp. 11-51 [Exhibit A].)

Olson’s proposed opposition (and the exhibit thereto) does not meaningfully engage with the arguments raised in

¹ “Opp.” refers to Olson’s proposed “Opposition to Doe’s ‘Cross-motion’ to Strike Olson’s Consolidated Answer to Multiple Amicus Curiae Briefs” originally lodged with the Court on April 21, 2021, and resubmitted with additional redactions on April 26, 2021. “Appl.” refers to Olson’s April 26, 2021, letter application for leave to file the aforementioned opposition. “AB” and “RB” refer respectively to Olson’s Answering Brief on the Merits and Doe’s Reply Brief on the Merits. “AA” refers to Appellant’s Appendix filed with the court of appeal. All such references are followed by the applicable page reference.

Doe's cross-request to strike and, instead, exacerbates the initial error that prompted her to make that request. For three reasons, the Court should deny Olson's Application.

First, Doe has a statutory right to proceed using a pseudonym *in this case*, and the statute imposes mandatory obligations on Olson that he has unilaterally and repeatedly elected to flout. (See Civ. Code, § 1708.85, subd. (f)(2) [applying “[i]n cases where a plaintiff proceeds using a pseudonym under this section”] & subd. (f)(3)(A) [prohibiting an opponent from publicly filing the pseudonymous plaintiff's “name or any part thereof, address or any part thereof, . . . or any other information . . . from which the plaintiff's identity can be discerned.”].) Doe's choice to use her real name to pursue *other* litigation, in *other* courts, is irrelevant to her right to use a pseudonym to sue her alleged abuser in this litigation. (Opp. 4-5.)

Nor is it relevant that Doe has sometimes connected her real name in that other litigation to this case. That some random person following that other non-pseudonymous superior

court litigation may learn that she is the Jane Doe in this California Supreme Court case is not the same as the countless people following this highly watched California Supreme Court case using the irrelevant information insufficiently redacted by Olson to discern who Jane Doe really is. Moreover, any risk of identification caused in the former scenario was Doe's right to create; Olson, however, has no right to create the much larger risk of identification in the latter scenario.

While Olson clearly disagrees with the Legislature's framework for protecting the identities of survivors of abuse and harassment, that does not allow him or other alleged abusers to unilaterally "out" Doe plaintiffs when they feel like "justice" requires protecting their own "reputations." (Opp. 3.) In fact, Olson had every opportunity to *also* proceed pseudonymously in this case, but he *affirmatively declined* to do so. (RB 42; see also AA 78.) His newfound embarrassment about

this case does not give him license to dox Doe, which plainly and inexcusably violates the statute.²

Second, rather than acknowledging and correcting the error in his original filings, Olson has *continued* to submit *more* irrelevant documents that risk revealing Doe’s true identity. This time, the unnecessary exhibit attached to Olson’s proposed opposition—Doe’s October 21, 2020, reply demurrer in a separate proceeding, which itself contains numerous exhibits from other proceedings—includes significant portions of one of her addresses and only partially redacts certain information that makes it easy to locate the cases in question and identify the redacted litigants.³ Olson’s persistent failure

² “Doxing” is a relatively recent internet-based form of harassment that involves posting a target’s private personal information online so it can be used by other parties—perhaps the poster’s supporters or internet trolls—to attack the targeted individual. (See generally MacAllister, *The Doxing Dilemma: Seeking A Remedy for the Malicious Publication of Personal Information* (2017) 85 *Fordham L.Rev.* 2451; Mat Honan, *Wired*, *What is Doxing?* <https://www.wired.com/2014/03/doxing/> (Mar. 6, 2014).)

³ On April 21, 2021, Olson initially submitted his opposition without leave of court. (See attached Declaration of Jean-

to comply with section 1708.85 underscores the need to strike his Consolidated Answer, the Court Records, and the exhibit to his April 21, 2021, proposed filing.

Third, Olson concedes that his recent filings are expressly intended to “heap[] doubt on Doe’s narrative” and “advocate for his name and reputation.” (Opp. 3; see also *id.* [suggesting again that Doe is not, in fact, a “survivor”].) Even without the gratuitous violations of section 1708.85, those aims have nothing to do with responding to amicus briefs, which was the sole purpose Olson offered as a justification for his recent filings. Olson does not even attempt to explain how the Consolidated Answer, RJN, and Court Records (or his most-recent application, proposed response to Doe’s request to strike, and its exhibit) are relevant to the broader public pol-

Claude André (“André Decl.”) ¶ 2.) Yet again, the exhibit disclosed Doe’s true name *three times*, as well as a significant portion of one of her addresses. On April 23, 2021, Doe’s counsel demanded that Olson’s counsel withdraw the offending documents or, at minimum, redact the offending text. (*Id.* ¶ 3.) Olson, however, redacted *only her true name* when re-submitting his proposed opposition and exhibit. (Appl. 2.)

icy concerns raised by amici, let alone to the specific legal issues before this Court. To the extent Olson believes that “there cannot be justice” (Opp. 3) without giving him a platform to malign Doe, he was afforded 14,000 words in a merits brief to do so. And he, in fact, availed himself of that opportunity, repeatedly suggesting in that brief that Doe is a “liar.” (AB 18; see also *id.* at 58, 60, 65.) But to wait until responding to amicus briefs to amplify such a character attack on an abuse and harassment survivor in a highly watched case is not only sandbagging, but abusive in its own right. (See *Vangheluwe v. Got News, LLC* (E.D. Mich. 2019) 365 F.Supp.3d 850, 859 [“The goal of doxxing is typically retribution, harassment or humiliation”].) The Court should not allow it.

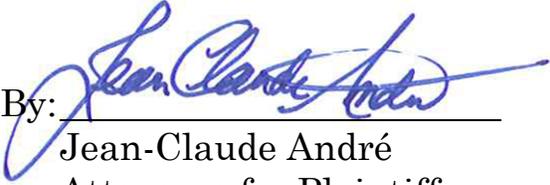
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For the foregoing reasons, Olson’s Application should be denied. The Court should also deny Olson’s RJN and strike his (1) Consolidated Answer, (2) the Court Records, and (3) the exhibit to his April 21, 2021, proposed filing.

Dated: April 28, 2021

Respectfully submitted,

**BRYAN CAVE LEIGHTON
PAISNER LLP**

By: 

Jean-Claude André
Attorneys for Plaintiff,
Cross-defendant, and Re-
spondent

DECLARATION OF JEAN-CLAUDE ANDRÉ

I, Jean-Claude André, declare:

1. I am an attorney at law duly admitted to practice in the State of California. I am lead appellate counsel for Plaintiff, Cross-Defendant, and Respondent, Jane Doe in *Doe v. Olson*, No. S258498.

2. On April 21, 2021, Defendant, Cross-Complainant, and Appellant Curtis Olson attempted to submit to the Court an “Opposition to Doe’s ‘Cross-motion’ to Strike Olson’s Consolidated Answer to Multiple Amicus Curiae Briefs” with an exhibit (Ms. Doe’s October 21, 2020, reply demurrer from a different case, which itself had numerous exhibits).

3. The following day, I emailed counsel for Olson, Mr. Robert Collings Little, to alert him that Olson’s filings violated Civil Code § 1708.85 in multiple ways and asked that they be withdrawn and that, at minimum, the most obvious violations of § 1708.85 be redacted. My email to Mr. Little explained in relevant part:

You and your firm have once again irrefutably violated § 1708.85. Putting aside that we do not see how any of your submissions since March 22 bear any relevance to the legal questions before the Court or the amicus briefs submitted in Ms. Doe’s support, the only-partially-redacted information in the exhibits to Ms. Doe’s October 21, 2020, reply demurrer—like the over 200 pages of dockets you submitted previously—make it easy to locate the cases in question and identify the redacted litigants. But even more starkly, your filing includes Ms. Doe’s real name at least three times as well as a significant portion of one of her addresses. *See* Civ. Code § 1708.85(f)(3)(A) (prohibiting disclosure of, among other things, “name or any part thereof, address or any part thereof”).

It is no excuse, as you assert, that other public records connect Ms. Doe’s true identity to this case. The statute, in addition to imposing mandatory obligations that you have repeatedly failed to heed, is clear that it applies to filings in *this* case. *See id.* § 1708.85(f)(2) (applying “[i]n cases where a plaintiff proceeds using a pseudonym under this section”).

We ask—as we did with respect to your other § 1708.85-violating filings—that you withdraw the exhibits to Ms. Doe’s October 21, 2020, reply demurrer (if not your entire April 21 filing) immediately, certainly no later than Monday. At minimum, however, as you must certainly agree, the unredacted references to Ms. Doe’s real name and address must be removed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of April 2021 in Los Angeles,
California.

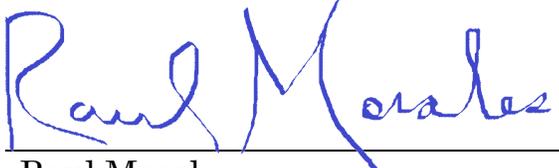


JEAN-CLAUDE ANDRÉ

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Executed on April 28, 2021 at Santa Monica, California.



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/28/2021

Date

/s/Jean-Claude Andre

Signature

Andre, Jean-Claude (150628)

Last Name, First Name (PNum)

Bryan Cave Leighton Paisner LLP

Law Firm