

1 D. GILL SPERLEIN (SBN: 172887)
2 gill@sperleinlaw.com
3 LAW OFFICE OF D. GILL SPERLEIN
4 345 Grove Street
5 San Francisco, CA 94102
6 Telephone: (415) 404-6615
7 Facsimile: (415) 404-6616

8 HARMEET K. DHILLON (SBN: 207873)
9 harmeet@dhillonlaw.com
10 DHILLON LAW GROUP INC.
11 177 Post Street, Suite 700
12 San Francisco, California 94108
13 Telephone: (415) 433-1700
14 Facsimile: (415) 520-6593

15 *Attorneys for Eva Knott*

16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18	EVA KNOTT,)	
19)	Case No.: <u>'24CV0855 BAS DDL</u>
20	Plaintiff,)	
21	v.)	PLAINTIFF'S NOTICE OF
22)	MOTION AND MOTION TO
23	THE CITY OF SAN DIEGO;)	PROCEED PSEUDONYMOUSLY
24	POLICE CHIEF DAVID NISLEIT,)	
25	in his representative capacity as)	
26	Chief of Police; and LIEUTENANT)	
27	ADAM SHARKI, in his)	
28	representative capacity as SDPD)	
	Public Information Officer,)	
)	
	Defendants.)	

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD.**

3 **PLEASE TAKE NOTICE** that on _____ at ____ a.m./p.m. in the United States
4 District Court for the Southern District of California, Plaintiff Eva Knott will, and
5 hereby does, move this Court for an Order allowing her to proceed in this matter using a
6 Pseudonym.

7 This motion is made on the grounds that Knott is a journalist who reports under a
8 pseudonym for personal safety issues. As explained in the attached Memorandum of
9 Points and Authorities, pseudonymity is necessary to protect Knott from retaliation,
10 injury, and harassment.

11 This motion is based on this Notice, the Memorandum of Points and Authorities
12 attached hereto, the Declarations and Exhibits filed in support of the motion, the records
13 and pleadings on file herein, and on such other evidence as may be presented at the
14 hearing on the motion.

15
16 Dated: by: D. Gill Sperlein

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18
19 THE LAW OFFICE OF D. GILL SPERLEIN

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21 Harmeet K. Dhillon
22 DHILLON LAW GROUP INC.

23 Attorneys for Attorneys for Plaintiff Eva Knott
24
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **RELEVANT FACTS**

3
4 Eva Knott is the *nom de plume* of the journalist who brings this action.
5 Declaration of Eva Knott (“Knott Decl.”) at ¶3. Knott has reported on crime and the
6 courts in San Diego for fifteen years. *Id.* at ¶2. A significant portion of her reporting
7 covers gang activity. *Id.* at ¶4. In recent years, this has included investigating and
8 writing about Antifa. *Id.* at ¶2.

9 Knott has faced threats and harassment in the past. Gang members have blatantly
10 photographed and video-recorded Knott, sometimes while seated directly next to her in
11 the courtroom. *Id.* at ¶4. Female gang members have followed her into the women’s
12 restroom. *Id.* Once, two peewees (young male gangsters) quickly got into the elevator
13 with her, one on each side, laughing loudly and saying to each other, “Snitches end up
14 in ditches!” *Id.* Once, an agitated young man got very close to her and demanded to
15 know why she wrote a story about him stealing a car. *Id.* In 2009 or 2010, Knott
16 received a handwritten letter sent to her home address from a convicted felon whose
17 trial she had reported on. *Id.* at ¶5. She and her husband found this to be deeply
18 concerning. *Id.* Knott discussed the issue with her editor, and all agreed that for safety
19 reasons she would begin using the pen name by which she has since been known—Eva
20 Knott. *Id.*

21 One current case Ms. Knott is reporting on, *The People of the State of California*
22 *v. Brian Lightfoot, Jr. et al.*, San Diego County Superior Court, No. SCD274477,
23 presents a higher-than-normal risk of threats, harassment, and violence directed at Ms.
24 Knott. According to the Grand Jury Indictment in the case, defendants in the case are
25 affiliated with Antifa, a self-identified, left-wing, anti-fascist, and anti-racist political
26 movement in the United States, that uses force, fear, and violence to further their
27 interests and suppress the interests of others. As part of the Grand Jury evidence,

1 victims described how members of Antifa used social media to identify her by name
2 and then used that information to harass and discredit her to friends, family, and in the
3 workplace.

4 Because of the high risk of harassment, the State of California moved for
5 protective order regulating release of discovery supported by the Declaration of Will
6 Hopkins, the Deputy District Attorney assigned to this case. Knott Decl. at ¶ 11 & **EX.**
7 **N.** Mr. Hopkins testified that Antifa members collect documents on persons they have
8 any sort of disagreement with including “police officers, political rivals, elected
9 officials, and even their own members who have fallen out of favor [including but not
10 limited to] license plates, surveillance photos of individuals with their families, civil
11 and criminal documents relating to these targets, San Diego Sheriff’s Deputy, federal
12 agents, and San Diego Officers names, badge numbers, duty assignments salary
13 information.” *Id.*, Hopkins Decl. at ¶¶ 4 & 5. Hopkins went on the explain that
14 members of Antifa use this information to dox their targets, “to harass, attack, and stalk
15 victims in order to socially, psychologically, and physically harm their targets” and that
16 Defendants in this case have used these tactics. *Id.*, Hopkins Decl. at ¶¶ 6-12.)

17 Eva Knott’s writing partner Andy Ngo was beaten and severely injured by an
18 Antifa mob in in Portland, Oregon in June 2019 and again in May 2021 while in the
19 course of carrying out his reporting duties in public. Declaration of Andy Ngo (Ngo
20 Decl.) at ¶3. Antifa members have repeatedly showed up at his family’s home to look
21 for him. (*Id.*) Members of Antifa have even called for his death. *Id.* at ¶4 & **Exhibit O.**

22 Because of safety risks involved in reporting on cases as described above, Ms.
23 Knott consistently uses her pen name in all professional situations. Around 2008, Knott
24 applied for her first San Diego Police Department Media Identification Cards using
25 her married name. Knott Decl. at ¶6. When she renewed her press pass subsequent to
26 adopting her pen name, she applied under her pen name with the full knowledge of
27

1 SDPD. *Id.* Each time she has renewed her press pass, she has applied using the name
 2 Eva Knott. *Id.* Ms. Knott also routinely uses her pen name, when submitting mandatory
 3 Judicial Council Forms MC-500 and MC-510 in order to obtain court orders permitting
 4 her to record or photograph criminal proceedings in state court. *Id.* at ¶7.

5 All the above facts demonstrate Knott’s need to protect her identity and to
 6 proceed in this action using her pseudonym.

7 ARGUMENT

8 **I. The Court Should Allow Eva Knott to Use Her Pseudonym on Any** 9 **Papers Filed in Connection with This Matter**

10 Plaintiffs generally must identify themselves in their Complaint pursuant to Fed.
 11 R. Civ. P. 10(a). Nonetheless, courts allow pseudonymity when special circumstances
 12 justify secrecy. *Doe v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000). To
 13 receive such permission, a party must affirmatively demonstrate that pseudonymity is
 14 “necessary to protect a person from injury or harassment.” *United States v. Stoterau*,
 15 524 F.3d 988, 1012 (9th Cir. 2008) *quoting United States v. Doe*, 488 F.3d 1154, 1156
 16 n.1 (9th Cir. 2007).

17 In weighing a motion for leave to proceed pseudonymously, the district court
 18 must balance (1) the plaintiff’s need for anonymity; (2) prejudice to the defendant; and
 19 (3) the public interest. *Doe v. County of El Dorado*, 2013 U.S. Dist. LEXIS 169883
 20 (E.D. Cal., Dec. 2, 2013)(citing *Advanced Textile, supra*).

21 The Ninth Circuit has identified three situations in which requests for
 22 pseudonymity have been granted: (1) when identification creates a risk of retaliatory
 23 physical or mental harm¹; (2) when anonymity is necessary to preserve privacy in a
 24

25
 26 ¹ Similarly, California Courts have granted requests for pseudonymity when identification
 27 creates a risk of retaliatory physical or mental harm, as exists here. (*Department of Fair*
 28 *Employment*, 82 Cal.App.5th at 112 [substantial risk of harm would be sufficient to allow
 for anonymity].)

1 matter of a sensitive and highly personal nature; and (3) when the anonymous parties
2 are compelled to admit his or her intention to engage in illegal conduct, thereby risking
3 criminal prosecution. *Advanced Textile*, 214 F.3d at 1068; *see also 4 Exotic Dancers v.*
4 *Spearmint Rhino*, 2009 U.S. Dist. LEXIS 9841 (C.D. Cal., January 29, 2009).

5 Ms. Knott should be granted leave to proceed using pseudonyms under the first
6 of these three factors.

7 **II. Plaintiff's Need for Anonymity: Safety Concerns Require Eva Knott to**
8 **Proceed Pseudonymously.**

9 This case involves the first of the three factors which support the use of a
10 pseudonym—risk of physical or mental harm. The facts set forth above demonstrate a
11 heightened risk of harm to Eva Knott. Knott testifies that she started using a pseudonym
12 professionally because she was contacted at her home address by a convicted felon after
13 reporting on this trial. (Knott Decl. at ¶5.) Moreover, Defendants in a case she is currently
14 covering are alleged to be members of Antifa an organization that has a well-documented
15 history of violence, no central governing body, and no means of controlling individual
16 actors.

17 Knott has therefore demonstrated a substantial risk of retaliatory physical or mental
18 harm and thus a need to proceed pseudonymously.

19 **III. The Use of Pseudonyms Will Not Prejudice the Defendants.**

20 Permitting the Plaintiff to proceed pseudonymously in this case will not
21 disadvantage any of the Defendants. Plaintiff's identity is known to the Defendants, and
22 they will have full opportunity to take discovery from her (although plaintiff will request
23 a protective order with regard to her identity). Where the name of the person seeking
24 pseudonymity is known to defendants, proceeding pseudonymously does not intrude on
25 the defendants' rights. *See Doe v. George St. Photo & Video, LLC*, No. 16-cv-02698-
26 MEJ, 2016 U.S. Dist. LEXIS 83965, at *5 (N.D. Cal. June 28, 2016)

IV. The Public Interest Weighs in Favor of Anonymity.

1 While the public has a common law right to access judicial proceedings, that right
2 is not absolute. “In certain situations, anonymity does not obstruct public scrutiny of the
3 important issues in a case, and the public interest militates in favor of seeing the case
4 decided on the merits.” *County of El Dorado, supra* at **12-13 (citing *Advanced Textile*,
5 214 F.3d at 1067). Therefore, the Court must balance Knott’s safety concerns, against the
6 public’s right to know who is using its courts.
7

8 In *County of El Dorado, supra*, the court was confronted with a constitutional
9 challenge to a sex offender ordinance. The court granted leave to proceed through the
10 use of pseudonyms when the issues presented by the complaint were constitutional in
11 nature and the plaintiff’s identity had no bearing on the resolution of the issues. In so
12 doing, the court determined that the public interest weighed in favor of deciding the case
13 on the merits through the use of pseudonymity.

14 Here, where Plaintiff writes under the *nom de plume* of Eva Knott, the general
15 public has no interest whatsoever in knowing her legal name. If anything, the public will
16 benefit since her writing is associated with her pen name.

17 Moreover, because Knott is a journalist, there is an additional interest that the Court
18 should consider in this matter.

19 First Amendment protection for anonymous speech was first
20 articulated a half-century ago in the context of political speech,
21 *Talley v. California*, 362 U.S. 60, 64-65 (1960), but as the
22 Supreme Court later observed, the Talley decision harkened back
23 to “a respected tradition of anonymity in the advocacy of
24 political causes.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S.
25 334, 343 (1995). Undoubtedly the most famous pieces of
26 anonymous American political advocacy are The Federalist
27 Papers, penned by James Madison, Alexander Hamilton, and
28 John Jay, but published under the pseudonym “Publius.” *Id.* at
344 n.6. Their opponents, the Anti-Federalists, also published
anonymously, cloaking their real identities with pseudonyms
such as “Brutus,” “Centinel,” and “The Federal Farmer.” *Id.* It is
now settled that “an author’s decision to remain anonymous, like
other decisions concerning omissions or additions to the content

of a publication, is an aspect of the freedom of speech protected by the First Amendment.” *Id.* at 342.

Anonymous Online Speakers v. United States Dist. Court, 661 F.3d 1168, 1172-73 (9th Cir. 2011).

When weighing the public interest under the prevailing jurisprudence, courts generally do not address the moving party’s right to speak anonymously. However, where the moving party is a journalist writing under a pen name, the Court should consider that masking Plaintiff’s true identify allows her to continue reporting on criminal activity without fear that she might be the subject of intimidation or violence. This not only benefits her, but also the public that reads her reporting.

Accordingly, there is no public interest that will be diminished if Knott is allowed to proceed using her *nom de plume*; rather there is a public benefit.

CONCLUSION

For the reasons set forth above, the Court should allow Plaintiff to proceed in this action under her pseudonym Eva Knott.

Respectfully submitted,

Dated: May 15, 2024

by:

D. Gill Sperlein
THE LAW OFFICE OF D. GILL SPERLEIN

Harmeet K. Dhillon
DHILLON LAW GROUP INC.

Attorneys for Attorneys for Plaintiff Eva Knott