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| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF RICHLAND |) | FIFTH JUDICIAL CIRCUIT |
| Jane Doe, |) | |
| |) | CASE NO. 2018-CP-40-01313 |
| Plaintiff, |) | |
| |) | |
| vs. |) | MOTION TO PROCEED |
| |) | CONFIDENTIALLY UNTIL TRIAL |
| O'Reilly Automotive Inc., d/b/a O'Reilly Auto Parts, and Eugene Oliver, |) | |
| Defendant(s). |) | |

NOW COMES Plaintiff, by and through her undersigned Counsel of Record, and moves this Honorable Court for an Order permitting her to proceed in this matter confidentially, at least in the pretrial phases, and requiring the parties and their counsel, and any expert witnesses who may be consulted or designated by the parties, from directly or indirectly divulging the true identity of the plaintiff in this matter, until further order of the Court. In support of this Motion, Plaintiff shows unto the Court the following:

1. On April 21, 2015, Plaintiff, was physically sexually assaulted and sexually harassed by Defendant Eugene Oliver at O'Reilly Auto Parts in the County of Richland, State of South Carolina.

2. That upon information and belief, Defendant Eugene Oliver was an employee of Defendant O'Reilly Automotive Inc., d/b/a O'Reilly Auto Parts, at the time he sexually assaulted Plaintiff.

3. That upon information and belief, in the days and months that followed, this event was covered by local and regional media outlets. Plaintiff's name was not, however, disclosed by any of these media outlets.

4. That on or about May 18, 2015, Defendant Eugene Oliver was arrested by the Richland County Sheriff's Department for sexually assaulting Plaintiff.

5. That on or about March 8, 2018, Plaintiff filed a lawsuit in the Richland County Court of Common Pleas against the owners and operators of O'Reilly Auto Parts for, *inter alia*, negligence; gross negligence, recklessness, negligent infliction of emotional distress, premise liability, negligent hiring, supervision, negligent retention, negligent undertaking of duty; fraud; and negligence per se.

6. That Plaintiff's lawsuit filed in Richland County Court of Common Pleas additionally alleged further causes of action against Defendant Eugene Oliver for assault and battery, and intentional infliction of emotional distress.

7. That Plaintiff filed this lawsuit as "Jane Doe" so as to protect her confidentiality.

8. That Plaintiff anticipates that, if the civil case is called to trial, she will testify in the Court of Common Pleas and that those people present will learn her identity.

9. That Plaintiff respectfully moves this Honorable Court, in the interests of justice, for an Order permitting her to proceed in this matter confidentially, at least in the pretrial phases, in order to protect her from embarrassment, harassment, or divulging of personal information.

10. That South Carolina "courts have long recognized the need for confidentiality in cases dealing with sensitive and personal subject matter." Doe v. Howe, 362 S.C. 212, 217, 607 S.E.2d 354, 356 (Ct. App. 2004) (reversing the trial court's denial of a sexual abuse victim's request to proceed anonymously because "revealing Doe's identity would likely cause the harm and social stigmatization he understandably seeks to avoid") cert. den. Doe v. Howe et al., Petition No. 4061 (S.C. Sup. Ct. filed April 5, 2007) (Shearouse Adv. Sh. No. 15 at 8).

11. That similarly, the General Assembly has, for public policy reasons, prohibited the names of victims of criminal sexual conduct from being publicly disclosed “in any newspaper, magazine or other publication.” See S.C. Code § 16-3-730.

12. That while there is no litmus test in South Carolina to determine whether a litigant in a civil proceeding should be allowed to proceed anonymously, the Court of Appeals has found the following factors instructive:

- (1) whether the justification asserted by the requesting party is merely to avoid the annoyance and criticism that may attend any litigation *or is to preserve privacy in a matter of sensitive and highly personal nature*;
- (2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;
- (3) the ages of the persons whose privacy interests are sought to be protected;
- (4) whether the action is against a governmental or private party; and
- (5) the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously.

Doe v. Howe, 362 S.C. at 217, 607 S.E.2d at 356-357 (emphasis in original).

13. That the instant motion is made to preserve Plaintiff’s privacy concerning a forcible sexual assault that involved acts against her will. These acts are of a sensitive and highly personal nature.

14. That Plaintiff is currently seeking counseling sessions. That making Plaintiff’s identity public poses a very real risk of mental harm to the Plaintiff and could adversely impact her emotional recovery and future employment prospects.

15. That there is no prejudice or “risk of unfairness” to Defendants in allowing Plaintiff to proceed anonymously in all aspects of this action prior to trial.

16. That in this instance, Plaintiff's very identity is "sensitive personal information" that warrants the requested protection while preserving the public's opportunity to attend the trial of this action and inspect the court file maintained by the Clerk of Court all while permitting the Defendants a full and fair opportunity to prepare for trial.

WHEREFORE, premises considered, Plaintiff respectfully requests that this Honorable Court enter an Order permitting Plaintiff to proceed in this matter confidentially, at least in the pretrial phases, and requiring the parties and their counsel, and any expert witnesses who may be consulted or designated by the parties, from directly or indirectly divulging the true identity of the plaintiff in this matter, until further order of the Court.

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Columbia, South Carolina
March 8, 2018

Certificate of Counsel and Certificate of Service

Pursuant to Rule 11(a), SCRPC, I certify that communication with counsel for the Defendants, whose identity is not fully known to me, could not be timely held as the instant motion was filed contemporaneously with the summons and the complaint. I further certify that I will cause the foregoing PLAINTIFF'S MOTION TO PROCEED CONFIDENTIALLY to be served with the summons and the complaint on all Defendants.

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