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July 22, 2026

VIA ECF

The Honorable Peggy Kuo, U.S.M.J.
U.S. Dist. Court for the Eastern Dist. of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Strike 3 Holdings, LLC v. John Doe subscriber assigned IP address 67.254.222.211
Dkt. No. 1:25-cv-05507-NGG-PK

Judge Kuo:

As Your Honor is aware, I represent Plaintiff Strike 3 Holdings, LLC ("Plaintiff") in the above-referenced matter. Pursuant to Fed. R. Civ. P. 54(b),[1] I write to respectfully request the entry of an Order amending and/or supplementing the Court's October 14, 2025 [D.E. 7], January 16, 2026 Text Order, and March 20, 2026 Text Order to address whether Plaintiff should file its forthcoming application for the entry of default and motion for default judgment under seal and maintain a John Doe placeholder in the case caption.

On October 14, 2025, the Court entered an Order authorizing limited expedited discovery that included, among other things, a direction that "until such further Order of the Court, [the] case identified in the caption above shall be litigated in the name of Doe Defendant, regardless of what information is disclosed pursuant to the Subpoena[.]" D.E. 7 at 3.

On January 16, 2026, in response to a motion filed by Defendant, D.E. 9, the Court entered a Text Order that "provisionally" granted Defendant's motion to proceed under a pseudonym "until the Court determines whether Defendant may proceed anonymously for the entirety of this action," and Ordered Defendant to file a motion to proceed under a pseudonym for the remainder of the action by February 16, 2026. Defendant did not file that motion.

[1] Rule 54(b) provides that any interlocutory order "may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." District Courts also possess inherent authority to revise interlocutory orders prior to the entry of final judgment. *U.S. v. LoRusso*, 695 F.2d 45, 53 (2d Cir. 1982); *Esposito v. Suffolk Cty. Cmty. Coll.*, 517 F. Supp. 3d 126, 133–34 (E.D.N.Y. 2021). "Whether such revision is appropriate in any given case is within the sound discretion of the trial judge." *Acha v. Beame*, 570 F.2d 57, 63 (2d Cir. 1978); *see also DiLaura v. Power Auth. of N.Y.*, 982 F.2d 73, 76 (2d Cir. 1992).

On February 25, 2026, the Court entered an Order directing Defendant to show cause by March 13, 2026 "why the Court should not deny the request for defendant to remain anonymous for the remainder of this action," and scheduled a conference for March 19, 2026 ("OSC"). Defendant did not file anything in response to the OSC. On March 19, 2026, the Court held the conference, which Defendant missed.

On March 23, 2026, the Court entered a Text Order granting Plaintiff leave to file its amended pleadings under seal with Defendant's name redacted and provided for Defendant's identity to "provisionally remain redacted on the public docket until further order of the Court."[2]

On April 30, 2026, after efforts as personal service were unsuccessful, Plaintiff's process server affixed the Summons and First Amended Complaint to Defendant's door and mailed those documents to Defendant on May 4, 2026, and Plaintiff filed proof of service on May 8, 2026. D.E. 25, 26. Accordingly, service became "complete" on May 18, 2026, pursuant to Fed. R. Civ. P. 4(e)(1) and N.Y. C.P.L.R. § 308(4), and Defendant's deadlines to file an Answer (or otherwise respond) to the First Amended Complaint was June 8, 2026. Fed. R. Civ. P. 12(a)(1)(A)(i).

On May 1, 2026, Defendant sent an email (responding to an email Plaintiff's counsel had sent on April 7, 2026), in which Defendant acknowledged that he received "a written summons in regards to a civil court order." Defendant further indicated, among other things, that he would "have representation reach out to you as soon as possible."

To date, Defendant has not filed a response to the First Amended Complaint, nor has any attorney contacted Plaintiff's counsel on Defendant's behalf. Defendant has also not responded to emails sent by Plaintiff's counsel on June 30, 2026 and July 13, 2026.

Accordingly, Plaintiff now intends to file an application seeking the entry of default, Fed. R. Civ. P. 55(a), and (eventually) a motion for default judgment. Fed. R. Civ. P. 55(b). However, before Plaintiff applies for this relief, it respectfully requests direction from the Court whether Plaintiff should continue to (1) maintain the John Doe pseudonym in the case caption and (2) file documents containing Defendant's true name and address under seal.

Courts within this District have approached this issue differently, ranging from ordering Plaintiff (or the Clerk) to refile the First Amended Complaint on the public docket (without redactions) and denying further sealing, *see Strike 3 Holdings, LLC v. Glanville*, No. 24-2287 (E.D.N.Y. Nov. 5, 2024) (Text Order); *Strike 3 Holdings, LLC v. Banigo*, No, 23-5664 (E.D.N.Y. Jan. 8 and 17, 2024) (Text Orders), to requiring Plaintiff to file its default paper(s) under seal and only revealing the Defendant's information on the public docket once default judgment is granted. *See Strike 3 Holdings, LLC v. Calnick*, Dkt. No. 23-998, D.E. 30 (E.D.N.Y. July 11, 2024); *see also* No. 23-998 (E.D.N.Y. Dec. 22, 2023) (Text Order)

As a practical matter, an order requiring Defendant to litigate under their true name on the public docket at this juncture will make the default process administratively easier. For example,

[2] This text order was amended on April 7, 2026. D.E. 20.

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Plaintiff would only need to file one set of papers and can serve CM/ECF stamp-filed versions of documents directly, without relying upon the Court to serve them or provide copies to Plaintiff's counsel *via* encrypted email for service. However, as *Calnick* demonstrates, it is feasible to conduct the default process "behind closed doors" with respect to Defendant's identity, if the Court finds it appropriate, so long as the Defendant is identified in the eventual judgment (if one is granted).

Plaintiff also respectfully notes that the Court may consider, as an alternative, entering a second Order to Show Cause to give Defendant a further opportunity to be heard on this issue before the Court renders a decision. *See Strike 3 Holdings, LLC v. Banigo*, No, 23-5664 (E.D.N.Y. Dec. 1, 2023) (Text Order) (second Order to Show Cause to Defendant); *see generally Courthouse News Serv. v. Corsones*, 131 F.4th 59, 66, 75-76 (2d Cir. 2025) (holding that the public's presumptive right to access to complaints in civil matters is not an "unconditional right of instantaneous access" and that controlling precedent "envisions courts imposing delays while they inquire into complicated issues before reaching a decision," because "courts need time in individual cases to assess whether a particular demand falls within the scope of the right").

Thank you for your attention to this matter.

Respectfully submitted,

/s/ John C. Atkin

John C. Atkin, Esq.

cc: Defendant, *pro se* (via CM/ECF, email, and Regular Mail)