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March 19, 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. I write to respectfully request the entry of an Order (1) granting leave for Plaintiff to file unredacted versions of its proposed summons, First Amended Complaint, Amended Civil Cover Sheet, and Proof of Service/Waiver of Service as "*ex parte*" documents on a provisional basis; (2) directing the Clerk of the Court to issue Summons in this matter as an "*ex parte*" document;[1] and (3) clarifying the deadline to effect service on the "new" defendant.

By way of background, on October 14, 2025, the Court entered an Order granting Plaintiff's motion to conduct limited early discovery.[2] After obtaining the subscriber's identity from the ISP, Plaintiff determined that there is a good faith basis to identify the subscriber as the infringer ("Defendant"). *See Cobbler Nevada, LLC v. Gonzalez*, 901 F.3d 1142 (9th Cir. 2018); *see Strike 3 Holdings, LLC v. Doe*, 964 F.3d 1203, 1211–12 (D.C. Cir. 2020). Plaintiff now intends to amend its pleadings to (1) replace the John Doe party with the subscriber's true name and address (subject to the Court's protective order), *see Hogan v. Fischer*, 738 F.3d 509, 517 (2d Cir. 2013), and (2) allege additional evidence that identifies Defendant as the infringer, beyond his mere association with the IP address. *See generally Strike 3 Holdings, LLC v. Vokoun*, No. 20-14321, 2022 WL 310201, at *3 (D.N.J. Feb. 2, 2022). Plaintiff respectfully submits that a further order—allowing Plaintiff to file documents identifying the defendant as *ex parte* documents on a provisional basis—is appropriate to facilitate compliance with the existing protective order.

[1] Plaintiff does not seek leave to file these documents as "sealed" documents, which are not accessible to the filing party, but rather as "*ex parte*" documents so that they are accessible by Plaintiff for service. Plaintiff will serve all documents filed as "*ex parte*" documents on Defendant. *See* Fed. R. Civ. P. 4(c).

[2] The Court's October 14, 2025 Order included a provision that "until such further Order of the Court, this case shall be litigated in the name of a 'John Doe' defendant, regardless of what information is ultimately disclosed pursuant to the Subpoena." D.E. 7. In light of this provision, Plaintiff respectfully submits a separate motion to maintain a Doe identifier in the case caption appears unnecessary at this time. *See generally Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 188–89 (2d Cir. 2008).

Plaintiff notes that courts have taken divergent views on whether to allow claims in these matters to be defended under a pseudonym (and seal documents from public access). Some courts have allowed this relief based on Plaintiff's interest in not being (wrongfully) accused of engaging in coercive settlement practices.[3] However, other courts have found this interest to be insufficient,[4] and other courts have even questioned whether Plaintiff's interest is to improperly "shroud" enforcement of its copyrights in secrecy.[5] Finally, some courts—including this Court, *Strike 3 Holdings, LLC v. Doe*, No. 24-5138 (E.D.N.Y. Nov. 21, 2024) (Kuo, J.) (Text Order)—have adopted a middle approach, permitting this relief on a provisional basis so that the Defendant may be made a party and given an opportunity to be heard on his or her privacy interest,[6] before deciding whether to permit the relief the continue on a more permanent basis.[7]

It is this middle approach that Plaintiff requests the Court take here. Although the public has a presumptive right of access to "judicial documents," *Newsday LLC v. Cnty of Nassau,* 730 F.3d 156, 163-64 (2d Cir. 2013), like all presumptions, it is rebuttable. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006). The weight of the presumption is a function of (1) "the role of the material at issue in the exercise of Article III judicial power" and (2) "the resultant value of such information to those monitoring the federal courts," balanced against "competing considerations" such as "the privacy interests of those resisting disclosure." *Id.* at 119–20 (internal

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[3] *See, e.g.*, *Strike 3 Holdings, LLC v. Doe*, No. 22-1955 (E.D.N.Y. Dec. 3, 2022) (Levy, J.); *Strike 3 Holdings, LLC v. Doe*, 21-20538, D.E. 21 (D.N.J. July 21, 2022) (Espinosa, J.); *Strike 3 Holdings, LLC v. Doe*, No. 21-792 (E.D.N.Y. Aug. 27, 2021) (Levy, J.).

[4] *See, e.g.*, *Strike 3 Holdings, LLC v. Aumiller*, No. 22-1919, 2023 WL 3749969 (D.N.J. June 1, 2023); *Strike 3 Holdings, LLC v. Doe*, No. 22-307, 2023 WL 113564 (M.D. Fla. Jan. 5, 2023); *Strike 3 Holdings, LLC v. Doe*, No. 22-2641, D.E. 8 (E.D. Pa. Sept. 28, 2022) (Wolson, J.); *Strike 3 Holdings, LLC v. Cacciapaglia*, No. 22-3965 (E.D.N.Y. Sept. 27, 2022) (Cogan, J.); *Strike 3 Holdings, LLC v. Doe*, 21-2412 (E.D.N.Y. Dec. 8, 2021) (Bulsara, J.); *Strike 3 Holdings, LLC v. Doe*, No. 20-114321, 2021 WL 7286225 (D.N.J. Dec. 22, 2021), *default judgment entered sub nom.*, 2022 WL 310201 (D.N.J. Feb. 2, 2022).

[5] *See, e.g.*, *Strike 3 Holdings, LLC v. Doe,* No. 21-15638, 2022 WL 14838018, at *7–8 (D.N.J. Oct. 26, 2022); *Strike 3 Holdings, LLC v. Doe,* No. 21-17860, 2022 WL 2274473, at *3 (D.N.J. June 23, 2022); *Strike 3 Holdings, LLC v. Doe*, No. 21-269, D.E. 13 at *5 (S.D.N.Y. May 30, 2021) (Vyskocil, J.); *see also Strike 3 Holdings, LLC v. English*, No. 21-15651, 2022 WL 17991144 (D.N.J. Dec. 29, 2022); *Strike 3 Holdings, LLC v. DeFina*, No. 21-15681, 2022 WL 16744122 (D.N.J. Nov. 7, 2022).

[6] *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999); *Omni Capital Int'l, Ltd. v. Rudolph Wolff & Co., Ltd.*, 484 U.S. 97, 104 (1987).

[7] *See, e.g.*, *Strike 3 Holdings, LLC v. Doe*, No. 23-23380, D.E. 23 (D.N.J. Sept. 4, 2024); *Strike 3 Holdings, LLC v. Doe*, No. 23-998, D.E. 11 (E.D.N.Y. Aug. 28, 2023), *default judgment entered sub nom.*, *Strike 3 Holdings, LLC v. Calnick*, No. 23-998, D.E. 32 (E.D.N.Y. Aug. 5, 2024); *Strike 3 Holdings, LLC v. Doe*, No. 23-5664 (E.D.N.Y. Jan. 8, 2024), *default judgment entered sub nom.*, *Strike 3 Holdings, LLC v. Banigo*, No. 23-5664, D.E. 39 (E.D.N.Y. May 5, 2024); *Strike 3 Holdings, LLC v. Doe*, No. 23-2996 (E.D.N.Y. Feb. 1, 2024 and June 28, 2024); *Strike 3 Holdings, LLC v. Doe*, No. 23-3733, D.E. 16 (N.D. Cal. Dec. 14, 2023); *Strike 3 Holdings, LLC v. Doe*, No. 22-7885, D.E. 11 (E.D.N.Y. July 26, 2023); *Strike 3 Holdings, LLC v. Doe*, No. 22-7881 (E.D.N.Y. Apr. 28 and June 2, 2023); *Strike 3 Holdings, LLC v. Doe*, No. 22-482 (E.D.N.Y. Nov. 14, 2022 and Dec. 15, 2022); *Strike 3 Holdings, LLC v. Doe*, No. 22-1138 (E.D.N.Y. Aug. 26, 2022 and Dec. 13, 2022); *Strike 3 Holdings, LLC v. Doe*, No. 22-398, 2022 WL 16695170 (M.D. Fla. Nov. 3, 2022); *Strike 3*, 2022 WL 14838018 at *8; *Strike 3 Holdings, LLC v. Doe*, No. 21-20543, D.E. 23 (D.N.J. Sept. 30, 2022); *Strike 3 Holdings, LLC v. Doe,* No. 21-5178, 2022 WL 2276352 (E.D. Pa. June 22, 2022); *Strike 3 Holdings, LLC v. Doe*, No. 21-3702, 2022 WL 1214170 (E.D. Pa. Apr. 25, 2022); *Strike 3*, 2021 WL 7286225 at *6.

quotation marks omitted). As the Second Circuit has recently explained, the public's presumptive right to access to complaints in civil matters is not an "unconditional right of instantaneous access." *Courthouse News Serv. v. Corsones*, 131 F.4th 59, 66 (2d Cir. 2025). Instead, 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." *Id.* at 75-76 (citation omitted).

Plaintiff does not seek to permanently seal its entire First Amended Complaint (and associated documents), but only those portions that identify Defendant. Permitting these documents to be filed as "*ex parte*" documents on a provisional basis would allow Defendant to be made a party and be heard on his or her (presumed) privacy interests before that information is disclosed on the public docket and before the Court issues a decision as to whether the presumption of public access is outweighed by Defendant's interests. And to account for concerns that this request is part of any "coercive litigation tactics"—tactics which Plaintiff expressly denies employing, *see* D.E. 6-2 at ¶¶ 34, 39—Plaintiff's proposed order includes a prohibition that prevents Plaintiff from filing *any* document containing Defendant's name and/or address on the public docket unless expressly authorized by the Court.[8]

In connection with this request, Plaintiff respectfully submits it is also appropriate to direct the Clerk of the Court to issue the Summons in this matter—bearing Defendant's real name and address—as an "*ex parte*" document so that Plaintiff may access it and serve it on Defendant.

In the event the Court denies this Motion to file documents identifying defendant as "*ex parte*" documents on a provisional basis, Plaintiff respectfully requests that the Court alternatively vacate the provision of the October 14, 2025 Order requiring that this matter be litigated in the name of a "John Doe" defendant, D.E. 7, so that Plaintiff may file its First Amended Complaint (and other documents identifying Defendant) in unredacted form.

Finally, since Plaintiff's amended pleading results in a change in the party sued, *Hogan*, 738 F.3d at 517, Plaintiff respectfully requests the entry of an Order reflecting that the service deadline as to the "new" Defendant will run 90-days from the filing of the Amended Complaint.[9]

Thank you for your attention to this matter.

Respectfully submitted,
/s/ John C. Atkin
John C. Atkin, Esq.

cc: Defendant, *pro se*

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[8] *See Strike 3 Holdings, LLC v. Doe*, No. 18-2648, 2019 WL 78987, at *4 (S.D.N.Y. Jan. 2, 2019) (observing that allowing defendant to litigate under a pseudonym would "remove[] much, if not all, of the leverage that a plaintiff would possess to unduly coerce [a defendant] into settlement").

[9] *See, e.g., Strike 3 Holdings, LLC v. Doe*, No. 24-489, D.E. 13 (E.D.N.Y. Oct. 4, 2024) (*ex parte* Text Order); *Strike 3 Holdings, LLC v. Doe*, No. 22-7885, D.E. 11 (E.D.N.Y. July 26, 2023) (*ex parte* Text Order); *Strike 3 Holdings, LLC v. Almquist*, No. 22-5173, D.E. 12 (E.D. Pa. May 26, 2023); *Strike 3 Holdings, LLC v. Marrone*, No. 22-4120, D.E. 11 (E.D. Pa. Jan. 10, 2023); *see Albany Patroons, Inc. v. Demperio Sports & Ent., LLC*, No. 21-286, 2022 WL 4235433, at *1 n.1 (N.D.N.Y. Sept. 14, 2022).