The Atkin Firm, LLC

Attorney at Law

55 Madison Avenue, Suite 400
Morristown, NJ 07960

400 Rella Boulevard, Suite 165
Suffern, NY 10901

By: John C. Atkin, Esq.*
---
* Member of NJ, NY, and PA Bar

Tel: (973) 314-8010
Fax: (833) 693-1201
Email: JAtkin@atkinfirm.com

January 5, 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. Plaintiff respectfully submits this letter response, in lieu of a more formal response, to the motion to proceed anonymously ("Motion") [D.E. 9] filed by John Doe subscriber assigned IP address 67.254.222.211 ("Doe").

At this time, Plaintiff respectfully takes "no position" to the extent the Motion seeks an Order allowing Doe to litigate under a pseudonym on the public docket—without impinging on Plaintiff's ability to learn Doe's identity, litigate its claim, or conduct discovery—since Doe's request appears to only concern *the public's* First Amendment and common law rights to access judicial documents and know the identities of the parties.[1]

However, because Doe is proceeding *pro se*, Plaintiff notes that Doe's request is (1) premature, *Strike 3 Holdings, LLC v. Doe*, No. 25-3733, 2025 WL 2080948, at *2 n.1 (D.N.J. July 24, 2025); (2) redundant, D.E. 7 at 3; *Strike 3 Holdings, LLC v. Doe*, No. 25-5527 (E.D.N.Y. Nov. 20, 2025) (Text Order) (Kaminsky, J.); and (3) relies on undeveloped, boilerplate arguments that appear to be insufficient to overcome the public's right to access pleadings and other judicial documents. *See generally Publicola v. Lomenzo*, 54 F.4th 108 (2d Cir. 2022); *Strike 3 Holdings, LLC v. Doe*, No. 22-1138, 2022 WL 17623941, at *1 (E.D.N.Y. Dec. 13, 2022); *Strike 3 Holdings, LLC v. Doe*, 637 F. Supp. 3d 187, 196–97 (D.N.J. 2022) ("[I]t certainly cannot be the case that anonymity is warranted for every defendant sued by Plaintiff simply because Plaintiff's copyrighted works are adult films, legal in all respects other than how the defendants in these cases obtained and/or shared them via the BitTorrent protocol.").

[1] Plaintiff reserves the right to seek a modification of any protective order in the event this matter reaches trial and/or the entry of judgment.

Nevertheless, 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 quotation marks omitted). As the Second Circuit 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).

In these matters, several courts—including this Court—have adopted an approach that allows (and requires) Plaintiff to file its amended pleadings (if any) as "*ex parte*" documents—available to the parties and the Court, but not the public—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, before deciding whether to permit any protective relief the continue on a more permanent basis. *See, e.g.*, *Strike 3 Holdings, LLC v. Doe*, No. 24-5138 (E.D.N.Y. Nov. 21, 2024) (Kuo, J.) (Text Order).

Accordingly, Plaintiff respectfully suggests that the Court grant Doe's Motion, in part, and enter an order that allows (and requires) Plaintiff to file its amended pleadings and associated documents as "*ex parte*" documents, on a provisional basis.

A proposed order is enclosed for the Court's consideration.

Thank you for your attention to this matter.

Respectfully submitted,

/s/ John C. Atkin

John C. Atkin, Esq.

cc: John Doe (*via* CM/ECF and email)
Encl.