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 2 BRENT L. RYMAN, ESQ. (#008648)
 3 PAUL M. BERTONE, ESQ. (#004533)
 4 ERICKSON, THORPE & SWAINSTON, LTD.
 5 1885 South Arlington Ave., Suite 205
 Reno, Nevada 89509
 Telephone: (775) 786-3930
Attorneys for Defendants
Nye, Elko and Storey Counties

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 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE DISTRICT OF NEVADA
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13
 14 JANE DOE;

15 Plaintiffs,

16 vs.

17 JOSEPH LOMBARDO, Governor of Nevada,
 18 in his official capacity; AARON FORD,
 Attorney General of Nevada, in his official
 19 capacity; NYE COUNTY; ELKO COUNTY;
 STOREY COUNTY; WESTERN BEST, INC.
 20 D/B/A/ CHICKEN RANCH; WESTERN
 BEST, LLC; DESERT ROSE CLUB, LLC;
 HACIENDA ROOMING HOUSE, INC.
 21 D/B/A BELLA’S HACIENDA RANCH;
 MUSTANG RANCH PRODUCTIONS, LLC
 22 d/b/a MUSTANG RANCH LOUNGE, LLC;
 LEONARD “LANCE” GILMAN, in his
 23 official capacity; and LEONARD ‘LANCE’
 GILMAN, in his individual capacity,
 24

25 Defendants.

Case No.: 3:24-cv-00065-MMD-CLB

**MOTION TO DISMISS FOR
 IMPROPER USE OF PSEUDONYM
 RESULTING IN LACK OF
 SUBJECT MATTER
 JURISDICTION**

26 COME NOW, Defendants, NYE COUNTY, ELKO COUNTY and
 27 STOREY COUNTY, (hereinafter, “the County Defendants,” which includes the official
 28 capacity suit against Defendant Gilman), by and through their Attorneys of Record,

1 ERICKSON, THORPE & SWAINSTON, LTD., and BRENT L. RYMAN, ESQ., and
2 PAUL M. BERTONE, ESQ., and hereby submit the following Motion to Dismiss based upon
3 lack of subject matter jurisdiction pursuant to FRCP Rule 12(b)(1). The specific
4 jurisdictional failure here flows from Plaintiff JANE DOE’s violation of Rule 10(a), in that
5 she has improperly attempted to appear through use of a pseudonym. As will be shown
6 below, there are no exceptional circumstances present which would allow this Plaintiff to
7 litigate anonymously. As further set forth herein, this Plaintiff’s interest in preserving her
8 privacy has not overcome these public Defendants’ paramount rights to due process, and the
9 strong presumption in litigation that a party must use their true and lawful name.

10 The County Defendants’ Motion to Dismiss is made and based upon all of the
11 pleadings and papers on file herein, including the following Memorandum of Points &
12 Authorities, as well as any oral argument the Court seeks to entertain.

13 **MEMORANDUM OF POINTS & AUTHORITIES**

14 **I. BRIEF SUMMARY OF ACTION AND CURRENT MOTION**

15 **A. Prefatory remarks.**

16 Before addressing any other topic, indeed before even turning the focus to the
17 particular “Jane Doe” in this matter, Defendants feel compelled to inform this Court of what
18 they rightfully view as the glaring, substantive defect present in this litigation, at least as
19 against these County Defendants. The majority of Plaintiff’s Complaint (ECF No. 1) is
20 literally a mirror image – with large swaths of the document lifted allegation for allegation,
21 and even reflecting identical claims for relief – of a prior failed suit, filed in this very District
22 Court, by these same Plaintiff’s attorneys. That failed suit also employed “Jane Does” as
23 party Plaintiffs, casting near-identical allegations of purported wrongdoing against certain
24 governmental Defendants, including but not limited to Nye County, who is again present in
25 this current suit. Defendants bring this to the attention of the District Court because that
26 prior suit was dismissed for lack of subject matter jurisdiction as against those governmental
27 Defendants, and the current County Defendants respectfully submit there is no reason for this
28 suit to end any differently.

1 According to this prior suit, those governmental defendants assisted and encouraged
2 the sex trafficking of certain anonymous Plaintiffs by merely allowing the existence of
3 licensed, regulated brothel prostitution in accord with Nevada law, and also by purportedly
4 failing to adequately enforce those regulations. *See, Williams v. Sisolak, et al.*, Case No.
5 2:21-cv-01676-APG-VCF, Compl. (ECF No. 1), Sept, 10, 2021; *see, also*, ECF No. 49, First
6 Amend. Compl., filed Nov. 11, 2021 (adding Jane Doe #1 and Jane Doe #2 to the caption).
7 These County Defendants now face practically the same allegations, or at least the same
8 species of allegations in this abusive suit filed by the same attorneys, most of which are not
9 admitted to practice in the State of Nevada or appear now before this District Court.¹

10 Again, most critically for our purposes here, this former action did not end well for
11 Plaintiffs (the last set of Jane Does), with the governmental Defendants being dismissed for
12 lack of constitutional Article III standing, and thus a lack of subject matter jurisdiction over
13 them. *Williams v. Sisolak*, 2022 WL 2819842, at *9 (D. Nev., July 18, 2022) (Gordon, J.).
14 This end result was recently affirmed in the Ninth Circuit, which made it exceedingly plain
15 and inexorably certain that there is no Article III standing to assert these claims against the
16 governmental Defendants, since any hypothetical injury is caused by independent third
17 parties, and not by the governmental Defendants’ roles in regulating that industry:

18 When plaintiffs raise claims based on government action or
19 inaction, they must sufficiently allege that government
20 defendants’ actions “exert[] a ‘determinative or coercive effect’
21 on the third-party conduct that directly causes the[ir] injury.”

22 * * *

23 Plaintiffs’ allegations do not meet that standard, especially when
24 by the allegations of the complaint certain third parties engaged
25 in conduct that violated federal and state laws against sex
26 trafficking.

27 *Williams v. Sisolak*, 2024 WL 194180, at *2 (9th Cir., Jan. 18, 2024).

28 ¹. Presuming the four attorneys who have noted their *pro hac vice* applications will be
“forthcoming” in this litigation actually proceed as such, the County Defendants expressly
reserve the right to oppose or otherwise respond to such applications if and when they are filed.
To that end, the County Defendants respectfully submit the District Court should give careful
consideration before allowing such admission to proceed in this frivolous and harassing case
against Nevada’s public entities.

1 And yet, here we are, barely a month after the Ninth Circuit’s affirmance, for all
2 intents and purposes litigating the exact same case in all pertinent aspects, with governmental
3 defendants again being alleged to have aided and abetted in sex trafficking through
4 administrative and regulatory failings. If there is a substantive, material difference between
5 the two actions, presumably other than employing different “Jane Does,” the County
6 Defendants cannot articulate it. And that is not mere puffery or hyperbole. Quite tellingly,
7 this Plaintiff does not even bother to plead some distinguishing theory or cause of action in
8 this suit, which might differentiate it from the last. Plaintiff has offered no reason within the
9 allegations and averments of the latest suit as to why this suit should end in some different
10 result from the last. No reason why subject matter jurisdiction will be found against the
11 governmental entities who regulate brothel prostitution this time around.

12 Moreover, as this District Court will undoubtedly remember, this case will represent
13 not a just a second strike, but instead a third Complaint that sorely lacks for subject matter
14 jurisdiction. *See, Charleston v. Nevada*, 423 F.Supp.3d 1020, 1027-28 (D. Nev. 2019)
15 (dismissing comparable action, including some identical parties, for lack of standing)
16 (Du, J.), *aff’d*, 830 F.App’x 948 (9th Cir. 2020).²

17 The point here being, the governmental entities who are being repeatedly victimized
18 by these abusive suits, which are vexatious, frivolous, and being filed for improper purposes,
19 are no longer willing to tolerate the use of Jane Doe plaintiffs freely hurling wild and
20 outrageous accusations of serious violations of federal law at them from behind the cloak of
21 anonymity, effectively preventing future Defendants from invoking the defenses of collateral
22 estoppel, *res judicata* or other recourse against these harassing claims. Not after the last set
23 of Jane Does (from these Defendants’ perspective) simply faded into oblivion when they
24 could not establish constitutional standing against the governmental entities with colorful and
25 ribald tales of abuse. Not a single alleged injury was “fairly traceable to the defendants’
26 conduct and ‘not the result of the independent action of some third party not before the
27 court.’” *See, Williams v. Sisolak*, 2024 WL 194180, at *2.

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². Though to the first action’s credit, it at least did not utilize anonymous party plaintiffs.

1 Again, these Defendants have seen absolutely nothing alleged within this latest
2 generation of attack against legalized prostitution which would augur a different result. It is
3 a preposterous abuse of process for these public entities to endure this again so Plaintiffs'
4 attorneys can generate newspaper headlines before even seeking admission to appear before
5 the Nevada District Court for this litigation.

6 To that end, at this point, it should be plain and beyond cavil that these suits are not
7 being filed for victory against the governmental entities, but purely for publicity.³ At least
8 as against these County Defendants, these serial suits amount to nothing but the ongoing
9 harassment of various local Nevada government entities which permit a regulated, legalized
10 system of brothel prostitution, as per the will of their local voters and constituents. When
11 this suit ends with yet another finding of lack of subject matter jurisdiction as to these County
12 Defendants, as it surely must under principles of *stare decisis*, these tactics will be beyond
13 dispute. But in the meantime, anyone willing to make such serious charges against a
14 governmental entity should be willing to support and stand behind those charges publicly.
15 That is just basic fairness, and frankly is necessary in order to prevent anonymous Plaintiffs
16 from continuing a harassing campaign of frivolous suits against public Defendants robbed
17 of the ability to defend under theories of *res judicata* or collateral estoppel, or to seek other
18 available penalties. If it is the intent that this suit should rise like the phoenix from the ashes
19 of the last (or for that matter the first), then surely the rarified bird attempting this miraculous
20 flight is worthy of using a real name.

21
22 ³. See, e.g., <https://www.youtube.com/watch?v=5jYIFhn3bgQ>, “National Center on
23 Sexual Exploitation/Press Conference-2024 Nevada Brothel Sex Trafficking Case-Sex
24 Trafficking Survivor Sues Nevada, Government Officials, and Brothels for Enabling Sex
25 Trafficking”; See also, e.g. [https://www.courthousenews.com/nevadas-legal-brothels-facilitate-
sex-trafficking-lawsuit-says/](https://www.courthousenews.com/nevadas-legal-brothels-facilitate-sex-trafficking-lawsuit-says/), “Nevada’s legal brothels facilitate sex trafficking, lawsuit says,”
Courthouse News Service, Mark Hebert, published Feb. 9, 2024 (all publicly-available internet
materials as last visited February 19, 2024).

26 While counsel is loathe to reference the tactics of opposing counsel here, it is
27 unfortunately necessary to provide context for the problems caused by anonymous party
28 Plaintiffs, especially with this suit following immediately on the heels of the Ninth Circuit’s
recent decision in *Williams*. Notably, none of the articles viewed by this counsel, nor the
excerpts of interviews given by Plaintiff’s various counsels within these articles, referenced the
fact that two prior, similar suits against governmental entities failed for lack of subject matter
jurisdiction and Article III constitutional standing.

1 **B. Plaintiff’s purported need for anonymity as outlined in the Complaint.**

2 Since Plaintiff has not yet filed any type of motion for leave to proceed under a
3 pseudonym, so the only information available to the County Defendants concerning her
4 purported desire for the same must come from her Complaint. After what amounts to lengthy
5 “fire and brimstone”-type sermon on the evils of organized prostitution throughout the
6 recorded history of the world, Jane Doe finally paints herself within the allegations of the
7 Complaint as a woman who was sex trafficked and exploited at various brothels, across
8 various counties within Nevada, over a course of years from 2017 through 2022. Through
9 various administrative and regulatory failings which supposedly allowed this Plaintiff to be
10 sex trafficked under the guise of legalized prostitution, Plaintiff articulates claims for relief
11 against the County Defendants for violating the Thirteenth Amendment Ban on Slavery,
12 violating 18 U.S.C. § 1591 (a)(1) and § 1595, by perpetrating sex trafficking, and violating
13 18 U.S.C. § 1591 (a)(2) and § 1595, by benefitting from sex trafficking. (*See*, Pl’s Compl.
14 (ECF No. 1), pp. 42-44). The prayer requests declaratory relief and an injunction which
15 would effectively end legalized prostitution in Nevada, compensatory damages against the
16 County Defendants and brothels, and restitution and disgorgement of all profits and unjust
17 enrichment obtained as a result of the Defendants’ unlawful behavior. (Pl’s Compl.
18 (ECF No. 1), pp. 45-46).

19 After pleading continuing Nevada residence, Plaintiff avers as follows concerning her
20 use of “Jane Doe” to appear as a party plaintiff in the caption:

21 14. Due to the sensitive, private, nature of Plaintiff Jane
22 Doe’s Allegations, and the potential for harmful
23 retaliation against her, she requests that this Court permit
24 her to proceed under a pseudonym. Courts recognize an
exception to the general rule that pleadings name all
parties when the issues involved are of a sensitive and
highly personal nature.

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- 1 15. For good cause, as exists here, the Court may permit a
2 plaintiff to proceed in pseudonym to protect a party from
3 annoyance, embarrassment, oppression, or undue burden
4 or expense. Here, granting pseudonym status is
5 warranted because this litigation will involve the
6 disclosure of stigmatizing sexual information, including
7 rape. Plaintiff fears the stigma from family, friends,
8 current and future employers, and communities if her
9 true identity is revealed in the public record.
- 10 16. Plaintiff simply seeks redaction of her personal
11 identifying information from the public docket and
12 assurances that Defendants will not use or publish her
13 identities in a manner that will compromise her personal
14 life or future employment prospects.
- 15 17. Defendants will no be prejudiced by Plaintiff's use of a
16 pseudonym. Plaintiff will agree to reveal her identity to
17 the Defendants for the limited purpose of investigating
18 Plaintiff's claims once the parties are governed by a
19 protective order.
- 20 18. Plaintiff Jane Doe's motion for a protective order and
21 leave to proceed pseudonymously is forthcoming.

22 (*See*, Pl's Compl. (ECF No. 1), pp. 3-4, ll. 23-16).

23 Respectfully, as will be shown below, Plaintiff has not and cannot meet her burden
24 to demonstrate she suffers fear of severe harm, and that such fear is reasonable, as would ne
25 necessary to proceed anonymously. Plaintiff's accusations are effectively seeking to end
26 legalized prostitution in Nevada, to have it declared unconstitutional and deemed nothing less
27 than a form of insidious, Twenty-First Century slavery. If one is going to make this level of
28 allegation of serious violation of federal law, it is only right that such accuser must do so in
29 their legal name. One can say anything one wishes anonymously, as was proven in the last
30 suit, where the public Defendants' successful defense means the anonymous parties were
31 never unmasked. Naming a party is the best assurance of keeping them honest, especially
32 in a frivolous suit such as this that likely will never proceed to discovery due to early
33 dispositive motions. Moreover, since matters of public safety and health are implicated
34 through the troubling allegations proffered in this anonymous Complaint, such issues can
35 only serve to magnify the public interest in knowing all these litigants' identities, including
36 Plaintiff's identity.

1 **II. LEGAL ARGUMENT**

2 **A. Plaintiff cannot meet her burden to proceed anonymously as required by**
 3 **the standard governed by FRCP Rule 10(a), which requires that parties**
 4 **be named.**

5 FRCP Rule 10(a) commands that “[t]he title of the complaint must name all the
 6 parties” *Id.* “There is no provision in the Federal Rules of Civil Procedure authorizing
 7 or expressly prohibiting the use of fictitious parties, *i.e.*, parties named as Jane or John Doe,
 8 and Rule 10 requires a Plaintiff to include the names of the parties in the action in his
 9 complaint.” *Banks v. Joyce*, 2015 WL 1137756, at *2 (D. Nev., Mar. 13, 2015). A second
 10 procedural rule which applies to the issue of a plaintiff proceeding under a pseudonym is
 11 FRCP Rule 17(a), which provides that “[a]n action must be prosecuted in the name of the
 12 real party in interest.” *Id.* Rule 10(a)’s prescriptions for captions and formatting apply as
 13 well to motions and other legal papers. *See*, FRCP Rule 7(b)(2). “The normal presumption
 14 in litigation is that parties must use their real names.” *D.O. Jane Doe v. State of Nevada,*
 15 *Ex. Rel., Dep’t of Health & Hum. Servs. Div. of Child & Fam. Servs.*, 2024 WL 518884, at *1
 (D. Nev., Feb. 8, 2024).

16 It is a Plaintiff’s burden to demonstrate the need to appear anonymously in the
 17 caption. *Del Nero v. Allstate Ins. Co.*, 2022 WL 1618839, at *3 (D. Nev., May 23, 2022).
 18 “Although some Circuits require plaintiffs to obtain leave of the court before filing an
 19 anonymous pleading, the Ninth Circuit does not.” *A.B. v. Hilton Worldwide Holdings Inc.*,
 20 484 F.Supp.3d 921, 945 (D. Or. 2020).

21 [A] plaintiff seeking to proceed anonymously should proceed in
 22 one of the following ways: 1) file a complaint featuring his true
 23 name, along with a motion for a protective order, or for leave to
 24 amend to shield his identity; 2) file a complaint under a
 pseudonym, but attach his true name in an affidavit; or 3) file a
 complaint under a pseudonym, but sign his true name, verifying
 the complaint.

25 *E.E.O.C. v. ABM Indus. Inc.*, 249 F.R.D. 588, 592 (E.D. Cal. 2008).

26 “[P]laintiffs must obtain leave to proceed under fictitious names.” *Id.* “A district
 27 court has discretion in deciding whether to permit a party to proceed anonymously.” *Roe v.*
 28 *San Jose Unified Sch. Dist. Bd.*, 2021 WL 292035, at *8 (N.D. Cal., Jan. 28, 2021).

1 “Compelling reasons” must exist sufficient to outweigh the public’s interest in disclosure and
2 thus allow a plaintiff to proceed anonymously. *Id.*

3 Where a complaint is filed with an anonymous plaintiff who fails to prove up that
4 need for anonymity under Rule 10(a), the complaint fails for lack of subject matter
5 jurisdiction and therefore may be dismissed under FRCP 12(b)(1). *See, e.g., Doe v. UNUM*
6 *Life Ins. Co. of Am.*, 164 F.Supp.3d 1140, 1146 (N.D. Cal. 2016) (plaintiff having failed to
7 meet the “Ninth Circuit’s high bar to anonymous pleadings,” defendants’ motion to dismiss
8 brought pursuant to Rule 12(b)(1) and Rule 10(a) was granted); *W.N.J. v. Yocom*, 257 F.3d
9 1171, 1172 (10th Cir. 2001) (“Where no permission [to proceed anonymously] is granted,
10 ‘the federal courts lack jurisdiction over the unnamed parties, as a case has not been
11 commenced with respect to them.’”).

12 “The decision of whether or not to allow a party to remain anonymous . . . will not be
13 reversed unless the Court relies on an erroneous view of the law, makes an erroneous
14 assessment of the evidence, or strikes an unreasonable balance of the relevant factors.”
15 *Publius v. Boyer-Vine*, 321 F.R.D. 358, 361 (E.D. Cal. 2017). An order denying pseudonym
16 treatment is immediately appealable under the collateral order doctrine. *Does I thru XXIII v.*
17 *Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000).

18 Where defendants are “publicly accused of serious violations of federal law[,] [b]asic
19 fairness dictates that those among the defendants’ accusers who wish to participate in this
20 suit as individual party plaintiffs must do so under their real names.” *S. Methodist Univ.*
21 *Ass’n of Women L. Students v. Wynne & Jaffe*, 599 F.2d 707, 713 (5th Cir. 1979). “[T]he
22 mere filing of a civil lawsuit can have significant effects on a defendant.” *Rose v. Beaumont*
23 *Indep. Sch. Dist.*, 240 F.R.D. 264, 267 (E.D. Tex. 2007). “[T]he public’s interest in knowing
24 what the judicial system is doing is frustrated when any part of litigation is conducted in
25 secret.” *Id.*, at 268. “Identifying the parties to the proceeding is an important dimension of
26 publicness’ and that ‘[t]he people have a right to know who is using their courts.’” *Id.*

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1 A trial is not a masquerade party nor is it a game of judicial
2 hide-n-seek where the plaintiff may offer the defendant the
3 added challenge of uncovering his real name. We sometimes
speak of litigation as a search for the truth, but the parties ought
not have to search for each other’s true identity.

4 *Zocaras v. Castro*, 465 F.3d 479, 484 (11th Cir. 2006).

5 Although the nature of this rule [10(a)] is one of form, the
6 purpose behind such a rule is not solely one of administrative
7 convenience. The rule serves to apprise the parties of their
8 opponents, and it protects the public's legitimate interest in
knowing all the facts and events surrounding court proceedings.

8 * * *

9 A trial is a public event. What transpires in the courtroom is
10 public property There is no special perquisite of the
11 judiciary which enables it, as distinguished from other
institutions of democratic government, to suppress, edit, or
12 censor events which transpire in proceedings before it.

12 *Doe v. Rostker*, 89 F.R.D. 158, 160 (N.D. Cal. 1981).

13 “[T]he use of pseudonyms concealing plaintiffs’ real names ‘may cause problems to
14 defendants engaging in discovery and establishing their defenses, and in fixing res judicata
15 effects of judgments.’” *Free Mkt. Comp. v. Commodity Exch., Inc.*, 98 F.R.D. 311, 313
16 (S.D.N.Y. 1983); *see also, Doe v. Rostker*, 89 F.R.D. at 162 (“A more technical consideration
17 for disfavoring fictitious pleading involves the potential inability to fix res judicata.”).
18 “Courts should not permit parties to proceed pseudonymously just to protect the parties’
19 professional or economic life.” *Guerrilla Girls, Inc. v. Kaz*, 224 F.R.D. 571, 573
20 (S.D.N.Y. 2004).

21 Probably the most comprehensive recent examination of the topic of pseudonym
22 plaintiffs comes from former Magistrate Judge Ferenbach’s recent analysis in *Doe v. Wynn*
23 *Resorts Ltd.*, 2023 WL 4561527 (D. Nev., July 17, 2023), where certain female employees
24 of well-known public figure and casino mogul Steve Wynn sought to bring claims sounding
25 in sexual harassment and personal degradation, and to do so anonymously. In that context,
26 Magistrate Judge Ferenbach elaborated at length the interests, rights and duties involved, and
27 the factors which needed to be balanced in order to allow a court to render a proper decision
28 as to whether a plaintiff should be allowed to proceed under a pseudonym.

1 Where a party does not allege a risk of retaliatory harm (e.g.,
2 party asserts privacy in sensitive and highly personal matters),
3 courts engage in a condensed analysis weighing: (1) the party's
4 interest in anonymity, including the severity of any likely harm;
5 (2) any prejudice to the opposing party; and (3) the public's
6 interest.

7 *Id.*

8 The court then concluded its survey of these applicable factors with the recognition
9 that the district courts “have broad discretion to determine whether a plaintiff may proceed
10 anonymously.” *Id.*

11 Applying these factors and balancing tests, the court systematically chronicled how
12 the plaintiffs therein had failed to meet the high burden required by the law of this circuit to
13 proceeding anonymously. Among the more salient findings, the court observed that where
14 the plaintiff faced fears of economic, rather than physical harm, that harm must truly be
15 “extraordinary” to justify granting anonymity. *Id.*, at 4. “Typical” fears of termination and
16 blacklisting did not rise to the level of extraordinary, which the court found more in line with
17 fears of arrest, deportation and imprisonment. *Id.* The court further determined that the
18 “plaintiff’s fears of retaliation from current or potential future employers are not
19 ‘extraordinary’ as contemplated by the Ninth Circuit” *Id.*, at 6.

20 Nor did the court accept the plaintiffs’ argument that their identity was not crucial to
21 the resolution of the case, instead finding that:

22 Openness in judicial proceedings fosters the press’s ability to
23 research the litigants’ backgrounds (which may bear on matters
24 pertaining to credibility) and the potential motivations for suing.
25 That information may be central to the public’s broader
26 understanding of this case. Allowing the plaintiffs to proceed
27 without using their true names undermines these important
28 values.

29 *Id.*, at 7.

30 The plaintiffs fared no better within the “condensed analysis” for alleged sensitive and
31 highly personal matters. Plaintiffs contended that the issues involved sensitive matters which
32 were personally embarrassing to them, and that they were afraid of having to relive their
33 traumatic experiences publicly and while at work. *Id.*, at 7. Though the court observed that

1 there were no actual allegations of sexual assault in the case, it nonetheless assumed for the
2 purposes of the decision that the allegations were both horrific, and true. In any event, the
3 court determined that due to the public fame of the alleged perpetrator, that was all the more
4 reason that the plaintiffs' identities must be revealed.

5 Allowing plaintiffs in general to proceed anonymously against
6 famous perpetrators in sexual harassment cases based on the
7 perpetrator's identity will lower the public's confidence in the
8 courts. Considering the acts (not the identity) of the perpetrator,
9 as alleged by similarly situated sexual harassment plaintiffs,
10 serves the public interests of treating like cases alike and
protecting open courts. The plaintiffs' fear of harassment, injury,
ridicule, or personal embarrassment in this case are equally
present for all similarly situated sexual harassment victims and
is not extraordinary. The plaintiffs' interest in remaining
anonymous is greatly outweighed by the prejudice to the public.

11 *Id.*, at 8.

12 As such, the court determined that the Plaintiffs had not met the high burden required
13 by the law of the Ninth Circuit, that is, the high standard of "extraordinary harm" necessary
14 to proceed anonymously.

15 **B. Plaintiff should not be permitted to proceed anonymously here.**

16 Defendants begin with the observation that though the Ninth Circuit does not require
17 that a plaintiff first obtain leave before filing a complaint anonymously, Plaintiff here
18 followed none of the recognized methods to initiate anonymous pleadings chronicled in
19 *E.E.O.C. v. ABM Indus. Inc.*, 249 F.R.D. at 592. In that regard, Plaintiff did not file a
20 complaint featuring her true name, along with a motion for a protective order, or file a
21 complaint under a pseudonym, but attach her true name in an affidavit, or file a complaint
22 under a pseudonym, but sign her true name, verifying the complaint. One way or another
23 however, she must obtain leave from the Court to *continue* under a pseudonym or this case
24 should be dismissed for lack of subject matter jurisdiction under Rule 12(b)(1). *Id.*

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1 Plaintiff contends annoyance and embarrassment, oppression and stigmatizing sexual
2 information, including over a purported rape, and fears of effects on family, friends and
3 current and future employers if her true identity is revealed in the public record. (*See, e.g.*,
4 Pl’s Compl. (ECF No. 1), p. 4, ll. 3-11). This is of course understandable considering the
5 lurid content of the charging allegations. And were this an ordinary suit of a woman suing
6 her rapist, or perhaps suing some hotel with negligent security which allowed a sexual assault
7 to occur, then the County Defendants certainly understand how Jane Doe’s pleas of a
8 compromised personal life and embarrassment might ordinarily gain some traction and
9 present feasible concerns. After all, victims of sexual assault have certainly been protected
10 by the courts, with the indulgence of being allowed to proceed anonymously. “[T]here is
11 also a strong public interest in encouraging victims of sexual assault to come forward and
12 bring claims against their assailants,’ and ‘[t]he use of a fictitious name is in the public
13 interest where it enables a plaintiff to bring a claim that would otherwise be deterred.’” *D.O.*
14 *Jane Doe v. State of Nevada, Ex. Rel., Dep’t of Health & Hum. Servs. Div. of Child & Fam.*
15 *Servs.*, 2024 WL 518884, at *2 (D. Nev., Feb. 8, 2024) (Couvillier, M.J.).

16 But the protected party in *D.O. Jane Doe* was a minor, and the mental health and
17 privacy concerns of minors subjected to such cruel indignities render their need for
18 anonymity truly and incontestably “overwhelming,” and that is why “[t]he Ninth Circuit has
19 typically allowed minors who are victims of sexual assault to proceed under a pseudonym.”
20 *Id.*, at *2. There is no indication that Plaintiff seeking to proceed as “Jane Doe” herein is a
21 minor, and in fact quite the opposite since she is alleged to have engaged in legalized
22 prostitution for a period of approximately five years.

23 And here one simply cannot deny the enormous political dimension and gravity of this
24 suit. It is the public importance of this suit, more than anything, which demands that this
25 Plaintiff be revealed. Over a course of years now, the National Center on Sexual
26 Exploitation has been employing local counsel to bring a series of claims on behalf of
27 allegedly sexually-trafficked women, against a collection Nevada state, county and municipal
28 governmental units, and against the brothels themselves, levying various charges of violation

1 of federal laws and charges of violations of the U.S. Constitution. The primary goal of any
2 and all of these abusive suits does not appear to collecting damages for any of these “Jane
3 Does,” but of breaking the spine of organized, legalized brothel prostitution in Nevada.

4 If the Court is in any doubt of this, just view the press release materials generated by
5 Plaintiff’s counsel at note 1. These Plaintiffs are seeking nothing less than to have brothel
6 prostitution declared unconstitutional, which they believe will result in a major financial
7 burden on Nevada’s public entities. (*See, e.g.*, Pl’s Compl. (ECF No. 1), p. 16, ll. 5-6)
8 (alleging legal brothels make Nevada 75 million dollars a year in tax revenue). And again,
9 since none of these actions has made it past the initial motions to dismiss, it also seems a
10 primary goal of these suits is to bring notoriety and shame to the governments and to the
11 people involved in “the state’s prostitution industrial complex.” (*See*, Pl’s Compl. (ECF
12 No. 1), p. 2, ll. 7-8). The end result of these sham suits seems a preordained conclusion, and
13 that end result is most definitely not a successful money judgment to compensate damages.
14 That is why these suits always come with press releases to generate as much publicity as
15 possible. In that sort of a politically-charged atmosphere, where these women are claiming
16 that their county governments to being part and parcel to their actual enslavement in violation
17 of the Thirteenth Amendment, the public and especially these Defendants are entitled to
18 know their. *See, e.g., S. Methodist Univ. Ass'n of Women L. Students v. Wynne & Jaffe*, 599
19 F.2d 707, 713 (5th Cir. 1979) (in light of allegations of serious violations of federal law,
20 basis fairness demands plaintiffs sue under real names).

21 Moreover, lessons learned from the last suit (Case No. 2:21-cv-01676-APG-VCF)
22 demonstrate how “Jane Doe” type anonymous pleadings could be abused, leaving these public
23 Defendants without the ability to invoke defenses such as *res judicata* and collateral estoppel
24 where frivolous claims are dismissed before a Plaintiff is ever unmasked. In that regard,
25 these counsel would further note that within the last suit, requests were made to learn the
26 identities of the Jane Does without public disclosure, and those requests were denied. And
27 since the claims against the public entities were dismissed with prejudice, these Defendants
28 never will learn the identities of those previous anonymous party Plaintiffs. As such, it is

1 impossible to know if res judicata is being violated, or if counterclaims are available against
2 these anonymous Plaintiffs. *See, Free Mkt. Comp. v. Commodity Exch., Inc.*, 98 F.R.D. 311,
3 313 (S.D.N.Y. 1983). Additionally, as per the reasoning of Magistrate Judge Ferenbach’s
4 *Wynn* analysis, allowing such allegations to proceed behind the cloak of anonymity will
5 lower the public’s confidence in the courts. *Doe v. Wynn Resorts Ltd.*,
6 2023 WL 4561527, *8 (D. Nev., July 17, 2023).

7 Plaintiff’s fears of economic and job loss reprisals are purely speculative, and fail to
8 rise to the level of exceptional danger necessary to proceed anonymously. “In order to
9 proceed anonymously, a plaintiff must show both (1) a fear of severe harm, and (2) that the
10 fear of severe harm is reasonable.” *Doe v. Kamehameha Sch./Bernice Pauahi Bishop Est.*,
11 596 F.3d 1036, 1043 (9th Cir. 2010); *see also, Guerrilla Girls, Inc. v. Kaz*, 224 F.R.D. 571,
12 573 (S.D.N.Y. 2004) (“Courts should not permit parties to proceed pseudonymously just to
13 protect the parties’ professional or economic life.”).

14 And because prostitutes are licensed in Nevada, a public disclosure of this Plaintiff’s
15 identity has to a large extent already occurred. Consider for example that in order to qualify
16 as a “sex worker” in Elko County, *see* Elko City Code 4-9-4 “Definitions,” and work within
17 a locally-owned and operated brothel as a prostitute, a vetting process, including a thorough
18 investigation through a public entity, the Elko Police Department, was necessary and has
19 already been undertaken. (*See*, Elko City Code 4-9-13, Sections A-F). Jane Doe, who
20 alleges she was a prostitute in Elko County, was necessarily a registered, licensed
21 “sex worker” operating under Elko City Code 4-9-13. As such, to a large extent, any concept
22 of confidentiality in the identity of this litigant, a licensed sex worker making serious – and
23 potentially license-revoking – allegations against the brothel where she employed her trade
24 should be waived as to these County Defendants. And even if not expressly waived, then any
25 confidentiality in her identify is certainly weakened.

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1 And the public interest in this dispute outweighs any privacy concerns. Again, the
2 subject matter of this litigation invokes matters of public safety and health, and even modern
3 day slavery. As such, there is a particularly strong interest in knowing the litigant's identity,
4 beyond the public's interest which is normally obtained. And moreover, and also as per
5 *Wynn*, the interests of the press, and the press's ability to research the litigant's background
6 (which may bear on matters pertaining to credibility) and Plaintiff's potential motivations for
7 suing, are also implicated. "That a litigant may suffer embarrassment or economic harm is
8 not enough to remain anonymous." *Strike 3 Holdings, LLC v. Doe*, 637 F.Supp.3d 187, 194
9 (D.N.J. 2022). And since Plaintiff's attorneys have been so keen on generating press
10 coverage for this abusive suit, it seems only fair that the press should know who to examine
11 in its efforts to ferret out the truth. When one levies allegations about providing sexual
12 services to the public outside of the careful strictures for such practices imposed by the State
13 Board of Health, one must expect such allegations to draw significant the public spotlight.
14 In the face of such allegations, one must also expect to place one's identity into public issue.
15 Both the public and the press have a right to know this Plaintiff's identity.

16 Finally, some courts have deemed fit to consider "whether the party seeking to sue
17 pseudonymously has illegitimate ulterior motives." *Doe v. Megless*, 654 F.3d 404, 409 (3d
18 Cir. 2011). As previously mentioned, the prior Jane Does viciously attacked the brothel
19 industry and the jurisdictions which allowed the practice with horrific and salacious
20 allegations of abuse, all in a desperate attempt to artfully plead subject matter jurisdiction
21 where there plainly was none, and all from behind the veil of anonymity afforded as
22 "Jane Does." See, *Williams v. Sisolak*, 2022 WL 2819842, at **1, 9 (D. Nev., July 18, 2022)
23 (noting, in part, Plaintiffs Jane Doe #1, and Jane Doe #2, and dismissing claims against
24 governmental defendants due to failure to alleged injuries fairly traceable to Nevada's system
25 of legal prostitution); *Williams v. Sisolak*, 2024 WL 194180, at *2 (9th Cir., Jan. 18, 2024)
26 (dismissing appeal with finding that plaintiffs lacked Article III standing to sue the
27 government defendants because plaintiffs' injuries were the result of allegedly illegal
28 third-party conduct in Nevada's commercial sex industry).

1 That the presumably-new Jane Doe would bring what is essentially the same suit,
2 without even making some effort in the pleadings to try to state a new theory or new angle
3 in order to achieve a different result, does tend to indicate potential ulterior motive and
4 abusive intent of these sham suits resulting in negative press for the brothel industry, and for
5 the governments which allow it. And the courts should not be placed to such
6 illegitimate use.⁴

7 **III. CONCLUSION**

8 This suit is a political effort to destroy organized brothel prostitution in Nevada. It is,
9 in its own way, also an attack on the ability and freedom of adult women to create their own
10 destiny, and choose their own career paths. Plaintiff’s allegations also bring to bear critical
11 issues of public health and safety. Plaintiff is alleging that the brothel Defendants operated
12 outside health and safety regulations, and that the counties allowed it. In the face of such
13 allegations, the public interest outweighs any privacy concerns, which were largely forfeit
14 when this Plaintiff deemed to become a licensed “sex worker.” Allowing Jane Doe to
15 proceed anonymously, in the face of such serious allegations can only lower the public’s
16 confidence in the courts. As such, these Defendants respectfully request that this Court
17 refuse to allow Plaintiff to proceed anonymously. That the Court, in effect, remove her
18 mask, even if this suit never proceeds past initial dispositive motion briefing.

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27 ⁴. This identity of claims will be explored in much greater detail in some very near future
28 Rule 12(b) motion seeking dismissal based on Lack of Subject Matter Jurisdiction and lack of
Article III constitutional standing. As this Court shall see then, and in alarming detail, calling
this “the same suit” from the last generation of attack on Nevada’s legalized prostitution business
is not overstatement.

