

1 Michael S. Kwun (SBN 198945)  
mkwun@kblfirm.com  
2 Nicholas A. Roethlisberger (SBN 280497)  
nroethlisberger@kblfirm.com  
3 KWUN BHANSALI LAZARUS LLP  
4 555 Montgomery St., Suite 750  
San Francisco, CA 94111  
5 Tel: (415) 630-2350

6 Ben Rosenfeld (SBN 203845)  
ben.rosenfeld@comcast.net  
7 ATTORNEY AT LAW  
8 3330 Geary Blvd., 3rd Floor East  
San Francisco, CA 94118  
9 Tel: (415) 285-8091  
10 Fax: (415) 285-8092

11 Attorneys for Defendant  
ISIS LOVECRUFT

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 OAKLAND DIVISION

16 PETER TODD,

17 Plaintiff,

18 v.

19 ISIS LOVECRUFT,

20 Defendant.  
21  
22

Case No.: 4:19-cv-01751-DMR

**DEFENDANT'S MOTION FOR  
ADMINISTRATIVE RELIEF  
(L.R. 7-11)**

23 Defendant, through undersigned counsel, hereby requests that the Court seal  
24 Document No. 20-4, already filed in this case, so that defendant may redact two words in  
25 one of the attachments to the document before re-filing it publicly.

26 Document No. 20-4, filed on July 15, 2019, contains Defense Counsel Ben Rosenfeld's  
27 Declaration in Support of Motion to Strike, or Alternatively, Motion to Dismiss Plaintiff's  
28 Complaint, and attachments thereto.

1 One of the attachments to Document No. 20-4, which is marked Exhibit A, is a  
2 Declaration by Jane Doe asserting that she told defendant she was raped by the plaintiff,  
3 Peter Todd. She provided her declaration on condition that it be filed anonymously. (See  
4 declaration hereto.)

5 Defense counsel has since come to realize that Jane Doe's identity could be divined  
6 from information contained in her declaration, and seeks to redact a small portion of it, i.e.  
7 the seventh and eighth words in paragraph 3a in order to help protect her identity. (See  
8 declaration hereto; defendant asks the Court to consult the sealed, filed document for  
9 reference.)

10 On July 19, 2019, defendant's undersigned counsel contacted the Clerk's office to ask  
11 what could be done. Because Document No. 20-4 and its components were filed together  
12 as one document, the Clerk could only seal Document No. 20-4 in its entirety, and did so,  
13 pending this motion for administrative relief.

14 Defendant therefore brings this motion for administrative relief to seal Document  
15 No. 20-4 (preserving the status quo)—provided that if the Court grants this request,  
16 defense counsel will then publicly re-file all of the same pages comprising Document 20-4,  
17 but marking it "redacted" and redacting only the seventh and eighth words in paragraph 3a  
18 of Jane Doe's declaration. (See Declaration hereto.)

19 A party seeking to seal a judicial record bears the burden of demonstrating  
20 compelling reasons for the sealing "that outweigh the general history of access and the  
21 public policies favoring disclosure." *Kamakana v. City & County of Honolulu*, 447 F.3d 1172,  
22 1178-1179 (2006) (internal quotations and citations omitted). "In turn, the court must  
23 conscientiously balance the competing interests of the public and the party who seeks to  
24 keep certain judicial records secret." *Id.* at 1179 (internal quotations and citations  
25 omitted).

26 In general, compelling reasons sufficient to outweigh the public's  
27 interest in disclosure and justify sealing court records exist when such  
28 court files might have become a vehicle for improper purposes, such  
as the use of records to gratify private spite, promote public scandal,  
circulate libelous statements, or release trade secrets. [Citation.] The

1 mere fact that the production of records may lead to a litigant's  
2 embarrassment, incrimination, or exposure to further litigation will  
3 not, without more, compel the court to seal its records.

4 *Id.* (internal quotations and citations omitted).

5 Court have found that safeguarding the identity of a rape victim furnishes  
6 justification for sealing and redacting filed documents, and/or using a pseudonym for the  
7 victim. *See Scott v. Graham*, 2016 U.S. Dist. LEXIS 159245, \*3 (S.D.N.Y. 2016) (“Here, there  
8 is a compelling reason to limit the general public's access to the documents filed in this  
9 case: safeguarding the identity of a rape victim.”); *and see, Doe v. Blue Cross & Blue Shield*  
10 *United of Wis.*, 112 F.3d 869, 872 (7th Cir. 1997) (the use of “fictitious names [is] allowed when  
11 necessary to protect the privacy of children, rape victims and other particularly vulnerable  
12 parties”); *Doe v. Boulder Valley Sch. Dist. No. RE-2*, 2011 U.S. Dist. LEXIS 96937, \*6 (sealing  
13 names of minor plaintiffs alleging sexual assault, and finding that it was immaterial that  
14 defendants knew their identities where they were trying to shield their identities from persons  
15 not associated with the defendants).

16 In this matter, Jane Doe provided her declaration on condition that it be filed  
17 anonymously, stating that she was extremely traumatized and expressing fear that  
18 disclosure of her identity could subject her to further trauma. (Declaration hereto.)  
19 Defendant seeks only to redact a small amount of information in Jane Doe’s declaration  
20 which could have been left out originally. The public does not have an interest in  
21 determining her identity from the information sought to be sealed and redacted.

22 Plaintiff, through counsel, stipulates to this request. (See accompanying  
23 stipulation.)

24  
25  
26 ///

27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

WHEREFORE, defendant respectfully requests that the Court order Document No. 20-4 sealed and a redacted version publicly re-filed, as described above.

Respectfully Submitted,

July 23, 2019

By: s/ Ben Rosenfeld  
Ben Rosenfeld

Michael S. Kwun  
Nicholas A. Roethlisberger  
KWUN BHANSALI LAZARUS LLP  
Ben Rosenfeld

Attorneys for Defendant ISIS LOVECRUFT