

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

October 13, 2022

Ravi Sharma,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00023
)	
NVIDIA CORP.,)	
Respondent.)	
_____)	

Appearances: Ravi Sharma, pro se Complainant
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,
for Respondent

ORDER ON COMPLAINANT’S REQUEST FOR ANONYMITY
IN COURT’S PUBLISHED DECISIONS AND ORDERS

I. BACKGROUND

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Ravi Sharma., filed a complaint, pro se, with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 2, 2022. Complainant alleges that Respondent, NVIDIA Corp., discriminated against him on account of citizenship status, in violation of § 1324b. On March 15, 2022, Respondent, through counsel, filed a Motion to Dismiss and Answer. On March 28, 2022, Complainant filed an Opposition to the Motion to Dismiss. On August 11, 2022, the Court denied Respondent’s Motion to Dismiss. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 1 (2022).¹

¹ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw

On September 14, 2022, the Court issued an Order Summarizing September 7, 2022 Prehearing Conference.²

On September 21, 2022, Complainant filed a Request for Anonymity in Court’s Published Orders and Decisions (Anonymity Motion).³ Complainant moves the Court to maintain his anonymity in published orders. C’s Anon. Mot. 1–2. Complainant argues that “identification poses a risk of retaliatory harm,” and “there is no public interest” in his identity. *Id.* at 1. Specifically, Complainant asserts that if “companies come to know that I have filed [a] complaint against them for discrimination in hiring based on citizenship status, they will definitely not select me for an interview or offer me the job.” *Id.* Complainant also avers that “[t]here is no risk or harm to the Respondent if [C]omplainant’s anonymity is maintained.” *Id.*

On October 3, 2022, Respondent filed an Opposition to Complainant’s Anonymity Motion. Respondent maintains that “Complainant has not met his burden to proceed anonymously,” pursuant to applicable Ninth Circuit caselaw.⁴ *See* R’s Opp’n 2–6 (citations omitted). Specifically, Respondent asserts that applicable Ninth Circuit case law (as identified below) would not weigh in favor of Complainant’s desire to be anonymous. *See id.*

II. LEGAL STANDARDS AND DISCUSSION

“In litigation, the general presumption is ‘that parties must use their real names.’” *Doe I v. NCAA*, No. 22-cv-01559-LB, 2022 WL 3974098, at *1 (N.D. Cal. Aug. 30, 2022) (quoting *Doe v. Kamehameha Schs./Bernice Pauahi Bishop Est.*, 596 F.3d 1036, 1042 (9th Cir. 2010)). This presumption supports the proposition that “the public has a right to know who is seeking what in court and whether he or she is entitled to the relief sought.” *Doe v. City of Las Vegas*, No. 2:19-cv-00382-GMN-BNW, 2019 WL 2601554, at *4 (D. Nev. June 25, 2019); *see EEOC v. ABM Indus.*, 249 F.R.D. 588, 594–95 (E.D. Cal. 2008) (citations omitted).

However, the Ninth Circuit recognizes this presumption may be overcome in the “unusual case” where anonymity is *necessary* “to protect a person from harassment, injury, ridicule, or personal embarrassment.” *Does I thru XXII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067–78 (9th Cir. 2000) (emphasis added). For these “unusual cases,” a court “balances [the following]:

- (1) the severity of the threatened harm,
- (2) the reasonableness of the anonymous party’s fears, . . .

database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

² This Order, inter alia, memorialized disposition of two oral motions related to the parameters of discovery, and provided the case schedule.

³ The Court construes Complainant’s request as a motion to proceed anonymously. *See* 28 C.F.R. § 68.11(a). Accordingly, Complainant’s filing will be cited at C’s Anon. Mot. at #.

⁴ California is the location where the violation is alleged to have occurred, and Respondent transacts business in the state. *See* 28 C.F.R. § 68.57.

- (3) the anonymous party’s vulnerability to such retaliation,
- (4) the prejudice to the opposing party, and
- (5) the public interest.”

Kamehameha Schs., 596 F.3d at 1042 (citing *Advanced Textile*, 214 F.3d at 1068).

The Court finds that Complainant has not met his burden to proceed anonymously. Specifically, Complainant has not shown why anonymity is *necessary* to protect him from harassment, injury, ridicule, or personal embarrassment. Rather, Complainant speculates that if a business (at which he has yet to seek employment) learned of this matter, that business would choose to violate the law, specifically 8 U.S.C. § 1324b(a)(5).⁵

Complainant, as the moving party, provides no concrete or specific facts which give rise to his conclusions. He fails to demonstrate why his case is “unusual” within the landscape of 274B litigation, and he fails to cite evidence or advance argument which permits the Court to fully analyze the issue consistent with the *Advanced Textile* factors.⁶ Because Complainant, the moving party, fails to meet his burden, his Anonymity Motion is DENIED.

Complainant’s name will not be anonymized in OCAHO published decisions.

III. CONCLUSION

Based on the foregoing, Complainant’s Request for Anonymity in Court’s Published Decisions and Orders (i.e., Anonymity Motion) is hereby DENIED.

Complainant is not precluded from filing this motion anew if he feels he is able to meet his burden under the *Advanced Textile* factors.

SO ORDERED.

Dated and entered on October 13, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁵ That is, a business would “intimidate, threaten, coerce, or retaliate,” against Complainant because of Complainant’s protected activity. § 1324b(a)(5).

⁶ While the inquiry ends here, the Court notes for this pro se Complainant that he did not, for example, demonstrate how “[t]here is no harm or prejudice to the Respondent if [C]omplainant’s anonymity is maintained,” or how “there is no public interest in knowing my identity because I am not a public figure.” C’s Anon. Mot. 1–2; see R’s Opp’n 4–6 (citations omitted).