

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

**JOHN A. STAGLIANO,
JOHN STAGLIANO, INC.,
EVIL ANGEL PRODUCTIONS, INC.**

Defendants.

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CASE NO. 08-093 (RJL)

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**MOTION FOR PROTECTIVE ORDER TO WITHHOLD
WITNESS' TRUE IDENTITY AND ADDRESS
AND FOR HEARING**

Lorelei Lee, by her undersigned counsel, hereby respectfully requests that this Honorable Court enter a protective order authorizing her to testify using her professional stage name without having to disclose her true identity and address. Ms. Lee respectfully requests that this Honorable Court grant her an *in camera* hearing before requiring her to disclose her true identity.

I. Factual Background

1. Ms. Lee, who is scheduled to be a witness for the defense in the instant trial, seeks for reasons of safety to be allowed to testify under her professional stage name without disclosing her true identity and address in open court.

2. Ms. Lee is an actor in one or more of the movies that are the subject of the instant prosecution.

3. She is identified in the movie credits by her stage name, Lorelei Lee.

4. Her request is based on an identifiable need for protection, the details of which she will present to the Court in a separate sealed submission.

5. Ms. Lee understands that her true name and other identifying information have already been revealed to government counsel by defense counsel.

6. Counsel for the defendants has informed undersigned counsel that while they do not oppose her request, the government has indicated that they will oppose Ms. Lee's request that her true identity not be disclosed in open court.

II. The Law

7. A district court has authority to enter a protective order authorizing a witness to testify without disclosing her true identity. *See United States v. Celis*, ___ F.3d ___, 2010 WL 2431908, at *7 (D.C. Cir. 2010) (entry of protective order allowing witness to testify under pseudonym did not violate defendant's confrontation rights in light of potential danger to witness); *United States v. Rangel*, 534 F.2d 147, 148 (9th Cir.), *cert. denied*, 429 U.S. 854 (1976) (there is no "rigid rule of disclosure" of a witness's name, but rather the need for disclosure must be determined "against a background of factors").

8. Where a District Court is satisfied that there is an actual threat to a witness if his or her identity is disclosed, the Court may permit a witness to testify using a pseudonym, so long as there is enough information provided to allow for effective cross examination of the witness. *See United States v. Celis*, *supra*; *United States v. Rangel*, 534 F.2d 147, 148 (9th Cir.), *cert. denied*, 429 U.S. 854 (1976) (testifying informant not required to divulge true name, address, and telephone number); *see also United States v. Spector*, 793 F.2d 932, 937 (8th Cir. 1986) (informant not required to testify to his address); *United States v. Mesa*, 660 F.2d 1070, 1075 (5th Cir. 1981) (same); *United States v. Hansen*, 569 F.2d 406, 410 (5th Cir. 1978) (same).

9. Trial judges have wide latitude to impose reasonable limits on cross-examination based on concerns such as harassment, prejudice, confusion of the issues or the witness's safety. *Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986); *see also Smith v. Illinois*, 390 U.S. 129, 133-34 (1968) (questions tending to endanger personal safety of a witness go beyond proper bounds of cross-examination) (White, J., concurring).

10. Where the name under which the witness testifies is not “assumed solely for the purpose of the judicial proceeding,” use of a pseudonym by a witness may be appropriate for its own sake. *Siegfriedt v. Fair*, 982 F.2d 14, 18 (1st Cir. 1992).

11. As the First Circuit has explained,

insistence upon a bright-line rule, slavishly followed, could produce a bizarre anomaly. One can easily envision circumstances in which a witness testifying under his birth name might present a much more spectral figure than if he or she testified under an adopted name. For example, the appellations Issur Danielovitch Demsky, Betty Joan Perske, and Marion Michael Morrison will probably be of less assistance in placing the affected individuals in their proper settings than their screen names (Kirk Douglas, Lauren Bacall, and John Wayne, respectively).

Siegfriedt, 982 F.2d 18 n.3.

12. The Sixth Amendment guarantees certain right to a defendant without any mention of granting those same guarantees to government:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

13. As defendants have no absolute right to have a jury hear a witness' true name and address, the Government cannot assert any greater right than a defendant to have the jury hear such information. *See Celis, supra*, (on balance defendant's rights to confrontation not denied where government disclosed the true identities of protected witnesses to defense counsel and those witnesses testified at trial under pseudonyms); *Clark v. Ricketts*, 958 F.2d 851, 854 (9th Cir. 1991) ("there is no absolute right of an accused to have a jury hear a witness's true name and address").

III. Conclusion

Permitting the witness to testify under her professional stage name will not interfere with the government's ability to cross examine the witness or to impeach her particularly as the government has been provided her true name and other identifying information. Rather, the use of a pseudonym merely shields the identity of the witness from the press and public. In the instant case, the need to protect the witness' true identify in open court will protect her from explicit threats of danger. Use of pseudonyms by witnesses is a practice that is allowed on a not-too infrequent basis in this district upon the government's request. Accordingly, on balance, this Honorable Court should allow the witness to testify under her professional stage name, which is the name by which she is identified in the movies, which are the subject of the prosecution.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Instant Motion for Protective Order was served on all counsel of record via ECF this 14th day of July, 2010 and will also be hand-delivered.

/s/
Carmen D. Hernandez