IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

"NATHAN," *et al.*, *Plaintiffs*, v. DONALD J. TRUMP, *et al.*, *Defendants*.	Case No. 1:26-cv-3377

PLAINTIFFS' MOTION FOR LEAVE TO PROCEED UNDER PSEUDONYM AND TO FILE EXHIBITS UNDER SEAL

Plaintiffs Clara, Nathan, Edward, and Patricia seek leave to proceed under pseudonym. Plaintiffs are children who are or will be denied U.S. citizenship by Executive Order No. 14,418 entitled "Continuing to Protect the Meaning and Value of American Citizenship," and the parents of those children. *See* Exec. Order No. 14,418, 91 Fed. Reg. 51,991 (2026) ("the Order"). Plaintiffs ask this Court to grant them leave to proceed under pseudonyms for the following reasons: (1) the concurrently filed Complaint and subsequent pleadings will contain sensitive, personal information, including details regarding minor plaintiffs, medical and reproductive issues, their immediate family members and their current whereabouts; (2) Plaintiffs are at risk of harm, including loss of employment and possible arrest, imprisonment, and removal from the United States to their countries of origin; (3) Plaintiffs fear that, should their identities and personal information become public, they could become victims of retributive violence; (4) Plaintiffs fear that, should their identities and personal information become public, their family members could become victims of violence. For these reasons, Plaintiffs request leave to proceed pseudonymously. Pursuant to Local Civil Rule 7(m), Plaintiffs' counsel requested Defendants' position on this motion. Defendants' counsel stated that Defendants oppose this motion.

Plaintiffs also move this Court for leave to file under seal any subsequent declarations and supporting documents that may contain their full names and sensitive, personal information. These declarations and supporting documents can be provided to Defendants upon the entry of an agreed-upon protective order governing Defendants' handling of the information contained therein.

ARGUMENT

I. THE USE OF PSEUDONYMS IS JUSTIFIED.

While the general rule is that complaints state the names of the parties, *see* Fed. R. Civ. P. 10(a), this Court has the discretion to allow a plaintiff to proceed pseudonymously. *See In re Sealed Case*, 931 F.3d 92, 96 (D.C. Cir. 2019). Courts may permit the use of pseudonyms after considering "the impact of the plaintiff's anonymity on the public interest in open proceedings and on fairness to the defendant." *Nat'l Ass'n of Waterfront Employers v. Chao*, 587 F. Supp. 2d 90, 99 (D.D.C. 2008); *see also Qualls v. Rumsfeld*, 228 F.R.D. 8, 10 (D.D.C. 2005).

At the time of filing, plaintiffs need only make a "colorable argument in support of the request." *Qualls*, 228 F.R.D. at 10. When examining such requests, courts look to: (1) whether the plaintiff's request is intended "to preserve privacy in a matter of a sensitive and highly personal nature"; (2) whether the plaintiff has a reasonable expectation of "physical or mental harm" if not permitted to proceed pseudonymously; (3) whether the plaintiff is a minor; (4) whether the defendant is the government; and (5) the type of prejudice the defendant might experience if the plaintiff proceeds pseudonymously. *Chao*, 587 F. Supp. 2d at 99; *see also In re Sealed Case*, 931 F.3d at 96 (holding that "the appropriate way to determine whether a litigant may proceed anonymously is to balance the litigant's legitimate interest in anonymity against countervailing interests in full disclosure"). The factors "are non-exhaustive, and the court's flexible and fact driven inquiry ultimately depends on the totality of the circumstances of the case before it." *Doe* *v. Hill*, 141 F.4th 291, 293 (D.C. Cir. 2025) (internal quotation marks omitted). Accordingly, courts in this district have exercised broad discretion to "allow plaintiffs to proceed under a pseudonym in cases involving matters of a sensitive and highly personal nature." *Doe v. Cabrera*, 307 F.R.D. 1, 4 (D.D.C. 2014) (collecting cases).

A. Plaintiffs' Claims Are Sensitive and Highly Personal, and Public Disclosure Threatens Physical or Mental Harm to Them and Their Families.

Plaintiffs seek to proceed under pseudonyms to protect their privacy and safety, as well as the safety of family members. This is a case in which anonymity is necessary "to preserve privacy in a matter of a sensitive and highly personal nature" and to protect Plaintiffs from possible future harm. *Doe v. Von Eschenbach*, No. CIV.A.06 2131 RMC, 2007 WL 1848013, at *1–2 (D.D.C. June 27, 2007).

<u>Plaintiff Nathan</u> is a minor plaintiff, who was born in August of this year. Decl. of Clara ¶ 3, Ex. A. His mother, <u>Plaintiff Clara,</u> fears for the safety of Nathan, herself, and their family should their identities and their participation in this lawsuit be made public. *Id.* ¶ 14. She fears that people could retaliate against her and her family by causing physical harm, or the Administration could retaliate against her and her family by denying visa renewals or terminating their statuses. *Id.* Her fears are exacerbated by reports of retaliation against individuals who oppose the current Administration. *Id.* Furthermore, she fears that public knowledge of her participation in this lawsuit would cause her and her husband to lose their employment because they are involved in litigation against a member state of the organization for which they work, and a host state. *Id.* She is especially fearful because their ability to remain lawfully in the United States is tied to their employment. *Id.*

<u>Plaintiff Patricia</u> is similarly fearful of her identity and her participation in this lawsuit being made public. Decl. of Patricia ¶ 15, Ex. B. She also worries that people will physically

retaliate against her and her family, and that her immigration status may be terminated in retaliation. *Id.* She also fears that she and her husband may lose their jobs were it made known that they are involved in litigation against a member state of the organization for which they work, and a host state. *Id.* ¶ 16. Their ability to remain lawfully in the United States hinges on their employment. *Id.* Although Patricia has not yet given birth, her child, once born, would become a minor plaintiff in this lawsuit. *Id.* ¶ 7.

Plaintiff Edward also fears retaliation for participating in the lawsuit, in the form of physical harm and adverse immigration consequences. Decl. of Edward ¶ 15, Ex. C. He is especially fearful for his family's safety and wellbeing because he has a minor child who is not a party to this lawsuit. *Id.* ¶ 4. Moreover, he faces the risk of being out of status. He is entering the United States under the U.S. Visa Waiver Program, which was the only means of entry available to him, and his admission will expire around December 24, 2026. *Id.* ¶¶ 24-25. If his soon-to-be born daughter is denied U.S. citizenship and a U.S. passport, he will have to wait months for an Australian passport to be able to take her home to Australia. *Id.* ¶¶ 22-23, 26-27. As a result, he fears being detained or removed, being separated from his children, and losing the ability to travel to the United States in the future. *Id.* ¶¶ 28-29. Edward's child, once born next month, would also become a minor plaintiff in this lawsuit. *Id.* ¶ 5. Finally, his case involves sensitive information, including medical information about his wife's inability to carry a child, and deals with contentious and sensitive topics around surrogacy and reproductive rights. *Id.* ¶¶ 6-10.

In short, this case implicates sensitive, personal facts surrounding the Plaintiffs, and "identification" of Plaintiffs would "create[] a risk of retaliatory physical or mental harm." *Qualls*, 228 F.R.D. at 10–11 (internal quotation marks and citation omitted).

To vindicate their claims, Plaintiffs must disclose the intimate circumstances surrounding the birth of their children. For example, Plaintiff Edward's wife has certain medical conditions that made her unable to carry a pregnancy, and they have deeply personal reasons underlying their decision to pursue surrogacy. These issues surrounding "reproductive rights" and "medical concerns" are precisely the kinds of "sensitive or highly personal matter[s]" that warrant pseudonymity. *See In re Sealed Case*, 971 F.3d 324, 327 (D.C. Cir. 2020) (collecting cases); *see also Jones v. Trump*, No. 25-401, 2025 WL 485419, at *2 (D.D.C. Feb. 13, 2025) (confirming that "sensitive or highly personal matter[s] . . . involve[] intimate issues such as sexual activities, reproductive rights, bodily autonomy, medical concerns") (internal quotation and citation omitted); *V.C. v. District of Columbia*, No. 1:23-cv-01139, slip op. at 2-3 (D.D.C. Apr. 27, 2023) (finding "the wide range of medical conditions from which Plaintiffs suffer" to be "paradigmatically sensitive and highly personal") (internal quotation and citation omitted).

Clara, Edward, and Patricia fear that their immigration status will be at risk because of their participation in this lawsuit, and that they will face immigration enforcement as a result. Edward, for example, faces the risk of overstaying his 90-day visit while waiting for the necessary documents to bring his newborn child home. *See Molina v. U.S. Dep't of Homeland Sec.*, No. 25-3417, 2025 WL 2800807, at *2 (D.D.C. Oct. 1, 2025) (granting leave to proceed pseudonymously in light of immigration status and safety risks); *I.A. v. Barr*, No. 19-2530, 2019 WL 3945577, at *3 (D.D.C. Aug. 21, 2019) (similar); *Lozano v. City of Hazleton*, 620 F.3d 170, 195 (3d Cir. 2010) ("[T]he Doe Plaintiffs, because of their unlawful status, would face an exponentially greater risk of harassment, and even physical danger, if their identities were revealed.") (quotation omitted), *vacated on other grounds*, 563 U.S. 1030 (2011).

Another type of harm is loss of employment, especially where that employment serves as the basis for a plaintiff's immigration status. *See Does I thru XXIII v. Advanced Textile Corp*., 214 F.3d 1058, 1070-71 (9th Cir. 2000) (finding that pseudonymity could "be used to shield plaintiffs from economic injury[,]" such as "job-related retaliation[,]" especially where "plaintiffs may be deported if they lose their jobs"); *see also Doe v. U.S. Citizenship & Immigr. Servs.*, No. 25-cv-3481, 2025 WL 2851639, at *1 (D.D.C. Oct. 8, 2025) (granting foreign national leave to proceed pseudonymously where exposure "could result in termination or other adverse employment action, damage her professional relationships, and diminish her future career opportunities"). In this case, Clara and Patricia fear that disclosure of their identities would lead to termination of their employment, which would in turn lead to the termination of their immigration status and damage their professional reputations and opportunities.

Finally, Plaintiff Nathan is a minor, and Plaintiffs Edward's and Patricia's children, once born, would join this action as minor plaintiffs. This weighs in favor of allowing Plaintiffs to proceed pseudonymously. *See Qualls*, 228 F.R.D. at 11 (collecting cases).

B. Pseudonymity Will Not Prejudice Defendants and Will Serve the Public Interest.

Allowing Plaintiffs to proceed pseudonymously is especially appropriate here because Defendants are government agencies and officials sued in their official capacity. *See, e.g.*, *Chao*, 587 F. Supp. 2d at 99 n.9 ("When a plaintiff challenges the government or government activity, courts are more like[ly] to permit plaintiffs to proceed under a pseudonym than if an individual has been accused publicly of wrongdoing.") (alteration in original) (quoting *Yacovelli v. Moeser*, No. 02-cv-596, 2004 WL 1144183, at *8 (M.D.N.C. May 20, 2004)); *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, No. CV 25-306 (RDM), 2025 WL 579648, at *3 (D.D.C. Feb. 20, 2025) (noting that "anonymous litigation is more acceptable when the defendant is a governmental body because government defendants do not share the concerns about reputation that private individuals have when they are publicly charged with wrongdoing") (internal quotation marks omitted). Moreover, in this case "the Court's analysis will focus primarily on legal questions and application of the law to the undisputed facts." *Doe v. Weintraub*, No. 23-cv-3252, 2023 WL 7928680, at *4 (E.D. Pa. Nov. 16, 2023) (quotation and citation omitted). As a result, courts across the country—including a court in this District—have allowed plaintiffs in nearly identical actions to proceed pseudonymously. *See, e.g.*, *OCA – Asian Pacific American Advocates v. Rubio*, No. 25-cv-287 (D.D.C. July 2, 2025) (order granting motion to proceed pseudonymously); *Barbara v. Trump*, No. 25-cv-244 (D.N.H. June 30, 2025) (same); *CASA v. Trump*, No. 25-cv-201 (D. Md. July 21, 2025) (same); *Doe v. Trump*, No. 25-cv-10135 (D. Mass. Jan. 23, 2025) (same).

Moreover, Defendants will suffer no prejudice should Plaintiffs be allowed to proceed under pseudonym. Because Defendants can obtain Plaintiffs' true identities subject to an appropriate protective order, allowing them to proceed pseudonymously would pose no "risk of unfairness to the opposing party." *Chao*, 587 F. Supp. 2d at 99; *see also Refugee & Immigrant Ctr. for Educ. & Legal Servs.*, 2025 WL 579648, at *3 (finding "no risk of unfairness" to government defendants who would know the identity of the opposing party). Additionally, any public interest in disclosing Plaintiffs' identities is greatly outweighed by the significant risk of harm that such disclosure would pose to them, and by the chilling effect such disclosure would have on future civil rights litigants. Finally, permitting Plaintiffs to use pseudonyms "will serve the public's interest in this lawsuit by enabling it to go forward." *Advanced Textile Corp.*, 214 F.3d at 1073.

II. Plaintiffs Should Be Permitted to File Subsequent Declarations and Related Exhibits Under Seal.

Although there is a presumption in favor of public access to court filings, that presumption "is not without its time-honored exceptions." *United States v. Hubbard*, 650 F.2d 293, 315 (D.C. Cir. 1980) (citing *Nixon v. Warner Commc'ns*, 435 U.S. 589, 598 (1978)); *see also Hamen v. Islamic Republic of Iran*, 318 F. Supp. 3d 194, 197 (D.D.C. 2018) (granting leave for witness to testify under seal where witness alleged his safety would be put at risk if his testimony were made public). The D.C. Circuit has established a six-factor "*Hubbard* test" for assessing the need for privacy, requiring courts to weigh:

> (1) the need for public access to the documents at issue; (2) the extent of previous public access to the documents; (3) the fact that someone has objected to disclosure, and the identity of that person; (4) the strength of any property and privacy interests asserted; (5) the possibility of prejudice to those opposing disclosure; and (6) the purposes for which the documents were introduced during the judicial proceedings.

E.E.O.C. v. Nat'l Children's Ctr., Inc., 98 F.3d 1406, 1409 (D.C. Cir. 1996) (citing *Hubbard*, 650 F.2d at 317-22).

The relevant factors, like the related concerns governing the use of pseudonyms, weigh in favor of allowing Plaintiffs to file subsequent declarations and exhibits under seal. Where the moving party's "safety will be at risk" if the public is provided unrestricted access to court filings, the fourth *Hubbard* factor "weighs strongly in favor of sealing." *Hamen*, 318 F. Supp. 3d at 198. Given the significant risk of physical and mental harm faced by Plaintiffs—from retaliation, loss of employment, and risk of immigration enforcement—that is the case here.

The second *Hubbard* factor, "the extent of previous public access," also weighs against disclosure because Plaintiffs have not previously disclosed their names or other sensitive details that they wish to conceal from the public record. *Id*. The third *Hubbard* factor, "the fact that someone has objected to disclosure, and the identity of that person," weighs against disclosure because Plaintiffs themselves object to filing unsealed declarations due to their interest in privacy and fear for their safety and the safety of their loved ones. *Id*. The fourth *Hubbard* factor, "the strength of any . . . privacy interests voiced by the moving party[,]" weighs against disclosure because Plaintiffs have demonstrated that "the privacy interests at stake"—namely the identities of minor plaintiffs, medical information, the risk of retaliation and immigration enforcement—"are compelling." *Id*. The fifth *Hubbard* factor, "likel[ihood] [of] prejudice[,]" weighs against disclosure because Defendants can obtain Plaintiffs' true identities subject to an appropriate protective order. *Id*. And the sixth *Hubbard* factor, the "purpose of the information," weighs against disclosure because personal details concerning Plaintiffs are not "relevant . . . to the central claims of the litigation." *Id*. at 198–99 (quoting *United States v. Harris*, 204 F. Supp. 3d 310, 317-18 (D.D.C. 2016)).

The countervailing interests in complete disclosure are minimal or nonexistent. The public's interest, if any, in knowing Plaintiffs' identities and the sensitive details of their medical and reproductive information is negligible. To be sure, the issues that Plaintiffs raise in this lawsuit are important and may well be a matter of concern to the general public. Yet the public will be able to gain a comprehensive understanding of the bases of their claims for relief based on the Complaint and other public filings in this case. Defendants will not face any prejudice if this Court provides leave for Plaintiffs to file subsequent declarations and exhibits under seal, as Defendants can seek access to any information required to prepare their defense in this case subject to an appropriate protective order.

CONCLUSION

For these reasons, Plaintiffs should be permitted to proceed in this suit under their proposed pseudonyms and to file any subsequent declarations under seal.

Dated: September 28, 2026

Respectfully submitted,

/s/ Cody Wofsy

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

"NATHAN," *et al.*, *Plaintiffs*, v. DONALD J. TRUMP, *et al.*, *Defendants*.	Case No. 1:26-cv-3377

EXHIBIT A

DECLARATION OF CLARA

I, Clara, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Clara. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.
2. I am a citizen of France. I currently live in Washington, D.C.
3. I live with my husband and newborn son, Nathan. My son was born in August 2026 in Washington, D.C.
4. I have lived in the United States for over ten years. I first came to the United States as a student. Eventually, I switched from a student visa to the G-4 visa. Our whole life is here, my immediate family, friends, and community.
5. My husband and I learned in or around December 2025 that we were expecting our child.
6. My husband and I heard about the president's August 6, 2026 executive order regarding birthright citizenship a few days after it was issued, but before my son was born. We were immediately panicked and scared.
7. I understand that, because neither my husband nor I are U.S. citizens, and because we are both employed by international organizations that possess international-organization immunity, as listed in 8 C.F.R. § 316.20(c), the government will not recognize my child's U.S. citizenship by birthright. This is despite the fact that, based on my understanding, my husband and I have functional immunity in the context of our official duties, but we do not have diplomatic immunity and are therefore subject to U.S. jurisdiction.
8. Above all else, I fear our family could be at risk of separation. My son is in a legal limbo and vacuum. My understanding is that my son cannot be added to my G-4 visa, or the G-4 visa my husband has through his employment. If he is also not a U.S. citizen, then he

will have no lawful status in the United States. I am worried about how my son will stay with my husband and me in the United States. We would like to travel abroad to visit family. But we are scared that he will not be allowed back into the United States. We are also scared that he will be subject to immigration enforcement or even deportation. I understand the government has said that the parents of babies subject to the EO have to register their babies as “aliens” or face criminal prosecution. My baby is a citizen; I don’t want to register him as an “alien.” But if I don’t, I could be prosecuted. And filling out the form and taking the baby to be fingerprinted will take time, especially because I will need to consult with attorneys about how to answer the registration questions given that my child is a citizen.

9. My husband and I plan to apply for a Social Security Number and U.S. passport for our son. The passport would be the only photo identification we have for our son. We fear that the Order will prevent our son from getting his U.S. passport.

10. The United States has given me so many opportunities. I received an education here, and I work here. It has been the land of opportunity. Because of that, I want my child to be a U.S. citizen. I want him to have access to a U.S. education and opportunities.

11. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people who are affected by the August 6 Executive Order.

12. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal interests. I also understand the need to stay informed about what is happening in the case.

13. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.
14. I am scared about my identity and participation in this lawsuit being made public because I fear for my and my family's safety and wellbeing. I fear that people would retaliate against us because of my participation in the lawsuit. I have heard about the current Administration or supporters retaliating against people who sue or speak out against the Administration, by for example not granting their visa renewals or terminating their statuses. I also have particular concerns regarding my employment. I am participating in litigation against a member state of the organization for which I work, and that state is also my host state. Because of that relationship, I fear that public disclosure of my involvement in this lawsuit could result in adverse employment consequences, including the loss of my employment. My ability to remain lawfully in the United States is connected to my employment, so the loss of my employment could also jeopardize my ability to remain in the United States and affect future career opportunities.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Clara

Clara

Executed on September 6, 2026, in Washington, D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

"NATHAN," *et al.*, *Plaintiffs*, v. DONALD J. TRUMP, *et al.*, *Defendants*.	Case No. 1:26-cv-3377

EXHIBIT B

DECLARATION OF PATRICIA

I, Patricia, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Patricia. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.
2. I live with my husband, "Robert," in the United States. Neither my husband nor I are U.S. citizens. We are both citizens of countries in western Europe.
3. We have lived in the United States for six years. Our lives are based in this country. We have our son, our friends, our community, and our home in the United States.
4. We are both employed by international organizations that possess international-organization immunity, as listed in 8 C.F.R. § 316.20(c).
5. We both have current G-4 visas through our employment. My husband has been on his G-4 visa for six years. For the first five years, I was here as a G-4 visa dependent, authorized to work. For the last year, I have been on my own G-4 visa.
6. In August 2026, my husband and I learned that we are expecting our second child.
7. Our child will be born around April 2027, in the United States.
8. On August 6, 2026, my husband and I heard about the President's executive order regarding birthright citizenship. On September 4, 2026, we learnt that DHS had issued an interim final rule regarding the implementation of the executive order.
9. I understand that, under these new rules, because neither my husband nor I are U.S. citizens and because we are employed by international organizations that possess international-organization immunity, as listed in 8 C.F.R. § 316.20(c), the government will not recognize my child's U.S. citizenship by birthright.
10. This is despite the fact that, based on my understanding, my husband and I have functional

immunity in the context of our official duties, but we do not have diplomatic immunity and are therefore fully subject to U.S. jurisdiction. When we took our jobs, my husband and I pledged to act solely in the interest of the organizations we work for. We do not represent our countries of citizenship. We do not report to our diplomatic missions or home country governments. We are not, in any way, their employees or agents.

11. The new rules are extremely concerning for me. Unlike other nonresident visa holders, G-4 visa holders do not have a path for becoming permanent residents or citizens. Yet, many of us live in this country all their life, raising their families. If my child is not a U.S. citizen, then they will grow in this country but will not be able to access the same services as their peers, including scholarships and other opportunities.

12. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people who are affected by the August 6 Executive Order.

13. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal interests. I also understand the need to stay informed about what is happening in the case.

14. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.

15. I do not want my identity and participation in this lawsuit to be made public. My identity becoming public in this suit makes me fear for the safety and wellbeing of my family. I worry that if my identity is made public, people will retaliate against me and my family because of my participation in the lawsuit. I worry, for example, that my public participation in this lawsuit could result in my visa not getting renewed, my family's

statuses in the United States being terminated, or other adverse immigration consequences.

16. I also worry about my employment. My participation in this litigation means that I am joining a suit that is brought against a member state of the organization for which I work, and that state is also my host state. That relationship makes me worry that my participation in this lawsuit being made public could result in adverse employment consequences, including the loss of my employment, or other negative consequences at work. My lawful status in the United States is tied to my employment, so the loss of my employment could affect my ability to stay in the country and affect my career opportunities, the career opportunities of my husband, and educational opportunities for my son and future child.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Patricia

Patricia

Executed on September 9, 2026, in the United States.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

"NATHAN," *et al.*, *Plaintiffs*, v. DONALD J. TRUMP, *et al.*, *Defendants*.	Case No. 1:26-cv-3377

EXHIBIT C

DECLARATION OF EDWARD

I, Edward, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Edward. I am over the age of 18 and am competent to testify regarding the matters described below. I am a putative class member in this case.

2. I am a citizen of Australia, and I live in Australia with my wife and our older daughter.

3. My wife is a cardiologist. She owns and operates cardiology clinics in Australia, where she is the only cardiologist. I manage the business side of the practice.

4. Our older daughter was born in 2021 via surrogacy in the United States and is a U.S. citizen.

5. Our younger daughter is due to be born in October 2026 in the United States.

How our family came to surrogacy

6. My wife and I turned to surrogacy because she cannot carry a child, for medical reasons. It was the only way for us to have the family we hoped for.

7. We could not do this at home. Compensated surrogacy is unlawful in every Australian State and Territory. An Australian couple who needs a gestational carrier and wants to compensate her fairly must go overseas.

8. Before we began, we watched Australian television reporting about overseas surrogacy. Those programs concerned surrogacy arrangements in Thailand and in India involving Australian intended parents. What we saw troubled us deeply.

9. We decided then that we would not build our family that way. We did not want our child to come into the world through an arrangement in which the woman who carried her had been taken advantage of.

10. We chose the United States because we wanted an arrangement that was lawful, supervised by a court, and in which the woman carrying our child had her own lawyer, chosen by her. We understood this would cost considerably more than the alternatives. We accepted that cost deliberately, and we would make the same decision again.

Our older daughter's citizenship

11. Our surrogate for our older daughter selected and was represented throughout the process by her own attorney. Our journey was compliant with all relevant code sections in the state in which it was carried out and our parentage was established by order of a U.S. state court. We have paid all of the costs of the surrogacy, including our surrogate's compensation and her expenses, in the amounts and at the times set out in the written agreement she signed and notarized with the benefit of her own legal advice. A proper and valid birth certificate was issued with my and my wife’s names on it as the sole legal parents.

12. Our older daughter was issued a U.S. passport shortly after her birth, before she travelled to Australia. We applied for that passport on Form DS-11, the application used for a child under sixteen. My wife and I both appeared in person with her, as that form requires.

13. In support of that application we presented her U.S. state-issued birth certificate as evidence of her citizenship and of our relationship to her. As her parents, we each presented our own photo identification. The identification we presented was our Australian passports.

14. Her U.S. passport was renewed earlier this year, before the Executive Order was signed, at the U.S. Consulate General in Melbourne. Because she is under sixteen, that

application also had to be made in person on Form DS-11, and we again presented our Australian passports as our identification.

15. On both occasions the Department of State had before it a U.S. birth certificate for our daughter and two Australian passports belonging to her parents. It knew that neither of us is a U.S. citizen. On both occasions it issued our daughter a U.S. passport.

Our younger daughter's citizenship

16. We signed and notarized our current surrogacy agreement for our younger daughter in May 2025. The embryo transfer was performed in January 2026. Like before, the surrogacy arrangement is fully compliant with all relevant statutes and both parties are represented by independent legal counsel.

17. When we made those commitments, we understood that a child born in the United States is a U.S. citizen. That was not an assumption. It was our experience: the Department of State had already recognised our older daughter's citizenship, knowing exactly who her parents were.

18. In late June 2026 I learned that the Supreme Court of the United States had confirmed that children born in the United States to parents temporarily present in the country are citizens at birth. That decision confirmed the position we had relied upon from the beginning.

19. We first learned of the President's executive order of August 6, 2026, a few days after it was issued. By then our surrogate was in her third trimester. Every arrangement had been made, and nothing could be undone.

20. Before August 6, 2026, I was not aware of any executive order that applied to children born through surrogacy, and I had no reason to think our younger daughter's U.S. citizenship was in any doubt.

What the Order means for our family

21. I understand that, because neither my wife nor I is a U.S. citizen—we are both Australian citizens—and because we engaged in a commercial transaction with a surrogate present in the United States to give birth, the government takes the position that it will not recognize our younger daughter's U.S. citizenship at birth, even though every step we have taken has been legally sound and fully compliant with relevant statutes.

22. We did not enter this arrangement simply to obtain U.S. citizenship for our younger daughter. We live in Australia, our work and our older daughter's school are here, and we intended to return home with our newborn as soon as she is issued her U.S. passport to travel.

23. However, this Order raises a lot of complications for the entire family. If the Department of State refuses to issue our younger daughter a U.S. passport, we cannot take her home until she receives an Australian passport, but this could take months and cause us to overstay.

24. We will enter the United States later this month. We are allowed to be in the United States for up to 90 days under the U.S. Visa Waiver Program, for which we applied for and received an approved Electronic System for Travel Authorization (ESTA). Our admission will expire on or about December 24, 2026. I understand that admission under the Visa Waiver Program cannot be extended and that there is no application we can make to remain lawfully.

25. A visitor visa was not available to us in time. The estimated wait for a B1/B2 interview appointment in Australia is four months. Even if we had applied on the day the

Executive Order was signed, we would not have obtained an appointment before our admission expired.

26. If our younger daughter is not issued a U.S. passport, we will have to choose between leaving the United States without her and remaining beyond the expiry of our lawful admission.

27. But we will not leave without her. We have no one with whom we could leave our younger daughter in the United States, and we would not leave her in any case.

28. I understand that if we overstay, we will lose the ability to travel to the United States under the Visa Waiver Program, and that we may face bars of three or ten years on returning, depending on how long we remain.

29. My wife and I are also at risk of being detained or removed while we are here. Both of our daughters are U.S. citizens. If we were detained, they would be separated from their parents in the country of their birth. Our newborn will hold a U.S. state-issued birth certificate naming my wife and me as her parents, but the Executive Order directs federal agencies not to accept it as evidence of her citizenship. So we are worried about our younger daughter being subject to immigration enforcement as well.

Our patients

30. Remaining in the United States will require us to close our clinics for months longer than we planned, at great cost, because my wife is the only cardiologist in the practice. She performs all of the diagnostic testing herself.

31. I am also informed and believe that under Australian law Medicare benefits are payable only for services rendered in Australia, and that both the practitioner and the patient must be physically located in Australia. This applies to telehealth and to remote supervision alike. While she is in the United States my wife cannot treat, report on, or

supervise the care of a single Australian patient. Our clinics do not run at reduced capacity while we are away. They close.

32. For the past twelve years our patients have not been charged any out-of-pocket fee. My wife cares for and treats thousands of patients a year, all of them under Medicare. Many could not afford to see a cardiologist elsewhere, and if our clinics close they will join public hospital waiting lists.

33. We are very committed to this work. My wife is currently seeing patients seven days per week in anticipation of our trip. But we will do whatever is necessary to protect our family.

Our older daughter's reunion

34. We are travelling to the United States earlier than we otherwise would so that our older daughter can meet her surrogate on her birthday, the anniversary of the day that woman gave birth to her. It will be the first time they have seen one another since.

35. It mattered to us that our children would never have to hide how they came into the world. Our older daughter knows her story. She knows a woman in the United States carried her. In our family we call that woman her surro fairy. She knows her name.

36. What will make the reunion even more special is that the surrogate's youngest daughter, who spoke to my older daughter while she was in the womb, will also be there.

37. We are doing this before we travel on to meet our current surrogate, so that our older daughter understands where she comes from before her sister arrives. In October, she will welcome her sister knowing both of their stories.

38. I want my younger daughter to be able to visit her surrogate one day, and to travel freely to the country of her birth.

What we will do, and what we fear

39. My wife and I plan to apply for our younger daughter's U.S. passport as soon as we receive her state-issued birth certificate once she is born. We fear that the Order will prevent her from receiving it.

40. Our younger daughter will be born in the United States in October, and she will hold a U.S. state-issued birth certificate naming me and my wife as her parents, issued in accordance with a pre-birth parentage order granted by a U.S. state court after independent legal representation for everyone involved, and we are being told this will not be enough for her own government to acknowledge who she is.

41. What frightens me most is what would happen to her if my wife and I were detained or removed. She would be a newborn in the country of her birth, holding a birth certificate her own government has been instructed not to accept. I have read about families held with their children in immigration detention, and about children taken into state care when their parents are detained. I do not know which of those would happen to my daughters, but either would be a nightmare.

42. She cannot be removed, because she is a United States citizen. But the government says she is not one. That frightens me.

Serving as a class representative

43. I want to be a named plaintiff in this case. I understand that, if the Court grants the motion for class certification, I would represent a large number of people affected by the August 6 Executive Order.

44. I understand that, as a class representative, it would be my responsibility to represent the interests of all the class members in this lawsuit, and not just my own personal

interests. I also understand the need to stay informed about what is happening in the case.

45. I understand that I am agreeing to represent many other families like ours. I believe it is important to help families like ours.

Proceeding under a pseudonym

46. I am scared about my identity and participation in this lawsuit being made public because I fear for my and my family's safety and wellbeing. I have heard that the Administration and/or people who support it have retaliated against people for suing the Administration or speaking out against it, including by terminating their immigration status or denying immigration applications.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Edward

Edward

Executed on September 3, 2026, in Melbourne, Australia.

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

"NATHAN," *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 26-cv-3377

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR LEAVE TO PROCEED UNDER PSEUDONYM AND TO FILE EXHIBITS UNDER SEAL

Upon consideration of Plaintiffs' Motion for Leave to Proceed Under Pseudonym and to File Exhibits Under Seal, and for good cause shown, the motion is GRANTED. It is hereby ORDERED that Plaintiffs are given leave to proceed under the pseudonyms Clara, Nathan, Patricia, and Edward, and to file under seal any unredacted subsequent declaration containing identifying information, provided that they file an appropriately redacted version of any such declaration on the public docket.

DATE:

U.S. District Judge