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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES DEPARTMENT OF  
JUSTICE, DRUG ENFORCEMENT  
ADMINISTRATION,

*Petitioner,*

v.

UTAH DEPARTMENT OF COMMERCE and  
UTAH DIVISION OF OCCUPATIONAL &  
PROFESSIONAL LICENSING,

*Respondents.*

Case No. 2:16-cv-611-DN

**DECLARATION OF JOHN DOE 2  
IN SUPPORT OF MOTION TO  
INTERVENE AND MOTION TO  
PROCEED USING PSEUDONYMS**

Chief Judge David Nuffer

UNITED STATES DEPARTMENT OF  
JUSTICE, DRUG ENFORCEMENT  
ADMINISTRATION,

*Petitioner,*

v.

IAFF LOCAL 1696 et al.,

*Respondents–Intervenors.*

I, John Doe 2,<sup>1</sup> hereby declare and state as follows:

1. I submit this declaration based on my personal knowledge in support of the motions to intervene and to proceed using pseudonyms, in the above captioned case.
2. I am one of the individuals seeking to intervene in this action.
3. I am an attorney in private practice and a resident of Utah.
4. Between 2004 and 2009, I took four prescription medications that are classified as Schedule II and IV drugs under the federal Controlled Substances Act.
5. These medications were prescribed by Utah physicians and, when I briefly lived outside of Utah, an out-of-state physician. I obtained refills of my prescriptions primarily at pharmacies in Utah. As a result, I believe that records of my prescriptions for these medications were recorded by the Utah Controlled Substances Database Program (“UCSD”).
6. In 2004, I suffered from generalized anxiety and depression.

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<sup>1</sup> This is not my real name. I am proceeding under a pseudonym in order to protect my constitutional right to privacy. The use of the name “John Doe” and gender pronouns is not intended to signify that I identify as either male or female.

7. To treat my anxiety and depression, my Utah-based general practitioner prescribed clonazepam.

8. Clonazepam is classified in Schedule IV under the Controlled Substances Act.

9. I took .5 milligrams of clonazepam one to two times daily for approximately one year in 2004.

10. I was prescribed clonazepam in 30-day supplies. Therefore, I refilled my prescription at a pharmacy every 30 days.

11. In the period during which I was prescribed clonazepam, I suffered from anxiety and depression that it made it difficult to function in my day-to-day life. Absent these medications, I was lethargic and unable to focus.

12. During this time, I also received mental health therapy. But my anxiety, depression, and related symptoms did not subside until I began taking clonazepam.

13. In 2004, I also served as an anonymous kidney donor.

14. To aid my recovery from this surgery, my physician prescribed hydrocodone/acetaminophen and Ambien.

15. Hydrocodone is an opioid pain medication that is classified in Schedule II under the Controlled Substances Act.

16. My physician prescribed seven doses of hydrocodone 5 mg/acetaminophen 500 mg to take as needed in the days following my release from the hospital after my kidney surgery.

17. Ambien is the trade name for zolpidem, which is classified in Schedule IV under the Controlled Substances Act.

18. I took 10 milligrams of Ambien as a sleep aid as needed during the month after my kidney surgery.

19. In 2009, I had a lipoma (a benign tumor) removed from my back.

20. My physician prescribed hydrocodone/acetaminophen to treat my pain after this surgery.

21. I was prescribed hydrocodone 5 mg/acetaminophen 325 mg to take as needed during the week following my back surgery.

22. Also in 2009, a physician prescribed Adderall as a treatment for my mild Attention Deficit Hyperactivity Disorder.

23. Adderall is the trade name for amphetamine, which is classified in Schedule II under the Controlled Substances Act.

24. I took 10 milligrams of Adderall once daily for approximately three months in 2009.

25. I was prescribed Adderall in 30-day supplies. Therefore, I refilled my prescription at a pharmacy every 30 days.

26. While I do not currently take clonazepam or Adderall, I anticipate that I might need to take these medications again at some point in the future.

27. It is my understanding that prescription records are retained in the UCSD indefinitely, meaning that records of all of the prescriptions described above remain in the database. I have requested and received copy of my UCSD prescription record, which includes information about each of the prescriptions described above.

28. I consider my medical history to be a private matter and I do not want the DEA or other law enforcement agents to access or obtain my prescription information without first obtaining a warrant based on probable cause.

29. I fear that my prescription drug records and information regarding my medical history would be misused if law enforcement is not required to first present evidence of wrongdoing to a judge before obtaining that information. Abuse of this information would place me in a highly vulnerable position.

30. In particular, it would be distressing to me if the DEA were able to obtain information about my prescriptions and medical condition without a warrant because disclosure of that information could have adverse consequences. In the past, for example, I have had difficulty applying for life insurance as a result of my mental health history. I fear that the stigma often associated with mental health conditions, and the treatment thereof, could negatively influence my professional and personal reputation.

31. Now that I am aware that my prescriptions are recorded in the USCD, if the DEA is allowed to obtain prescription drug records from the database without a warrant, I would think twice before filling any future prescriptions for drugs that fall under Schedules II through V of the Controlled Substances Act. I would also consider seeking medical care and filling future prescriptions outside of Utah, despite the additional cost and inconvenience.

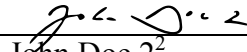
32. While I want to protect my right to the privacy of my prescription records and the medical information that they reveal, I also want to be able to assert my constitutional rights in court to ensure that the DEA cannot obtain personally identifying information from the UCSD that reveals my private prescription information without complying with the Fourth Amendment.

The only way for me to do that is to proceed under a pseudonym because, otherwise, I will have to disclose to the DEA (and the public at large) the very information—my name, connected with the specific Schedule II and IV drugs that I took, the dosage I was prescribed, the frequency with which I took them, and the conditions they treated—that I am seeking to protect through this Intervention.

33. Neither my name nor any other personally identifying information about me (including my image) will be revealed in any public statement that I or my representatives make about this case.

Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED this 27th day of July, 2016.

  
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John Doe 2<sup>2</sup>

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<sup>2</sup> As noted above, this is a pseudonym.