

Federal Sample Notice of Appearance

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For additional resources relating to the protection, enforcement, and advancement of crime victims' rights, please visit NCVLI's website at www.ncvli.org.

**IN THE UNITED STATES DISTRICT COURT
[GEOGRAPHICAL] DISTRICT OF [STATE]
[NAME] DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,)
)
vs.) Case No. [insert case number]
)
[NAME OF DEFENDANT],)
Defendant.)

**NOTICE OF APPEARANCE FOR COUNSEL FOR CRIME VICTIM(S) [INSERT
NAME(S), IF APPROPRIATE – see FN1 below]**

The undersigned, [Attorney, Esq.], hereby respectfully notifies the clerk of this court and all parties of his/her appearance as counsel for [Victim Name(s)]¹ and requests to be notified of

¹ **[NOTE TO PRACTITIONER: IF THE VICTIM IS A CHILD-VICTIM, USE A PSEUDONYM. IF THE VICTIM IS AN ADULT, USE OF PSEUDONYMS MAY BE APPROPRIATE, AS WELL.** Because sealing orders may be lifted at the conclusion of a case, use of a pseudonym may be the only effective method of protecting the identity of a victim. *See United States v. Darcy*, No. 1:09CR12, 2009 WL 1470495, at *1 (W.D.N.C. May 26, 2009) (holding that if “protecting the name of the victim is what is sought,” the only way to accomplish that task is to identify the victim using a pseudonym because any seal in the case would automatically be lifted at the conclusion of the criminal proceeding under the local rules of criminal procedure.) All references herein to the crime victim(s) shall refer to [“John Doe(s)”/“Jane Doe(s)”] to protect [his/her/their] privacy in accordance with [his/her/their] federal constitutional and other rights. *See Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (recognizing that the United States Constitution provides a right to personal privacy, which includes an “individual interest in avoiding disclosure of personal matters”); *see also, e.g.*, 18

all proceedings and to be provided copies of all filings contemporaneously with the parties throughout the duration of the case.² By and through counsel, the victim(s) also formally

U.S.C. § 3509(d)(3)(A) (providing that “[o]n motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child”); *Gattem v. Gonzales*, 412 F.3d 758, 761 n.2 (7th Cir. 2005) (substituting “a pseudonym for the name of the victim in deference to her privacy interests”); *Ward v. Uribe*, No. ED CV 13-1976 GAF (MRW), 2014 WL 2533819, at *6 (C.D. Cal. June 4, 2014) (holding that the constitutional rights of defendant-habeas petitioner were not violated because the complaint named the extortion victim as “John Doe” rather than using his actual name as defendant was present when the victim testified and received discovery providing the victim’s real name); *United States v. Robinson*, No. 08-10309-MLW, 2009 WL 137319, at *2-3 (D. Mass. Jan. 20, 2009) (denying request of newspaper to order the prosecution to disclose the name of the extortion victim and explaining that if the prosecution did submit documents identifying the victim to the court, the court may order the documents sealed as the victim has significant privacy interests in non-disclosure and such interests are protected by the Crime Victims’ Rights Act, which guarantees crime victims the right to be treated with fairness and with respect for their dignity and privacy); *United States v. Darcy*, No. 1:09CR12, 2009 WL 1470495, at *1 (W.D.N.C. May 26, 2009) (holding that if “protecting the name of the victim is what is sought,” the only way to accomplish that task is to identify the victim using a pseudonym because any seal in the case would automatically be lifted at the conclusion of the criminal proceeding under the local rules of criminal procedure); *Outar v. Khahaifa*, No. 10-CV-3956 (MKB)(JO), 2012 WL 6698710, at *1 (E.D.N.Y. Sept. 25, 2012) (referring to the victim by initials in magistrate judge’s report and recommendation and citing the provision of the Crime Victims’ Rights Act recognizing the right of crime victims to be treated with fairness and with respect for the victim’s dignity and privacy); *Gueits v. Kirkpatrick*, 618 F. Supp. 2d 193, 198 n.1 (E.D.N.Y. 2009) (*rev’d on other grounds*, 612 F.3d 118 (2d Cir. 2010)) (redacting any identifying information about the victim from the district court’s opinion and explaining that although the victim’s name is known to the parties and appears in the record, it would not use her name “out of respect for her dignity and privacy[,]” under the Crime Victims’ Rights Act); *United States v. Graham*, No. 12-CR-311, 2013 U.S. Dist. LEXIS 2992 (W.D.N.Y. Jan. 8, 2013) (granting the government’s request for a protective order concealing the identity of the minor victim and preventing the use and disclosure of the full names of the adult victims during trial pursuant to the Child Victims’ and Child Witnesses’ Rights Act, the Crime Victims’ Rights Act, and case law from multiple jurisdictions); *see generally Protecting Victims’ Privacy Rights: The Use of Pseudonyms in Criminal Cases*, NCVLI Violence Against Women Bulletin (Nat’l Crime Victim Law Inst., Portland, Or.) Oct. 2013, *available at* <http://law.lclark.edu/live/files/15549-protecting-victims-privacy-rights---the-use-of>.

² *See, e.g., United States v. Mahon*, No. CR 09-712-PHX-DGC, 2010 WL 94247 (D. Ariz. Jan. 5, 2010) (slip copy) (observing that filing a notice of appearance is a reasonable procedure for receiving copies of filings and ensuring the protection of a victim’s rights).

assert[s] [his/her/their] rights pursuant to all applicable law,³ including, but not limited to, the following rights under the Crime Victims' Rights Act, 18 U.S.C. § 3771:

- The right to be reasonably protected from the accused (18 U.S.C. § 3771(a)(1));
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused (18 U.S.C. § 3771(a)(2));
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding (18 U.S.C. § 3771(a)(3));
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding (18 U.S.C. § 3771(a)(4));
- The reasonable right to confer with the attorney for the Government in the case (18 U.S.C. § 3771(a)(5));
- The right to full and timely restitution as provided in law (18 U.S.C. § 3771(a)(6));
- The right to proceedings free from unreasonable delay (18 U.S.C. § 3771(a)(7));
- The right to be treated with fairness and with respect for the victim's dignity and privacy (18 U.S.C. § 3771(a)(8));
- The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement (18 U.S.C. § 3771(a)(9)); and
- The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C.

³ **[NOTE TO PRACTITIONER: There may be instances where you will want to explicitly list other rights (in addition to the CVRA rights).** For example, 18 U.S.C. § 3509 provides additional rights specific to child-victims, and the United States Constitution affords a right to privacy. *See Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (recognizing a federal constitutional right to personal privacy, which includes an “individual interest in avoiding disclosure of personal matters”). Even in those instances, unless you are certain that no other law may provide additional rights for the victim, keeping a broad “pursuant to all applicable law” type of language in the Notice of Appearance would be prudent.]

10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice (18 U.S.C. § 3771(a)(10)).

DATED this [insert number] day of [Month], [year].

RESPECTFULLY SUBMITTED,

/s/

[Attorney, Esq.] ([State] Bar # [number])
[address]
[phone number]
[fax number]
[email address]
Counsel for [Name of Victim(s), if appropriate]