March 11, 2025

Michael Williams
PRO SE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

History Associates Incorporated;

Plaintiff;

And

Michael Williams;

Movant & Proposed Plaintiff-Intervenor;

v.

Federal Deposit Insurance Corporation;

Defendant.

Case No. 1:24-cv-1857-ACR

APPLICANT'S:

(1) NOTICE OF MOTION TO INTERVENE UNDER FEDERAL RULES OF CIVIL PROCEDURE RULE 24;

(2) MOTION TO INTERVENE;

(3) CERTIFICATE OF SERVICE

LIMITED MOTION TO INTERVENE AS PLAINTIFF

For the reasons stated in the attached memorandum of points and authorities, **Michael Williams**, a self-represented non-party currently residing outside the United States, respectfully requests the court grant this **Limited Motion to Intervene** under **Federal Rule of Civil Procedure Rule 24** for the limited purpose of contesting the Court's jurisdiction, venue, procedural, legal, and substantive deficiencies[1] related to the ex parte orders issued against him [D.E. #29 & #30], thereby making his joinder, even as a nonparty, impossible. Whilst other circuits permit relief under a narrow doctrine permitting Rule 59(e) and 60(b) motions by a nonparty "when its interests are strongly

[1] Factual deficiencies Williams alleges include that Andrew Dober manufactured messages in the order, that they did not exist, or that he was otherwise negligent in determining their true origin.

affected" and the judgment resulted from fraud or deception[2], the DC Circuit has yet to do so clearly, leaving Mr. Williams only remedy to challenge the jurisdiction of the Court a limited intervention. Mr. Williams also asserts that this motion may be redundant given the fact Her Honor has already permitted him to intervene. Nevertheless, in the utmost respect for the formality of the Court, Mr. Williams submits this *Limited* Motion to Intervene consistently with the Court's ruling in *EEOC v. Nat'l Children's Ctr.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998) (granting limited intervention to access documents subject to a protective order); *MGM RESORTS GLOBAL DEVELOPMENT, LLC et al v. DEPARTMENT OF THE INTERIOR et al*, No. 1:2019cv02377 - Document 38 (D.D.C. 2020) (granting limited intervention for the sole purpose of challenging jurisdiction due to sovereign immunity).

This motion is a preliminary step intended solely to address these defects and does not constitute a waiver of any rights, defenses, or objections available to Mr. Williams under applicable law. Moreover, this motion to intervene shall not be construed as a general appearance or otherwise as a submission to the Court's jurisdiction, all of which Mr. Williams expressly denies.

Pursuant to **LCvR 7(m)** concerning meeting and conferring, Michael Williams contacted Counsel for plaintiffs and defendants to seek their opinion on this motion to intervene. Plaintiffs "do not object to [Williams'] motion to intervene so long as [Williams'] dispute with the FDIC does not delay or impede [Plaintiff's] case." Defendants oppose Williams' intervention, especially if such intervention is on substantive grounds, such as challenging the validity of the evidence Defendants provided to the Court to receive these orders in the first place. Defendants refuse to reply or specify which aspects of Williams' motion to intervene they oppose. Williams followed up with Defendants

[2] *Grace v. Bank Leumi Tr. Co. of NY*, 443 F.3d 180, 188 (2d Cir. 2006) (cleaned up); see also *Agudas Chasidei Chabad of U.S. v. Russian Fedn*, 19 F.4th 472, 477 (D.C. Cir. 2021)

numerous times to no avail. Exh A.

Pursuant to **LCvR 7(f)**, Mr. Williams respectfully requests that the Court schedule a hearing on his Limited Motion to Intervene. An oral argument would facilitate a more thorough examination of the jurisdictional, procedural, and evidentiary issues related to the ex parte orders (D.E. #29 and #30) and how these intersect with his proposed motion to intervene. In addition, a hearing will enable the Court to address any questions regarding the scope and potential impact of Mr. Williams's proposed intervention without delaying the overall progress of the case along with the defendant FDIC being permitted to address their opposition to such intervention.

Intervention is sought **as of right** pursuant to **Rule 24(a)** or, in the alternative, **permissive intervention** under **Rule 24(b)**. The legal and factual grounds supporting this motion, including relevant statutory and case law authority, are set forth in an attached memorandum of law. If granted permission to intervene under either provision, Mr. Williams will file proposed motions to quash and vacate an order under rules 59(e), 60(b)[3]. Lastly, a proposed order is attached hereto in

[3] The text of Rule 24(c) of the Federal Rules of Civil Procedure puts proposed plaintiff-intervenors in an anomalous situation. Rule 24(c) requires that a proposed defendant-intervenor attach a proposed "pleading" to be attached to a motion to intervene. However, a motion for relief or vacation of an order under Rules 59(e) or 60(b) is not among the "pleadings" set forth in Rule 7(a). As a result, even though a named party may file a motion to dismiss under rule 12(b) (and a nonprior to serving one of the pleadings set forth in Rule 7(a), it is not clear from the text of the rule whether the same opportunity is available to a plaintiff-intervenor. Plaintiff-intervenor argues that the equivalent of Rule 12(b) motion for a named party is likely to be a Rule 59(e) or 60(b) motion. Courts have held that a proposed motion to dismiss satisfies Rule 24(c). *See, e.g., Ctr. for Biological Diversity v. Jewell*, No. 15-cv-00019, 2015 WL 13037049, at *2 (D. Ariz. May 12, 2015) ("The Court finds that the stricken Motion to Dismiss would have complied with the substantive requirements of Rule 24(c); it puts the existing parties on sufficient notice of the State's claim or defense, such that the procedural requirements of Rule 24(c) would be met."); *New Century Bank v. Open Solutions, Inc.*, No. 10-6537, 2011 WL 1666926, at *3 (E.D. Pa. May 2, 2011). In addition, the D.C. Circuit has held that "procedural defects in connection with intervention motions should generally be excused by a court." *Massachusetts v. Microsoft Corp.*, 373 F.3d 1199, 1236 (D.C. Cir. 2004) (citing *McCarthy v. Kleindienst*, 741 F.2d 1406, 1416 (D.C. Cir. 1984); see also *Providence Baptist Church v. Hillandale Comm.*, Ltd., 425 F.3d 309, 314 (6th Cir. 2005) (surveying circuits' approach to Rule 24(c) and discussing D.C. Circuit's "lenient"

compliance with **LCvR 7(c)**.

Dated: March 11, 2025

Respectfully submitted,

/s/ *Michael Williams*
Michael Williams
PRO SE

approach). Other members of this Court have routinely granted motions to intervene that attach motions to dismiss rather than answers. See, e.g., Order, ECF No. 33, *Clean Water Action v. Pruitt*, No. 1:17-cv-00817-DLF (D.D.C. Aug. 3, 2017); Minute Order, *Macon-Bibb Cty. Econ. Opportunity Council, Inc. v. U.S. Dep't of Health & Human Servs.*, No. 1:15-cv-01850-RBW (D.D.C. Nov. 13, 2015); Minute Order, *Knapp Med. Ctr. v. Burwell*, No. 1:15-cv-01663 (D.D.C. Mar. 8, 2016); Order, ECF No. 29, *W. Org. of Res. Councils v. Jewell*, No. 1:14-cv-01993-RBW (D.D.C. Feb. 26, 2015). In the event that the Court decides Williams is nonetheless required to attach a proposed complaint instead of a motion to dismiss in order to comply with Rule 24(c), Williams respectfully request: a) that the Court grant Williams leave to file a proposed complaint, and b) that the Proposed Motion to motions to quash and vacate an order under rules 59(e), 60(b) and docketed as a Motion for Judgment on the Pleadings under Rule 12(c).

March 11, 2025

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2025, a true and correct copy of the foregoing Mr. Williams's Motion to Intervene was served, via CM/ECF, upon the following Counsel for Plaintiff History Associates Inc.:

- Eugene Scalia of GIBSON, DUNN & CRUTCHER, LLP at <escalia@gibsondunn.com>
- Denis Nicholas Harper of GIBSON, DUNN & CRUTCHER, LLP at <nharper@gibsondunn.com>
- Jonathan Charles Bond of GIBSON, DUNN & CRUTCHER, LLP at <jbond@gibsondunn.com>

I further certify that the same day, via CM/ECF, I served a copy upon Counsel for the Defendant, Federal Deposit Insurance Corporation:

- Andrew Jared Dober of Federal Deposit Insurance Corporation at <adober@fdic.gov>
- Lina Soni of Federal Deposit Insurance Corporation at <lsoni@fdic.gov>

Dated: March 11, 2025

Respectfully submitted,

/s/ *Michael Williams*
Michael Williams
PRO SE

March 11, 2025

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

History Associates Incorporated; Plaintiff; And **Michael Williams**; Movant & Proposed Plaintiff-Intervenor; v. **Federal Deposit Insurance Corporation**; Defendant.	Case No 1:24-cv-1857-ACR

[PROPOSED] ORDER

Upon good cause shown, Michael Williams' Limited Motion to Intervene as Plaintiff-Intervenor is **GRANTED,** and such intervention is limited solely to challenging the orders at D.E. #29 and #30, including, but not limited to, challenges on both jurisdictional and substantive grounds.

It is further **ORDERED** that Mr. Williams submit a motion seeking the relief he desires within thirty (30) calendar days.

Date

HON. ANA C. REYES
United States District Judge

March 11, 2025

Michael Williams
LITIGANT IN PERSON

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

History Associates Incorporated;

Plaintiff;

And

Michael Williams;

Movant & Proposed Plaintiff-Intervenor;

v.

Federal Deposit Insurance Corporation;

Defendant.

Case No 1:24-cv-1857-ACR

APPLICANT'S:

(1) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MICHAEL WILLIAMS' MOTION TO INTERVENE

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MICHAEL WILLIAMS' MOTION TO INTERVENE

March 11, 2025

I TABLE OF CONTENTS

I Table of Contents 2
II Table of Authorities 2
III Relief Requested 4
IV Background 4
V Basis for Intervention Under Federal Rule of Civil Procedure Rule 24 7
A Intervention as of Right (Rule 24(a)) 7
1 Direct and Substantial Interest 7
2 Impairment of Interests 11
3 Inadequate Representation 13
B Permissive Intervention (Rule 24(b)) 16
1 Common Questions of Law and Fact 16
2 Judicial Economy 18
3 Proactive Permission by the Court 19
C Timeliness and Absence of Prejudice 19
1 Timeliness 19
2 No Prejudice to Existing Parties 20
VI Conclusion 21

II TABLE OF AUTHORITIES

Cases

Auto Workers v. Scofield, 382 U.S. 205, 86 S. Ct. 373 (1965) 16, 18
Carroll v. Princess Anne, 393 U.S. 175, 89 S. Ct. 347 (1968) 11
Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 87 S. Ct. 932 (1967) 12, 19
Department of Homeland Security v. MacLean, 574 U.S. 383 (2015) 8
Dept. of Air Force v. Rose, 425 U.S. 352, 96 S. Ct. 1592 (1976) 12
Diamond v. Charles, 476 U.S. 54, 106 S. Ct. 1697 (1986) 14
Dimond v. District of Columbia, 792 F.2d 179 (D.C. Cir. 1986) 14, 15
Donaldson v. United States, 400 U.S. 517, 91 S. Ct. 534 (1971) 8, 14
Environmental Defense v. Leavitt, 329 F. Supp. 2d 55 (D.D.C. 2004) 8
Equal Employment Opportunity Commission v. National Children's Center, Inc., 146 F.3d 1042 (D.C. Cir. 1998) 13, 17
Forest Conserv. Council v. U.S. Forest Serv, 66 F.3d 1489 (9th Cir. 1995) 17
Foster v. Gueory, 655 F.2d 1319 (D.C. Cir. 1981) 14
Friends of Earth, Inc. v. E.P.A, 446 F.3d 140 (D.C. Cir. 2006) 17
Fund for Animals, Inc. v. Norton, 322 F.3d 728 (D.C. Cir. 2003) 7, 15
Garrison v. Louisiana, 379 U.S. 64, 85 S. Ct. 209 (1964) 11
Georgia v. Ashcroft, 195 F. Supp. 2d 25 (D.D.C. 2002) 19
Gertz v. Robert Welch, Inc., 418 U.S. 323, 94 S. Ct. 2997 (1974) 10
Hardin v. Jackson, 600 F. Supp. 2d 13 (D.D.C. 2009) 15
Hodgson v. United Mine Workers of America, 473 F.2d 118 (D.C. Cir. 1972) 18

In re Endangered Species Act Section 4 Deadline Litig., 270 F.R.D. 1, 4–5 (D.D.C. 2010) 15
Kleissler v. United States Forest Service, 157 F.3d 964 (3d Cir. 1998) 9
Lane v. Franks, 573 U.S. 228, 134 S. Ct. 2369, 189 L. Ed. 2d 312, 24 Fla. L. Weekly Supp. 875 (2014) 8, 13
Lujan v. National Wildlife Federation, 497 U.S. 871 (1990) 20
Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893 (1976) 12
Mova Pharmaceutical Corp. v. Shalala, 140 F.3d 1060 (D.C. Cir. 1998) 7
Murray v UBS Securities LLC, 601 US 22 (2024) 9
Nat'l Labor Relations Bd. v. Robbins Tire & Rubber Co., 437 U.S. 214, 98 S. Ct. 2311 (1978) 9
National Wildlife Federation v. Burford, 878 F.2d 422 (D.C. Cir. 1989) 20
Nebraska Press Assn. v. Stuart, 427 U.S. 539, 96 S. Ct. 2791 (1976) 8
Nuesse v. Camp, 385 F.2d 694 (D.C. Cir. 1967) 8, 13, 18
Payne Enters. v. United States, 837 F.2d 486, 494 (D.C. Cir. 1988) 9
Pickering v. Board of Education, 391 U.S. 563 (1968) 9
Rosenblatt v. Baer, 383 U.S. 75, 86 S. Ct. 669 (1966) 10
Smoke v. Norton, 252 F.3d 468 (D.C. Cir. 2001) 20
Sw. Ctr. for Biological Diversity v. Berg, 268 F.3d 810, 818 (9th Cir. 2001) 10
Taylor v. Federal Deposit Insurance, 132 F.3d 753, 328 U.S. App. D.C. 52 (D.C. Cir. 1997) 8
Trbovich v. Mine Workers, 404 U.S. 528, 92 S. Ct. 630 (1972) 13, 14
United States v. Am. Tel. & Tel. Co. (AT&T), 642 F.2d 1285, 1293 (D.C. Cir. 1980) 14, 19, 20
United States v. National Treasury Employees Union, 513 U.S. 454 (1995) 9
United States v. Popa, 187 F.3d 672 (D.C. Cir. 1999) 11
Weinberger v. Romero-Barcelo, 456 U.S. 305, 102 S. Ct. 1798 (1982) 16
Wildearth Guardians v. Salazar, 272 F.R.D. 4, 78 Fed. R. Serv. 3d 72 (D.D.C. 2010) 19

Rules

Fed. R. Civ. P. 24(a) 4
Fed. R. Civ. P. 24(a)(2) 7, 8, 11, 13
Fed. R. Civ. P. 24(b) 4, 16, 21
Fed. R. Civ. P. 59(e) 4
Fed. R. Civ. P. 60(b) 4

III RELIEF REQUESTED

1. Mr. Williams respectfully requests that this Court grant the following relief.

(a) Grant Intervention as of Right under Federal Rule of Civil Procedure Rule 24(a) or, in the alternative, Permissive Intervention under Rule 24(b);

(b) Allow Mr. Williams to challenge the jurisdictional, procedural, and legal deficiencies of the ex parte order entered against him (namely through a motion to quash, Rules 59(e) and 60(b) motion to vacate the order for lack of personal jurisdiction, insufficient service of process, improper venue, and mistakes of fact and law); and

(c) Grant any further relief the Court deems just and proper.

IV BACKGROUND

2. Michael Williams is an active whistleblower against the Federal Deposit Insurance Corporation (FDIC), the defendant in this matter, having made hundreds of protected disclosures over the past eleven (11) years. Mr. Andrew Dober, counsel in the instant matter, per his own request, has been copied on every one of these disclosures. For over one and a half (1.5) years, Mr. Williams has been awaiting responses to numerous Freedom of Information Act (FOIA) requests filed with the FDIC, nine of which have been outstanding for over two years. FDIC has regularly denied Williams' FOIA requests in full using expansive exemptions, claiming they do not even need to search for documents. In his recent communications, he sent two follow-up emails to FDIC attorneys requesting the resolution of these long-pending requests. Exh B.

3. In doing so, Mr. Williams referenced the unrelated litigation History Associates Inc. v. FDIC, urging the re-evaluation of his FOIA requests in light of Her Honors findings and alleged misconduct exposed through this case. These emails also contained a hyperlink to the X account

@FDIC_Exposed, which has been actively reporting alleged misconduct by FDIC attorneys.

4. Mr. Williams is not involved in History Associates Inc. v. FDIC. His communications were solely related to his own FOIA requests and bore no direct connection to the litigation at issue. Nevertheless, FDIC attorneys petitioned this Court ex parte, securing an order prohibiting Mr. Williams from contacting any FDIC attorneys. This order was obtained without notice to Mr. Williams, without an opportunity for him to respond, and without any substantive evidentiary support. The FDIC attorneys claim that Mr. Williams sent threatening text messages to counsel and their family members. However, Mr. Williams was not served with any evidence to substantiate these allegations, and he categorically denies them. In fact, Mr. Williams asserts that FDIC attorneys made or caused the messages to be fabricated or were negligent in determining their true origin.

5. Mr. Williams has been specifically whistleblowing about misconduct by the attorneys involved in this matter, including Senior Counsel Mr. Andrew Jared Dober and his wife, Ms. Rachel Shachter Dober. The issuance of this ex parte order is clearly retaliatory against Mr. Williams's whistleblowing activities. It is strategically designed to divert his time, energy, and resources away from his whistleblowing efforts and force him to contest baseless allegations rather than focusing on exposing FDIC misconduct. Moreover, Mr. Williams believes seeking this order is a shot across the bow: stop investigating the Dobers, or even the FDIC or more messages will materialize, thus putting Williams in breach of a purported court order and then fighting off possible sanctions.

6. Mr. Dober has plenty of reason to fabricate evidence against Mr. Williams, and his past conduct illustrates concerning behavior. Mr. Dober knows @FDIC_Exposed, of whom Mr. Williams serves as a member, and intends to release ample evidence against Mr. Dober that will

likely result in his disbarment.

7. As this case has discovered, Mr. Andrew J. Dober has a history of intentionally skirting the law, including failing to enact a legal hold despite being provided a clear request to do so, allowing evidence to spoil. For example, on July 20, 2023, Mr. Williams sent a legal hold to the FDIC. Exh C. Mr. Williams sought specifically to preserve records, some of which the Corporation only retains for at most seven (7) days. On July 25, 2023, Mr. Dober wrote back, stating the FDIC would not honor the legal hold and would not retain the records. Exh D. That same day, several hours later, Mr. Williams writes back, explaining he does have a legal basis to request the records to be held and asks the FDIC to do so without delay. Exh E. Upon the advice of Mr. Dober, the FDIC still failed to enact a hold. On July 27, 2023, Mr. Williams renews his request for a legal hold. Exh F. Mr. Dober again advised the FDIC not to initiate a legal hold. On August 1, 2023, Mr. Williams emailed the entire FDIC board of directors, including General Counsel Pettway and deputy General Counsel Christensen. At that point, Mr. Pettway overrules Mr. Dober and finally enacts a legal hold which was dispatched to responsive FDIC employees. Exh G. Unfortunately, Mr. Dober succeeded in allowing for the spoliation of vital evidence, which the Agency wiped on the morning of July 28, 2023.

8. Mr. Williams has personally heard Mr. Dober boast in meetings about how to beat FOIA requests, explicitly instructing those concerned about FOIA to include a bank name in the document as an "example," thus giving the FDIC the ability to withhold the entire document as the FDIC would then classify the whole document as supervisory related and withhold such document. Mr. Williams has seen evidence that Mr. Dober is profiting from insider information gained through his employment.

9. Mr. Dober was aware his conduct in the present matter would draw the ire of the

court, especially if Mr. Williams released evidence proving the above and Mr. Williams' asserted these threatening messages were a backstory to gain sympathy from Her Honor as the transcripts clearly reflect.

10. The individuals allegedly affected by Mr. Williams' conduct live and work in Virginia. The FDIC attorneys already have numerous legal remedies available if they genuinely believe they are being threatened, including:

(a) Filing a police report;

(b) Requesting a law enforcement investigation;

(c) Seeking an appropriate protective order in state court.

11. The ex parte order in question circumvents these traditional and legally sound avenues, instead violating due process and imposing unconstitutional restrictions on Mr. Williams without affording him any procedural safeguards. Moreover, Mr. Dober likely knows any forensics investigation would show these purported messages did not come from Mr. Williams and were, in fact, even invented by himself.

V BASIS FOR INTERVENTION UNDER FEDERAL RULE OF CIVIL PROCEDURE RULE 24

A *Intervention as of Right (Rule 24(a))*

12. Intervention as of right is warranted under **Rule 24(a)** because:

1 *Direct and Substantial Interest*

13. The D.C. Circuit has held that constitutional standing alone is sufficient to establish that a proposed intervenor has "an interest relating to the property or transaction which is the subject of the action." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728 (D.C. Cir. 2003) at 735 (citing Fed. R. Civ. P. 24(a)(2)); *Mova Pharm. Corp. v. Shalala*, 140 F.3d 1060, 1076 (D.C. Cir. 1998) ("[A

proposed intervenor] need not show anything more than that it has standing to sue in order to demonstrate the existence of a legally protected interest for purposes of Rule 24(a)."); *Env't Def. v. Leavitt*, 329 F. Supp. 2d 55, 66 n.7 (D.D.C. 2004) (noting that "a person who satisfies constitutional standing requirements fulfills [] the second of the four Rule 24(a) requirements"). Accordingly, Mr. Williams has direct and substantial interest far beyond simple constitutional standing.

14. Mr. Williams has a direct and substantial interest in this action because the ex parte order imposes immediate and binding obligations that curtail his First Amendment rights and impede his whistleblowing activities. In the D.C. Circuit, courts take a "liberal approach" to Rule 24(a)(2) when a prospective intervenor asserts a "significantly protectable interest." See *Donaldson v. United States*, 400 U.S. 517, 531 (1971); *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967) at 700–01. The challenged order restricts Mr. Williams's ability to speak out about alleged government misconduct—speech that lies at the core of the First Amendment. See *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976) ("[P]rior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights.").

15. By deterring Mr. Williams from revealing alleged misconduct within the FDIC, the Order directly contravenes his statutorily enshrined whistleblower protections under 5 U.S.C. § 2302(b)(8). In *Department of Homeland Security v. MacLean*, 574 U.S. 383 (2015), the Supreme Court reaffirmed that the Whistleblower Protection Act (WPA) exists precisely "to encourage" the disclosure of government wrongdoing, and that punishing employees for exposing such misconduct flouts clear congressional intent. Likewise, in *Lane v. Franks*, 573 U.S. 228 (2014), the Court held that retaliating against a public employee for speaking out on matters of public concern—including corruption and unethical practices—violates core First Amendment principles.

16. These protections carry particular force in the FDIC setting. As the D.C. Circuit

explained in *Taylor v. FDIC*, 132 F.3d 753 (D.C. Cir. 1997), Congress has afforded whistleblowers special protection (beyond that provided by the First Amendment) to ensure wrongdoing can be safely reported, even internally. Courts recognize that chilling such disclosures undercuts the strong public policy favoring transparency and accountability—policies further underscored by decisions such as *Pickering v. Board of Education*, 391 U.S. 563 (1968), and *United States v. National Treasury Employees Union*, 513 U.S. 454 (1995). As the Supreme Court recently emphasized in *Murray v UBS Securities LLC*, 601 US 22 (2024), "[t]he health, safety, or well-being of the public may well depend on whistleblowers feeling empowered to come forward." Any order or practice that hampers Mr. Williams's ability to disclose potential FDIC misconduct, therefore, not only violates his WPA rights but also impinges on fundamental First Amendment values and the overriding public interest in exposing illegality or abuse.

17. The detrimental impact is magnified by the fact that the very FDIC attorneys who secured the ex parte order also oversee Mr. Williams's FOIA requests—several of which have been stalled for over two years. Because the order prevents him from communicating directly with FDIC counsel, Mr. Williams is effectively cut off from following up on or challenging these delayed requests, thereby depriving him of his statutory right to access public records. This obstruction of the FOIA process, albeit this time not directly by the Agency but by a Federal Court, underscores the immediacy and substantiality of Mr. Williams's interests: as courts have long recognized, "excessive delay by the agency in its response is often tantamount to denial" (see *Payne Enters. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988)), and such practices conflict with FOIA's fundamental goal of timely disclosure (*NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978)). Cf. *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 970 (3d Cir. 1998) (requiring a "legally cognizable" interest potentially "impaired, as a practical matter, by the disposition of the action").

18. Moreover, the ex parte order rests on unsubstantiated allegations that Mr. Williams categorically denies. If these claims remain uncontested, they threaten to inflict severe reputational harm and undermine Mr. Williams's credibility as a whistleblower. See *Rosenblatt v. Baer*, 383 U.S. 75, 86 (1966) ("Society has a pervasive and strong interest in preventing and redressing attacks upon reputation."); *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 341 (1974) ("The individual's right to the protection of his own good name 'reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty.'"). Preventing Mr. Williams from refuting these allegations impairs his ability to continue engaging in lawful and constitutionally protected activities that serve the public interest.

19. Further, the order diverts Mr. Williams's time, resources, and attention from valid whistleblowing efforts to defending against a judicially imposed restraint obtained without meaningful notice or opportunity to be heard. Courts acknowledge that such tangible burdens—particularly when compounded by a significant infringement of constitutional rights—demonstrate a "significantly protectable interest" under Rule 24(a). Courts apply a "primarily practical and equitable" inquiry to whether an intervenor has a "significantly protectable interest" under Rule 24(a). *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001). And "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Accordingly, an order that diverts a proposed intervenor's resources and infringes core constitutional rights establishes the requisite significantly protectable interest warranting intervention as of right.

20. Because Mr. Williams's First Amendment rights, statutory whistleblower protections, and FOIA interests are jeopardized by the ex parte order, resolving this action without his participation would, as a practical matter, impair his ability to safeguard these core interests.

Allowing Mr. Williams to intervene will ensure that his direct and substantial interests are protected and that any restriction on his speech or whistleblowing activities is subjected to the searching scrutiny required by the Constitution.

2 *Impairment of Interests*

21. Williams is "so situated that the disposition of the action may as a practical matter impair or impede [his] ability to protect [his] interest[s]." Fed. R. Civ. P. 24(a)(2).

22. The continued enforcement of the ex parte order severely impedes Mr. Williams's ability to engage in constitutionally protected whistleblowing activities and to exercise his First Amendment rights. As the Supreme Court has consistently emphasized, "speech concerning public affairs is more than self-expression; it is the essence of self-government." *Garrison v. Louisiana*, 379 U.S. 64, 74–75 (1964). The ongoing enforcement of the ex parte order is tantamount to an impermissible prior restraint that prevents Mr. Williams from engaging in vital whistleblowing efforts and from exercising his First Amendment rights—particularly his ability to communicate with FDIC attorneys overseeing his pending FOIA requests, petition these employees for redress, and to advocate against alleged misconduct. Under Supreme Court precedent, ex parte speech restrictions are highly disfavored when they operate to silence an individual without notice or an opportunity to be heard. See *Carroll v. President & Comm'rs of Princess Anne*, 393 U.S. 175, 180 (1968) ("[T]here is no place for such ex parte order … where no showing is made that it is impossible to serve or notify [the speaker]."). Even when speech rises to the level of "criminal" harassment, restrictions on speech may be impermissible. *United States v. Popa,* 187 F.3d 672 (D.C. Cir. 1999).[1]

[1] No such allegations are made in the instant controversy, and the content of the purported communication is unknown. However, this case, while criminal rather than a civil injunction, deals with restrictions on contacting government officials, a form of prior restraint on petitioning the government. Gheorghe Popa was convicted under a telephone harassment statute for repeatedly calling the U.S. Attorney's Office to complain (in sometimes offensive terms). The statute was

23. Without the opportunity to intervene, Mr. Williams will be left without a meaningful avenue to contest this order, thereby exacerbating its chilling effect and hampering his ability to function as a whistleblower. The Supreme Court has long recognized that "the fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Although Mathews allows some flexibility in how and when a hearing is provided, its core principle remains that significant deprivations of rights ordinarily require notice and a chance to respond. Here, Mr. Williams received no advance notification of the FDIC attorneys' ex parte petition and was not permitted to rebut the allegations before the order issued. This denial of procedural due process magnifies the infringement of his constitutional rights, subjecting him to an order that restricts both his liberties and his ability to pursue legal remedies.

24. The ex parte order also directly undermines Mr. Williams's ability to utilize the Freedom of Information Act ("FOIA"), a statutory instrument designed to promote transparency and government accountability. See *Dep't of Air Force v. Rose*, 425 U.S. 352, 360 (1976) (recognizing that FOIA reflects "a general philosophy of full agency disclosure … "). Given that FDIC counsel plays a pivotal role in processing Mr. Williams's FOIA requests, the order effectively prevents him from following up on these long-delayed matters, depriving him of his statutory right to obtain public records. Courts have repeatedly acknowledged that procedural constraints that impede an individual's ability to protect their legal rights constitute a significant impairment, justifying intervention. See *Cascade Nat. Gas Corp. v. El Paso Nat. Gas Co.*, 386 U.S. 129, 135 (1967)

---

applied to bar his annoying calls to a government official. The D.C. Circuit reversed Popa's conviction, holding that applying the harassment law to his calls violated the First Amendment. Even unpleasant or critical speech directed at public officials is protected when it relates to petitioning the government. The court agreed that "the statute, as applied to Popa's conduct, violates the First Amendment."

(holding that an order impeding a party's ability to protect its legal interests supports intervention as of right).

25. Mr. Williams's interests are not merely hypothetical; they are being actively harmed. Courts have consistently held that a party seeking intervention under Rule 24(a) need only show that "disposition of the action may as a practical matter impair or impede the [movant's] ability to protect [their] interest." *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967) (alterations added). In the absence of intervention, Mr. Williams remains indefinitely constrained in his ability to engage in whistleblowing, pursue legal remedies, and promote transparency—all of which are interests that courts, including the Supreme Court and the D.C. Circuit, have consistently deemed worthy of the highest protection. *Lane v. Franks*, 573 U.S. 228, 236 (2014).

26. Given the significant constitutional and statutory concerns at stake, and the absence of any alternative forum through which Mr. Williams may contest the order, the impairment of his rights is both substantial and warrants intervention. This Court has recognized that intervention is essential to prevent irreparable harm when a judicial order restricts an individual's rights to free speech, due process, or access to legal redress. See *EEOC v. Nat'l Children's Ctr.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998) (granting intervention where a court order affected statutory rights). Therefore, Mr. Williams's motion to intervene should be granted in order to prevent further infringement upon his constitutionally and statutorily protected interests.

3 *Inadequate Representation*

27. The final factor is whether Williams' interests are "adequately represented by existing parties." Fed. R. Civ. P. 24(a)(2). They are not. The Supreme Court has held that this "requirement of the Rule is satisfied if the applicant shows that representation of his interest 'may be' inadequate; and the burden of making that showing should be treated as minimal." *Trbovich v.*

United Mine Workers, 404 U.S. 528, 538 n.10 (1972). The D.C. Circuit has described this requirement as "not onerous." *Dimond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986); see also *Foster v. Gueory*, 655 F.2d at 1325; *United States v. Am. Tel. & Tel. Co. (AT&T), 642 F.2d 1285, 1293 (D.C. Cir. 1980)* (stating that a petitioner "ordinarily should be allowed to intervene unless it is clear that the party will provide adequate representation for the absentee").

28. No existing party to this litigation has any incentive, or indeed any obligation, to challenge the jurisdictional, procedural, legal, or factual deficiencies stemming from the ex parte order. In *Trbovich*, the Supreme Court recognized that one of the central purposes of intervention is to allow a party with a distinct interest—one not adequately represented by existing parties—to enter a proceeding. There, the Court emphasized that "the requirement of [Rule 24(a)] is satisfied if the applicant shows that representation of his interest "may be" inadequate; and the burden of making that showing should be treated as minimal." *Id*. at 538 n.10. Here, not only do the Plaintiff and Defendant share no interest in protecting Mr. Williams's constitutional rights, but they have made no effort to address the significant due process concerns arising from the ex parte nature of the injunction.

29. This principle of minimal burden in demonstrating inadequate representation has been reiterated in numerous Supreme Court decisions. In *Donaldson v. United States*, 400 U.S. 517, 531 (1971), the Court denied intervention but noted intervention is appropriate where the would-be intervenor's interest is not otherwise protected. Likewise, in *Diamond v. Charles*, 476 U.S. 54, 68 (1986), the Court denied intervention to a non-governmental entity only after finding it failed to show it had any interest different from the existing government defendant. By contrast, Mr. Williams's specific constitutional, statutory, and whistleblower interests are manifestly different from, and unrepresented by, both Plaintiff and Defendant, rendering intervention essential under

these precedents.

30. Within the D.C. Circuit, courts have long followed the Supreme Court's teaching that the showing required to meet the inadequacy requirement is minimal. *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 n.7 (D.C. Cir. 2003) (citing *Trbovich*, 404 U.S. at 538 n.10). The D.C. Circuit has also explained that a movant need only show that the existing parties' representation of its interests "may be" inadequate. D*imond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986). Here, neither the Plaintiff (History Associates, Inc.) nor the Defendant (Federal Deposit Insurance Corporation) has any reason or incentive to vindicate Mr. Williams's Due Process and First Amendment rights or his whistleblower protections. Rather, the FDIC—through its counsel—actively sought the ex parte order. Thus, the FDIC's interests are diametrically opposed to Mr. Williams's. Nor can the Plaintiff, which presumably seeks only to prosecute its own claims under its contractual or statutory interests, represent or defend Mr. Williams's personal constitutional claims.

31. District courts within this Circuit likewise recognize that intervention is necessary where the intervenor's interests are not adequately represented. In *Hardin v. Jackson*, 600 F. Supp. 2d 13, 16 (D.D.C. 2009), the court granted intervention in part because the existing parties' interests did not fully align with those of the proposed intervenors. See also *In re Endangered Species Act Section 4 Deadline Litig.*, 270 F.R.D. 1, 4–5 (D.D.C. 2010) (intervention allowed where a federal agency and an environmental group could not adequately protect the distinct interests of a proposed intervenor). In the present case, the lack of alignment between Mr. Williams's interests and those of the FDIC and History Associates, Inc. is unmistakable: neither existing party is motivated or equipped to protect Mr. Williams's personal due process rights or to reverse an order that it either requested or acquiesced to. In fact, Defendant FDIC is the party who requested the order while

Plaintiff History Associates has stayed away from the matter, careful not to prejudice the Court's opinion of themselves.

32. In short, no existing party advocates for Mr. Williams's constitutionally guaranteed freedoms or whistleblower protections. Both Plaintiff and Defendant are focused on resolving the underlying litigation, and the FDIC, in particular, sought the ex parte order, which is now under challenge. Consequently, the "minimal" burden to show inadequate representation is amply met. Without intervention, there is little chance—if any—that the Court would examine whether the ex parte order is constitutionally or procedurally flawed. Mr. Williams is therefore entitled to intervene to ensure his rights to freedom of speech, due process, and whistleblower protections are adequately presented and protected in this litigation.

B *Permissive Intervention (Rule 24(b))*

33. Alternatively, permissive intervention is appropriate under Federal Rule of Civil Procedure 24(b) because:

1 *Common Questions of Law and Fact*

34. The claims and defenses Mr. Williams seeks to advance share substantial common legal and factual issues with the underlying dispute—most notably with respect to the questions of jurisdiction, venue, and procedural propriety. The Supreme Court has recognized that Federal Rule of Civil Procedure 24(b)'s "common question of law or fact" requirement should be construed liberally to promote the efficient adjudication of related claims and defenses. See, e.g., *Int'l Union v. Scofield*, 382 U.S. 205, 217 n.10 (1965) (endorsing the practical benefits of permitting parties with overlapping issues to intervene). Although the Supreme Court has not exhaustively delineated the boundaries of permissive intervention, it has repeatedly affirmed that judicial economy and the avoidance of multiple proceedings are paramount considerations in federal litigation. See

Weinberger v. Romero-Barcelo, 456 U.S. 305, 314 (1982) (emphasizing the federal courts' broad discretion to shape proceedings in ways that foster the just, speedy, and inexpensive determination of every action).

35. The D.C. Circuit has similarly recognized that a movant's claims need only share "a question of law or fact in common" with the existing litigation to warrant permissive intervention. *EEOC v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1046–47 (D.C. Cir. 1998). There, the D.C. Circuit reversed the district court's denial of intervention, explaining that overlapping legal arguments would facilitate efficient resolution of issues and avoid duplicative proceedings. *Id*. Likewise, Mr. Williams's claims regarding the constitutional validity of the ex parte order, this Court's jurisdiction over him, and the proper venue to address his alleged misconduct all implicate factual and legal questions that substantially overlap with the broader dispute—particularly because the ex parte order arose from the same underlying proceedings. See also *Friends of the Earth, Inc. v. EPA*, 455 F.3d 1, 7 (D.C. Cir. 2006) (noting that allowing intervention serves the purpose of resolving interlinked issues in a single forum).

36. Further decisions from the D.C. Circuit underscore this broad approach. In *Forest Conserv. Council v. U.S. Forest Serv*, the court emphasized that "A liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts. By allowing parties with a *practical* interest in the outcome of a particular case to intervene, we often prevent or simplify future litigation involving related issues; at the same time, we allow an additional interested party to express its views before the court. *Greene*, 996 F.2d at 980 (Reinhardt, J., dissenting) (emphasis added)." 66 F.3d 1489, 1496 n.8 (9th Cir. 1995). Permitting intervenors who raise jurisdictional or procedural issues, such as due process, central to the subject matter of the litigation, the court reasoned, helps avoid needless fragmentation and promotes judicial economy.

Natural Resources Defense Council v. Costle, 561 F.2d 904, 910-11 (D.C. Cir. 1977) ("[I]n the intervention area the "interest" test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process."). Here, because Mr. Williams's arguments regarding the ex parte order's constitutional and procedural validity arise from the same factual core—namely, the FDIC's conduct and the Court's issuance of the challenged injunction—allowing him to intervene would likewise consolidate issues that might otherwise be litigated separately. *Id* at 911 ("involvement may lessen the need for future litigation to protect their interests").

37. In sum, Mr. Williams's defenses and arguments concerning the ex parte order do not exist in isolation; rather, they are intertwined with the legal and factual matrix of the main action, touching on core questions of how this Court obtained authority over him in the first place and whether the order violates fundamental procedural and constitutional principles. Allowing permissive intervention promotes judicial efficiency, avoids redundant litigation, and ensures that overlapping issues are resolved fairly and comprehensively in a single proceeding.

2 *Judicial Economy*

38. Permissive intervention will serve the interests of the judicial economy by allowing Mr. Williams to address his legal challenges in a single lawsuit rather than subjecting the parties to needless duplication of proceedings. See *Automobile Workers v. Scofield*, 382 U.S. 205, 217 (1965) (recognizing the efficiency gains when intervention avoids unnecessary "multiplicity of subsequent suits"). Indeed, permissive intervention under Rule 24(b) is designed to promote judicial efficiency (*Hodgson v. United Mine Workers*, 473 F.2d 118, 130 (D.C. Cir. 1972)) by "disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." Nuesse v. Camp, 385 F.2d 694, 700 (D.C. Cir. 1967).

39. In contrast, denying intervention would require Mr. Williams to pursue an entirely separate lawsuit, thereby unnecessarily burdening judicial resources and risking inconsistent determinations on identical issues. Cf. *Cascade Nat. Gas Corp. v. El Paso Nat. Gas Co.*, 386 U.S. 129, 136 (1967) (approving intervention to ensure all interested parties' claims were resolved in one proceeding). Such piecemeal litigation creates the potential for inconsistent or varying adjudications, which courts strive to avoid. See *Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 33 (D.D.C. 2002) (explaining that intervention enables all interested parties to participate and avoids duplicative or possibly inconsistent judgments). Accordingly, permissive intervention here is favored to streamline the proceedings and allow for comprehensive adjudication of the validity of the ex parte order.

3 *Proactive Permission by the Court*

40. Mr. Williams understands that the Honorable Judge presiding over this case has proactively permitted intervention for the limited purpose of challenging the ex parte order (D.E. #30). Given this explicit acknowledgment, the Court should formally grant permissive intervention to allow for full and fair litigation of the legal issues surrounding the order.

C *Timeliness and Absence of Prejudice*

1 *Timeliness*

41. A district court has discretion when considering the timeliness element. See *Fund for Animals*, 322 F.3d at 732. Courts evaluate timeliness based on (a) the time elapsed since the inception of the action, (b) the probability of prejudice to those already party to the proceedings, (c) the purpose for which intervention is sought, and (d) the need for intervention as a means for preserving the putative intervenor's rights. *WildEarth Guardians v. Salazar*, 272 F.R.D. 4, 12 (D.D.C. 2010); see also *AT&T*, 642 F.2d at 1295. Williams' addresses the first two factors below whilst relies on his submissions above in the latter two. Timeliness is "judged in consideration of

all the circumstances," including "the need for intervention as a means of preserving the applicant's rights." *Id*. In particular, the Court should look to the date that the party seeking to intervene "knew or should have known that any of [his] rights would be directly affected" by the litigation. *Nat'l Wildlife Fed'n v. Burford*, 878 F.2d 422, 434 (D.C. Cir. 1989), rev'd on other grounds sub nom. *Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871 (1990).

42. Mr. Williams' motion is timely, as he is raising his intervention request promptly after learning of the ex parte order and its implications. Timeliness is a critical factor in evaluating intervention requests, and courts typically allow intervention where there is no undue delay. See *Smoke v. Norton*, 252 F.3d 468, 471 (D.C. Cir. 2001) (holding that timeliness is measured based on when the intervenor became aware of the litigation's potential effect on their rights). Any delays challenging the order are a result of Mr. Williams's current presence overseas, the significant time zone difference of over 13 hours, the seeking of legal advice and counsel, and the associated delays due to the aforementioned reasons and technical difficulties with the ECF process for which he has contacted the Clerk thrice.

43. The ex parte nature of the order deprived Mr. Williams of notice and an opportunity to contest its validity prior to issuance, further necessitating intervention at the earliest possible stage.

2 *No Prejudice to Existing Parties*

44. Permitting Mr. Williams to intervene will not unduly prejudice the existing parties. On the contrary, the intervention will ensure that the Court has a full and complete understanding of the facts, procedural defects, and legal implications of the ex parte order before proceeding further. See *AT&T*, 642 F.2d at 1293 (finding that intervention should be granted where it contributes to an informed resolution without delaying proceedings).

45. The FDIC and other parties to this litigation cannot claim any legitimate prejudice from Mr. Williams' intervention, as his challenge concerns the validity of an order directly affecting his rights rather than interfering with the core issues of the underlying case.

VI CONCLUSION

46. For the foregoing reasons, Mr. Williams respectfully requests that this Court grant his motion to intervene as of right under Rule 24(a) or, in the alternative, grant permissive intervention under Rule 24(b). This intervention is essential to safeguarding his constitutional rights and ensuring that the procedural and jurisdictional defects of the ex parte order are properly adjudicated.

Dated: March 11, 2025

Respectfully submitted,

/s/ *Michael Williams*
Michael Williams
PRO SE

Exhibit A Michael Williams [redacted]

1:24-cv-01857-ACR: HAI vs FDIC - Meet and Confer Request Pursuant to Local Civil Rule 7(m) – Motion to Intervene by Mr. Michael B. Williams

Michael Williams <[redacted]> Sat, Mar 8, 2025 at 3:27 AM
To: "Soni, Lina D." [redacted]>
Cc: "Dober, Andrew J." [redacted]

Dear Mr Soni,

Which aspects of my email foreshadowing the intervention do you believe exceed the purpose of addressing the court's order? Would you be clear that you are okay with me intervening to challenge jurisdiction, but you are not okay with me challenging the substantive basis of the order (i.e., that the evidence the order was obtained using is fraudulent, made up, or otherwise inaccurate)?

I'd like to nail down exactly the issues the FDIC has so I might address them in my motion.

Purposed Intervention Reasons:
Mr. Williams' proposed intervention is solely to challenge the order made against him at first for lack of jurisdiction, and if that fails, then on more substantive grounds, including asserting that Mr. Andrew Harper made up evidence as part of an ulterior motive in obtaining the protective order.

Soni, Lina D. <[redacted] wrote:

> Dear Mr. Williams, thank you for your February 26 email regarding your proposed motion to intervene. Consistent with the FDIC's obligation to meet and confer, we have considered your proposed grounds and cannot agree to them. Your email states bases for intervention that exceed the limited purpose of addressing the Court's January 27, 2025 Order (ECF Doc 30) and related entries. Accordingly, the FDIC reserves all rights. At such time as you file your motion, the FDIC will consider it and, if warranted, file a response with the Court.
>
> Regards,
>
> Lina

From: Michael Williams <[redacted]>
Sent: Friday, March 7, 2025 10:56 AM
To: Dober, Andrew J. [redacted] Kurtenbach, Daniel <[redacted]>; Soni, Lina D. [redacted]
Subject: [EXTERNAL MESSAGE] Re: 1:24-cv-01857-ACR: HAI vs FDIC - Meet and Confer Request Pursuant to Local Civil Rule 7(m) – Motion to Intervene by Mr. Michael B. Williams

> You don't often get email from michael.williams@glexia.com. Learn why this is important

> **CAUTION**: External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

> Dear Sirs,

A friendly reminder on this as I be filing on Tuesday.

Regards,

Michael Williams

Sent from Gmail Mobile

Michael B. Williams <[redacted]> wrote:

HISTORY ASSOCIATES INCORPORATED v. FEDERAL DEPOSIT INSURANCE CORPORATION
Assigned to: Judge Ana C. Reyes
Related Case: 1:24-cv-01858-ACR
Cause: 05:552 Freedom of Information Act

Dear Sirs,

I hope this correspondence finds you well. Pursuant to Local Civil Rule 7(m) of the U.S. District Court for the District of Columbia, I am reaching out to meet and confer regarding Mr. Michael B. Williams's anticipated motion to intervene in the above-referenced matter.

Mr. Williams seeks to intervene as a party in this litigation under Federal Rule of Civil Procedure 24(a)(2) (Intervention of Right) and/or Rule 24(b) (Permissive Intervention). Given his significant interest in the subject matter of this case and the potential impact of the proceedings on his rights, we believe intervention is appropriate. Mr. Williams' proposed intervention is solely to challenge the order made against him at first for lack of jurisdiction, and if that fails, then on more substantive grounds, including asserting that Mr. Andrew Harper made up evidence as part of an ulterior motive in obtaining the protective order.

Pursuant to the court's rules, we seek your concurrence on this motion. Should you not concur, we would like to schedule a discussion to determine whether your client opposes the motion and, if so, to narrow any areas of disagreement before filing.

We are available to meet and confer at your earliest convenience via phone or videoconference. Please provide your availability within the next two (2) business days, so we can coordinate a mutually agreeable time.

Should we not hear from you and/or schedule a meeting by March 10, 2025, we will proceed with filing the motion and will include a statement indicating our good-faith attempt to meet and confer this matter per Local Civil Rule 7(m).

Please let me know your availability for this discussion. I appreciate your time and cooperation in this matter.

Best regards,

Michael Williams

Michael B. Williams
[redacted]

[redacted]

[redacted]

[redacted]

Legal Notice:

Gmail Exhibit B Michael Williams <[redacted]>

FOIA Requests / Appeals

Michael Williams [redacted] Sat, Jan 18, 2025 at 8:14 AM
To: dkurtenbach@fdic.gov, "Dober, Andrew J." [redacted], lsoni@fdic.gov

Also, I don't know if you have seen this post... It just came across my desk.

https://x.com/FDIC_Exposed/status/1880362236004471078

On Sat, Jan 18, 2025 at 7:56 AM Michael Williams <[redacted]> wrote:

> Dear Sirs,
>
> I have had more than 10 pending FOIA requests outstanding for over 1.5 years. Moreover, numerous FOIA requests have been rejected in whole or in part. Because of the proceedings in 1:24-cv-01857-ACR, I would like to ask the FDIC to re-review all my FOIA requests and make decisions under the above-captioned proceedings.
>
> I also ask that the pending FOIA requests associated with my email [redacted] be completed within thirty (30) days. In many cases, I have provided explicit instructions on obtaining the required documents, yet the agency has failed to act.
>
> If we don't get these documents and a response about re-evaluating our FOIA requests in light of the proceedings on foot, we will file in the District Court for the District of Columbia seeking appropriate relief.
>
> To exhaust our administrative appeals, this letter serves as an appeal to the "deemed refusal" of the pending requests that have yet to be adjudicated. Please let me know if the Agency requires the other "refused" FOIA requests to be re-submitted.
>
> Respectfully submitted,
>
> Michael Williams

Gmail Exhibit C Michael Williams [redacted]

Litigation Hold - Michael Williams

Michael Williams [redacted] Thu, Jul 20, 2023 at 3:19 PM
To: legal@fdic.gov
Cc: amthompson@fdic.gov, ITCIP-INFO@fdic.gov

Hi Legal -

This litigation hold should extend to all ITCIP Working Group members (ITCIPWG) members, as defined by FDIC Circular 1600.7. Materials include contemporaneous notes made in and during their meeting, including any Microsoft Teams recordings. I believe spoilation is likely should the members not be informed of their obligations when under a legal hold.

My understanding is Microsoft Teams creates recordings which are kept for a very short period of time, therefore I ask CIOO to order the retention of these records. Much of the substantive materials required to prove my case were created over the last few days.

Furthermore, materials would include OIG whistleblower complaints made by Mr Williams which are now being used to defame and as a basis to seek removal.

Lastly, all materials generated by Jarrod Kennedy should be retained, including all emails and records generated by this individual. We have reason to believe he used his FDIC-issued equipment to leak internal information, including screenshots, and intentionally attacked Mr. Williams.

Regards,

Michael Williams

On Thu, Jul 20, 2023 at 2:39 AM Michael Williams <[redacted]> wrote:

> Hi Federal Deposit Insurance Corporation (FDIC),
>
> Please find the attached litigation hold for action. Please confirm receipt.
>
> Regards,
>
> Michael Williams

Preservation Request - FDIC - Signed.pdf
250K

July 20, 2023

Via E-Mail

DEMAND FOR THE PRESERVATION OF EVIDENCE

To Federal Deposit Insurance Corporation (FDIC):

Your recent conduct and communications give rise to the likelihood of litigating numerous claims due to certain actions of the Federal Deposit Insurance Corporation and other affiliated entities (Potential Defendants) that have taken and or discussed plans to take, including removal from Federal service. The exact identities of the Potential Defendants will be ascertained during discovery.

To put the claims at issue into a more specified context, I refer you to internal communications where you materially defamed Mr. Williams, discussed his removal from Federal service, failed to consider the previous authorization given to his company, and intentionally conspired on the best way to remove Mr. Williams. Through several anonymous sources, we have been provided with recordings and internal transcripts of conversations held by members of the FDIC that purport to violate the well-established due process rights of Mr. Williams.

Your conduct thus far and potential future conduct runs contrary to well-established legal principles and is unconscionable. Given your most recent conduct, it appears that a lawsuit pertaining to our rights is imminent.

Please allow this letter to serve as a demand for the preservation of any and all documents related in any way to the issues and claims between the parties, including any document, email, or other responsive material discussing Mr. Williams.

I. Demand for Preservation of Electronically Stored Information

Michael Williams hereby demands that you, Federal Deposit Insurance Corporation and any other affiliated entities (collectively, the Potential Defendants) preserve all documents, tangible things, and Electronically Stored Information ("ESI") potentially relevant to this dispute. This request applies to any of the Potential Defendants' respective officers, directors, employees, servants, agents, attorneys, and accountants.

ESI should be afforded the broadest possible definition and includes (by way of example and not as an exclusive list) potentially relevant information electronically, magnetically or optically stored as:

- Digital Communications (e.g., e-mail, voicemail, instant messaging);
- Word Processed Documents (e.g., Word or WordPerfect documents and drafts);
- Spreadsheets and Tables (e.g., Excel or Lotus 123 worksheets);

- Accounting Application Data (e.g., QuickBooks, Money, Peachtree data files)
- Presentations (e.g., PowerPoint, Corel Presentations)
- Back-Up and Archival Files (e.g., Zip. GHO)
- Image and Facsimile Files (e.g., .PDF, .TIFF, .JPG, .GIF images);
- Sound Recordings (e.g., .WAV and .MP3 files);
- Video and Animation (e.g., .AVI and .MOV files);
- Databases (e.g., Access, Oracle, SQL server data, SAP);
- Computer and Blockchain Code (e.g. PACT);
- Contact and Relationship Management Data (e.g., Outlook, ACT!);
- Calendar and Diary Application Data (e.g., Outlook PST, Yahoo, blog tools);
- Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- Network Access and Server Activity Logs;
- Project Management Application Data;
- Computer-Aided Design Drawing Files;
- Discord Conversations, Messsages, and History; and,
- Twitter Live Spaces, including the recording so such spaces.

ESI resides not only in areas of electronic, magnetic, and optical storage media reasonably accessible to the Potential Defendants but also in areas they may deem *not* reasonably accessible. The Potential Defendants are obliged to *preserve* potentially relevant evidence from *both* these sources of ESI, even if you do not anticipate *producing* such ESI. Accordingly, even ESI that they deem reasonably inaccessible *must be preserved in the interim* so as to not to deprive Michael Williams of its right to secure the evidence or the Court of its right to adjudicate the issues related to this evidence. The demand that you preserve both accessible and inaccessible ESI relevant to this matter is limited, reasonable, and necessary.

II. Preservation Requires Your Immediate Intervention

The Potential Defendants must act immediately to preserve potentially relevant ESI. Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. It requires that a party prevent loss due to routine operations and employ proper techniques and protocols suited to the protection of ESI. Be advised that sources of ESI are altered and erased by continued use of your computers and other devices. Booting a drive, examining its contents or running any application will irretrievably alter the evidence it contains and may constitute unlawful spoliation of evidence. Consequently, alteration and erasure may result from your failure to act diligently and responsibly to prevent the loss or corruption of ESI.

Nothing in this demand for the preservation of ESI should be understood to diminish your concurrent obligation to preserve documents, tangible things and other potentially relevant evidence**.**

III. Suspension of Routine Destruction

The Potential Defendants should be directed to immediately initiate a litigation hold for potentially relevant ESI, documents, and tangible things and to act diligently and in good faith to secure and audit compliance with such litigation hold. They are further directed to immediately identify and modify or suspend features of your information systems and devices that, in routine operation, operate to cause the loss of potentially relevant ESI. Examples of such features and operations include:

- Purging the contents of e-mail repositories by age, capacity or other criteria;
- Using data or media wiping, disposal, erasure or encryption utilities or devices;
- Overwriting, erasing, destroying or discarding backup media;
- Reassigning, re-imaging or disposing of systems, servers, devices or media;
- Running antivirus or other programs effecting wholesale metadata alteration;
- Releasing or purging online storage repositories;
- Using metadata stripper utilities;
- Disabling server or IM logging;
- Executing drive or file defragmentation or compression programs;
- Purging the contents of e-mail repositories by age, capacity or other criteria;
- Using data or media wiping, disposal, erasure or encryption utilities or devices;
- Overwriting, erasing, destroying or discarding backup media;
- Re-assigning, re-imaging or disposing of systems, servers, devices or media;
- Running antivirus or other programs affecting wholesale metadata alteration;
- Releasing or purging online storage repositories;
- Using metadata stripper utilities;
- Disabling server or IM logging; and
- Executing drive or file defragmentation or compression programs.

IV. Guard Against Deletion

The Potential Defendants should anticipate that its employees, officers or others may seek to hide, destroy or alter ESI and act to prevent or guard against such actions. This concern is not one unique to you or your employees and officers. It's simply an event that occurs with such regularity in electronic discovery efforts that any custodian of ESI and their counsel are obligated to anticipate and guard against its occurrence.

V. Preservation in Native Form

The Potential Defendants should anticipate that certain ESI, including but not limited to spreadsheets and databases, will be sought in the form or forms in which it is ordinarily maintained. Accordingly, you should preserve ESI in such native forms, and you should not select methods to preserve ESI that remove or degrade the ability to search your ESI by electronic means or make it difficult or burdensome to access or use the information efficiently in the litigation.

The Potential Defendants should additionally refrain from actions that shift ESI from reasonably accessible media and forms to less accessible media and forms if the effect of such actions is to make such ESI not reasonably accessible.

VI. Metadata

The Potential Defendants should further anticipate the need to disclose and produce system and application metadata and act to preserve it. System metadata is information describing the history and characteristics of other ESI. This information is typically associated with tracking or managing an electronic file and often includes data reflecting a file's name, size, custodian, location, and dates of creation and last modification or access. Application metadata is Information automatically included or embedded in electronic files which may not be apparent to a user, including deleted content, draft language, commentary, collaboration, distribution data and dates of creation and printing. Be advised that metadata may be overwritten or corrupted by careless handling or improper steps to preserve ESI. For electronic mail, metadata includes all header routing data and Base 64 encoded attachment data, in addition to the: To, From, Subject, Received Date, cc, and BCC fields.

VII. Servers

With respect to servers like those used to manage electronic mail (e.g., Microsoft Exchange, Lotus Domino) or network storage (often called a user's "network share"), the complete contents of each user's network share and e-mail account should be preserved.

VIII. Home Systems, Laptops, Online Accounts and Other ESI Venues

The Potential Defendants should also determine if any home or portable systems may contain potentially relevant data. To the extent that officers, board members, employees, or other agents have sent or received potentially relevant e-mails or created or reviewed potentially relevant documents away from the office, you must preserve the contents of systems, devices, and media used for these purposes (including not only potentially relevant data from portable and home computers, but also from portable thumb drives, CD-R disks, and the user's PDA, smartphone, voice mailbox or other forms of ESI storage).

Similarly, if employees, officers, board members or other agents used online or browser-based e-mail accounts or services (such as Facebook, Twitter, AOL, Gmail, Yahoo Mail or the like) to send or receive potentially relevant messages and attachments, the contents of these account mailboxes (including Sent, Deleted, and Archived Message folders) should be preserved.

IX. Ancillary Preservation

The Potential Defendants must preserve documents and other tangible items that may be required to access, interpret or search potentially relevant ESI, including logs, control sheets, specifications, indices, naming protocols, file lists, network diagrams, flow charts, instruction sheets, data entry forms, abbreviation keys, user ID, and password rosters or the like.

The Potential Defendants must also preserve any passwords, keys or other authenticators required to access encrypted files or run applications, along with the installation disks, user

manuals, and license keys for applications required to access the ESI.

The Potential Defendants must additionally preserve any cabling, drivers, and hardware, including the standard 3.5″ floppy disk drive or standard CD or DVD optical disk drive if needed to access or interpret media on which ESI is stored. This includes but is not limited to, tape drives, bar code readers, zip drives, and other legacy or proprietary devices.

X. Paper Preservation of ESI is Inadequate

As hard copies do not preserve electronic searchability or metadata, they are not an adequate substitute for, or cumulative of, electronically stored versions. If information exists in both electronic and paper forms, you should preserve both forms.

XI. Agents, Attorneys and Third Parties

The Potential Defendants' preservation obligation extends beyond ESI in their respective care, possession or custody and includes ESI in the custody of others that are subject to any of the Potential Defendants' direction or control. Accordingly, the Potential Defendants must notify any current or former agent, attorney, employee, custodian, or contractor in possession of potentially relevant ESI to preserve such ESI and must take reasonable steps to secure their compliance.

XII. Do Not Delay Preservation

Should the Potential Defendants' failure to preserve potentially relevant evidence result in the corruption, loss, or delay in the production of evidence to which Michael Williams is entitled in discovery, such failure would constitute spoliation of evidence.

Please contact me directly should you have any questions.

Sincerely,

Michael Williams

Michael Williams

Gmail Exhibit D Michael Williams <[redacted]>

FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023).pdf

Smith, Herbert <[redacted]> Tue, Jul 25, 2023 at 3:26 PM
To: "[redacted]" <[redacted]>
Cc: "Dober, Andrew J." <[redacted]>

Mr. Williams –

Please see attached correspondence regarding your July 20, 2023 Demand for the Preservation of Evidence.

Regards,

Herbert G. Smith II

Counsel, Corporate Litigation Unit

Federal Deposit Insurance Corporation

Cell: [redacted]

fdic.gov

FDIC

FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023).pdf
307K

FDIC LEGAL DIVISION
Federal Deposit Insurance Corporation

July 25, 2023

Via email: [redacted]

Mr. Michael Williams

RE: Preservation Request Dated July 20, 2023

Dear Mr. Williams:

We are counsel to the Federal Deposit Insurance Corporation ("FDIC") regarding your July 20, 2023 Demand for the Preservation of Evidence ("Legal Hold"), which you emailed to multiple groups and individual employees at the FDIC over the last several days. As a preliminary matter, the FDIC denies that it has taken, or reasonably anticipates taking, any action that would give rise to legally supportable litigation by you against the FDIC, including alleged defamation, conspiracy, violation of due process, or otherwise. Second, the Legal Hold is so vague and threadbare in its supposed articulation of claims giving rise to the anticipation of litigation that by its terms the breadth of the Legal Hold is profoundly out of proportion to the sweeping categories and volume of data identified.

Notwithstanding the potentially fatal defects in the Legal Hold, the FDIC takes seriously any request that it preserve evidence in anticipation of litigation. Consistent with the law, the relevant facts, and the Legal Hold, the FDIC will take any and all steps as are appropriate and required by law.

In the future, do not email, correspond with, or otherwise attempt to communicate with any FDIC employee regarding the matters giving rise to your alluded to legal claims. Please direct any such communication directly to FDIC Counsel, Mr. Herb Smith ([redacted] and FDIC Senior Counsel, Mr. Andrew Dober ([redacted]). Finally, if you are personally represented by legal counsel, please have them reach out to Mr. Smith promptly, so that we may avoid further direct contact with someone represented by an attorney.

Sincerely,
Andrew J. Dober
Senior Counsel

Herbert G. Smith II
Counsel

www.fdic.gov
Legal Division
3501 Fairfax Drive, Arlington, VA 22226-3500

Gmail **Exhibit E** Michael Williams <[redacted]>

FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023).pdf

Michael Williams <[redacted]> Wed, Jul 26, 2023 at 3:41 AM
To: "Smith, Herbert" <[redacted]>
Cc: "Dober, Andrew J." <[redacted]>

Mr. Smith & Mr. Dober -

Please review the attached correspondence regarding your July 25, 2023 response to my July 20, 2023 demand for the preservation of evidence.

Regards,

Michael

On Tue, Jul 25, 2023 at 3:27 PM Smith, Herbert <[redacted]> wrote:

> Mr. Williams –
>
> Please see attached correspondence regarding your July 20, 2023 Demand for the Preservation of Evidence.
>
> Regards,
>
> ---
>
> **Herbert G. Smith II**
>
> Counsel, Corporate Litigation Unit
>
> **Federal Deposit Insurance Corporation**
>
> Cell: [redacted]
>
> fdic.gov
>
> FDIC

2023-07-26 - Letter to FDIC RE Williams Response to FDICs Position on Litigation Hold - Signed.pdf
231K

July 26, 2023

Via email [redacted], [redacted]

Mr. Andrew J Dober and Mr. Herbert G. Smith II

RE: FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023)

Dear Mr. Dober and Mr. Smith:

Introduction
Thank you for getting back to me. Your response contains a factual inaccuracy that I sent multiple emails across several days to multiple groups and employees.

To be clear, I sent two emails on the same day, July 20, 2023, at 2:39 AM and 3:19 PM Eastern Time. These emails were sent to the following email addresses, consisting of five shared mailboxes and one individual: legal@fdic.gov, amthompson@fdic.gov, efoia@fdic.gov, ethics@fdic.gov, ITCIP-INFO@fdic.gov.

The first email contained a litigation hold, while the second email contained important instructions requesting the retention of Microsoft Team meetings and contemporaneous notes of the FDIC Insider Threat and Counterintelligence Program (ITCIP) Working Group (ITCIPWG).

Your response purports to treat my request for the preservation of materials as something that must conform to the Federal Rules of Civil Procedure (FRCP), specifically section 8(a)(2). I believe the cause of action alluded to and set out in the letter is more than an unadorned, the-defendant-unlawfully-harmed-me accusation and offers more than "labels and conclusions" or "a formulaic recitation of the elements of a cause of action."

With that said and given the FDIC claiming the initial legal hold has fatal defects, further details would benefit all parties involved and help the Corporation identify the appropriate individuals to whom the hold should be directed, and which materials should be preserved.

While I appreciate the Corporation's perspective that there may be a substantial amount of materials covered by this litigation hold, the cost to the Corporation to advise all parties of their obligations and responsibilities around this hold and the materials that should be covered is minimal. As you are aware, the Corporation has a robust legal hold system in place that further mitigates any costs.

Disclaimer
I write this response to provide further context to the demand for the preservation of evidence and nothing contained herein should constitute or be taken as an enumeration of all causes of action or relevant details, nor a waiver of any rights, all of which I expressly reserve.

Background
Since July 12, 2023, the Corporation has been using the ITCIPWG to engage in a political witch-hunt under the guise of an investigation into my alleged failure to disclose non-operational intellectual property-holding subsidiary companies on my ethics forms and other unrelated nonsense.

During the meetings of the ITCIPWG, specifically, the meetings that occurred from July 12 to July 14, 2023, at least two individuals, Rami Dillon ("DILLON"), Deputy Director, Office of the Chief Information Security Officer, and Amy Thompson ("THOMPSON"), Director of the Office of Communications, for whom I have filed complaints due to alleged unethical or potentially criminal conduct led the charge demanding I be placed on administrative leave.

For convivence, I refer to these individuals using their last name: no disrespect is intended.

At least these two individuals made bombastic, categorically false, and prejudicial claims that had already been adjudicated by the Corporation in an attempt to tarnish my reputation due to my engagement in protected whistleblowing activities against actions they have taken as I enumerated in OIG complaints, I filed against them.

These individuals went so far as to call me a liar in front of a group of people, saying in effect that anything I tell the FDIC is only to benefit my own interests and that I am trying to "preempt" any matters. These individuals repeated statements they read online as factual truth, including abhorrent and categorically false statements that I was engaged in online sexual extortion. They knew the statements were false or if they did not, they failed to use reasonable care to determine the truth or falsity of the statements.

These individuals should have recused themselves from any decisions around my placement on administrative leave rather than engage in a conspiratorial campaign against me. This is especially the case given the clear conflict of interest and tangible benefit Dillon and Thompson have received with me now having to divert time and resources to fight for my job and defend my reputation instead of providing further evidence to my whistleblowing complaints and first-amendment protected journalistic publication of ethical dilemmas at the FDIC.

Adverse Action: Administrative Leave
While I understand the FDIC is likely to contend that the placement of an employee on paid administrative leave does not constitute an adverse action, I argue the opposite.

As you are aware, my duty station is San Francisco, California. The 9th Circuit has held that being placed on paid administrative leave can constitute an adverse employment action for purposes of a constitutionally protected activity retaliation claim[1].

[1] Loss of opportunities to gain job experience and exclusion from career-building work, including when such loss of opportunity results from a paid suspension, amounts to an adverse employment action. *Dahlia v. Rodriquez*, 735 F.3d 1060, 1078 (9th Cir. 2013); "Although administrative leave with pay may be welcomed by some, the threat of forced leave could reasonably deter employees who prefer working from engaging in protected activity." *Dilettoso*

The statements made by Dillion and Thompson were likely defamatory, painted me in a false light, and were made with actual malice due to my protected first amendment and whistleblowing activities violating the First and Fourteenth amendments of the US Constitution. Ms. Thompson threatened, in effect, that if the ITCIPWG did not place me on administrative leave she "would go to the chairman" and blame the members of the group who were arguing against my placement on administrative leave.

Given that these individuals took pretextual actions to chill my protected activities under the guise of a justified action by an insider threat panel, this is clearly an adverse action. If my argument holds, then I should have been entitled to due process protections prior to the action being taken. Based on continued information being provided, Dillion and Thompson have continued to propagate these statements within the FDIC. Despite others on the panel suggesting their suggestions extreme, they have acted relentlessly, with Dillion suggesting that the FDIC should examine every email and network login until they find some reason to remove me.

Should the Corporation have a justified and reasonable concern, there were many other less intrusive options available, including directing me to telework and restricting my network access. At the bequest of Dillon and Thompson, the group considered none of these options and failed to employ a balancing test.

I do not dispute that the Corporation has the right if not the obligation to investigate allegations of wrongdoing. However, any investigation should be done an in impartial manner by a neutral and unbiased factfinder. Allowing at least two individuals who have a clear conflict of interest to abuse the interest of this panel and weaponize administrative leave to suppress and chill my first amendment rights is almost certainly illegal and not in line with the spirit of due process.

The adverse action has had a serious impact on my mental health, and I contend taken with the knowledge that these actions would expose me to contempt and ridicule among my coworkers and inflict significant emotional harm upon me. I told the Corporation that I had been going through a very tough time in my personal life as someone close to me passed away resulting in me taking a week of leave. With this knowledge, I believe some at the FDIC, especially Dillon and Thompson acted negligently to further induce stress upon me creating significant emotional harm.

Moreover, should the Corporation seek to take further adverse actions against me, I intend to raise equitable causes of actions and defenses including, but not limited to, promissory estoppel. The FDIC knew my outside businesses and engagements promised me I would be able to

---

v. Potter, No. CV 04-0566-PHX-NVW, 2006 WL 197146, at *8 (D. Ariz. Jan. 25, 2006); “Suspension, regardless of whether it is paid, is adverse to the employee in and of itself. It is punitive in nature and at a minimum becomes part of one’s permanent employment record, affecting one’s ability for advancement, or to find other future employment, or gaining valuable job experience.” *Mosunic v. Nestle Prepared Foods Co.*, No. 15-cv-380, 2017 WL 3531465, at *3 (D.R.I. Aug. 16, 2017).

continue with them, and now uses this very promise as at least one basis for seeking adverse actions against me.

Communications with FDIC Employees
I understand your demand not to talk with any FDIC employee about these legal claims. I am not a lawyer, and I do not have a duty to exclude represented parties from communications or to refrain from communicating with them directly. I would appreciate it if you made this a kind request rather than a command.

Because of the tone in your letter, I do not explicitly agree to exclude any party from communication and will act in accordance with my best interests. However, as a gesture of goodwill, I will do my best to make sure communication, when possible, is directed to you instead of directly to an individual; however, this should not be taken as an agreement, commitment, or otherwise binding.

I am also pursuing actions against Dillon, Thompson, and potential others in their individual capacities (Bivens action) as I believe their actions under the color of federal authority violate my clearly established constitutional rights (first, fourteenth Amendment) and thus their actions are not entitled to qualified immunity.

Therefore, I ask, are you also representing parties in their individual capacity?

Summary
In summary, taken in the most favorable light to me, the FDIC has ***already*** taken actions that give rise to the likelihood of litigation, and thus it is the duty of the parties to preserve evidence. The recitals contained herein alone would survive an FRCP Rule 12(b) motion to dismiss.

There is a significant incentive for various individuals to conceal, delete, or otherwise spoil evidence, something that has seemingly happened at the FDIC before. Therefore, given the additional information contained within this letter, I reincorporate my demand for the preservation of evidence as written and set out in its original form.

The scope of the litigation hold is commensurate with the seriousness of the allegations I raise and narrowly tailored materials at the center of the controversy.

With all this in mind, please DO NOT DELAY in enacting a proper legal hold, especially the Microsoft Teams recordings for the ITCIPWG and all contemporaneous notes made by participants. This evidence is central to my claims and is likely to be lost should the Corporation not act expeditiously.

Sincerely,

/s/ Michael Williams

Michael Williams

Gmail Exhibit F Michael Williams <[redacted]>

Urgent - Follow Up - Re: FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023).pdf

Michael Williams [redacted]> Thu, Jul 27, 2023 at 11:44 AM
To: "Smith, Herbert" <[redacted]>
Cc: "Dober, Andrew J." [redacted]>

Mr. Smith & Mr. Dober -

I anticipate filing a complaint in the US District Court within the next sixty (60) days with the cause of actions alluded to (but not limited by) those enumerated in my prior correspondence.

Litigation is eminent. I remind you of your obligations to enact a proper legal hold.

Based upon information received from several sources within the Corporation no proper legal hold has been disseminated to the critical parties discussed nor any action taken to preserve the critical evidence needed.

I am being told that this evidence is already beginning to be lost due to the inaction of the agency.

Therefore, I urge you to act expeditiously especially to members of the FDIC Insider Threat and Counterintelligence Program (ITCIP) Working Group (ITCIPWG). All meeting history, recordings, and contemporaneous notes must be retained at once due to their high likelihood of loss.

You have an obligation to inform your service provider Microsoft (teams) to take all possible steps to retain the recording of these meetings.

You've had ample notice of this impending action. I hope your delay is not due to my engagement in constitutionally protected activities including filing an OIG and ethics complaint on the general counsel for failing to disclose an outside company.

Lastly, referring to my previous letter, do you represent the individuals identified in their personal capacity?

Regards,

Michael Williams

On Wed, Jul 26, 2023 at 00:41 Michael Williams <[redacted]> wrote:

> Mr. Smith & Mr. Dober -
>
> Please review the attached correspondence regarding your July 25, 2023 response to my July 20, 2023 demand for the preservation of evidence.
>
> Regards,
>
> Michael
>
> On Tue, Jul 25, 2023 at 3:27 PM Smith, Herbert <[redacted]> wrote:
>
> > Mr. Williams –
> >
> > Please see attached correspondence regarding your July 20, 2023 Demand for the Preservation of Evidence.
> >
> > Regards,

Herbert G. Smith II

Counsel, Corporate Litigation Unit

Federal Deposit Insurance Corporation

Cell: [redacted]

fdic.gov

Gmail Exhibit G Michael Williams <[redacted]>

Extremely Urgent - Re: Urgent - Follow Up - Re: FDIC Response Letter to M. Williams July 20 Demand for the Preservation of Evidence (07.25.2023).pdf

Michael Williams [redacted]> Wed, Aug 2, 2023 at 3:50 AM
To: "Smith, Herbert" <[redacted]>
Cc: "Dober, Andrew J." [redacted], legal@fdic.gov, [redacted]

Counsel Smith, Senior Counsel Dober, Deputy General Counsel Christensen, General Counsel Pettway & (and distinguished members of the FDIC Board),

I still have not heard back from the FDIC regarding my requests for a legal hold. I understand General Counsel Pettway may be attempting to retaliate against me for disclosing a company he has owned since May 2020, yet never disclosed on his ethics forms. Or even worse, perhaps the agency, in general, due to my protected disclosures to the OIG and members of Congress.

If you do not immediately respond to confirm that you have taken affirmative action to ensure my request for a hold is taken upon, I will seek court action ordering the preservation of these materials and reserve the right to furnish this email chain, along with my expert testimony, as evidence as to why a preservation order is needed. I had hoped to refrain from any litigation until the parties had had a chance to discuss the topics including any settlement.

Given your lack of response except to flat-out deny my requests despite having significant knowledge as to the events that foreshadowed my request, and the material prejudice I am incurring with each passing day, there is a significant risk absent a court order that evidence and further evidence may be destroyed.

Based on personal experience working for the agency and expert testimony, evidence will be, if it has not already, lost. The reason the agency introduced such a robust legal hold process is that evidence has been lost without a proper legal hold. This is also why the Corporation has introduced mandatory legal hold training. As of writing, all internal sources say they have not been notified of any legal hold.

I have potential claims, and future litigation is probable, if not inevitable based on actions that have already occurred.

My request is not necessary or burdensome given the robust legal hold system the Corporation has in place. The steps I am asking you to take will be effective and not overbroad. Based on internal sources, I have to tell you that you have not notified *any* third parties to preserve evidence, including specific evidence I stated is absolutely integral to my claims.

DO NOT DELAY: ENACT A PRESERVATION ORDER NOW. Please be sure to activate a proper legal hold. The cost to the Corporation is minimal. The Corporation has a robust legal hold system. Should you not I will move for spoliation, seek sanctions, evidence preservation orders (on an expedited or emergency [ex parte] basis), and further actions as I or a court believe necessary.

I would have expected better or at least an acknowledgement of and from two stewards of justice and the court. Therefore, please respond immediately with what actions, if any, you've taken in response to my now fourth (4th) request for preservation.

Regards,

Michael

On Thu, Jul 27, 2023 at 08:44 Michael Williams <[redacted]> wrote:

> Mr. Smith & Mr. Dober -
>
> I anticipate filing a complaint in the US District Court within the next sixty (60) days with the cause of actions alluded to (but not limited by) those enumerated in my prior correspondence.
>
> Litigation is eminent. I remind you of your obligations to enact a proper legal hold.
>
> Based upon information received from several sources within the Corporation no proper legal hold has been disseminated to the critical parties discussed nor any action taken to preserve the critical evidence needed.
>
> I am being told that this evidence is already beginning to be lost due to the inaction of the agency.

Therefore, I urge you to act expeditiously especially to members of the FDIC Insider Threat and Counterintelligence Program (ITCIP) Working Group (ITCIPWG). All meeting history, recordings, and contemporaneous notes must be retained at once due to their high likelihood of loss.

You have an obligation to inform your service provider Microsoft (teams) to take all possible steps to retain the recording of these meetings.

You've had ample notice of this impending action. I hope your delay is not due to my engagement in constitutionally protected activities including filing an OIG and ethics complaint on the general counsel for failing to disclose an outside company.

Lastly, referring to my previous letter, do you represent the individuals identified in their personal capacity?

Regards,

Michael Williams

On Wed, Jul 26, 2023 at 00:41 Michael Williams <[redacted]> wrote:

> Mr. Smith & Mr. Dober -
>
> Please review the attached correspondence regarding your July 25, 2023 response to my July 20, 2023 demand for the preservation of evidence.
>
> Regards,
>
> Michael
>
> On Tue, Jul 25, 2023 at 3:27 PM Smith, Herbert <[redacted]> wrote:
>
> > Mr. Williams –
> >
> > Please see attached correspondence regarding your July 20, 2023 Demand for the Preservation of Evidence.
> >
> > Regards,
> >
> > _____
> >
> > **Herbert G. Smith II**
> >
> > Counsel, Corporate Litigation Unit
> >
> > **Federal Deposit Insurance Corporation**
> >
> > Cell: [redacted]
> >
> > fdic.gov
> >
> > FDIC