

24A29

ROSALIND HOLMES) CASE NUMBER:
)
Plaintiff - Applicant)
)
vs)
)
United States of America et al.,)
)
Defendant)
)

EMERGENCY MOTION FOR INJUNCTIVE RELIEF

Now comes applicant as a pro-se litigant respectfully requesting an emergency permanent injunctive relief.

Introduction and Background

This emergency application for a preliminary and permanent injunctive relief explains approximately twenty years of long-term conspiratorial retaliation by defendants that began while plaintiff was employed as an Accountant in February 2006. Applicant respectfully request that the Court does not return this emergency motion for injunctive relief as applicant is an indigent pro-se litigant and cannot afford to keep sending it back to the Court for small unnecessary reasons. As plaintiff initially filed this Emergency Motion for Injunctive Relief in this Court on May 15, 2024. Laurie Wood, US Supreme Court Clerk, returned it to applicant requesting that applicant seek relief in the matter of *Holmes vs USA et. al.*, 1:20-cv-00825, when she had previously sought relief in District Court and was denied the relief requested.

Because applicant is suing Joseph Caliguiri and the policies and procedures of the Ohio Disciplinary Counsel and the Ohio Supreme Court are being called into question. Joseph Caliguiri serves at the direction and under the discretion of the Ohio Supreme Court. Taking everything into consideration, this is the equivalent of suing the Chief Judge of the Sixth Circuit and calling into question the policies and procedures of the Sixth Circuit. That is why this case should not be heard by a judge who may have a significant conflict of interest, or in the US District Court S.D. or the Sixth Circuit because of the obvious conflict of interest. This case should be transferred to a judge in another circuit who is capable of rendering impartial decisions in accordance with binding legal precedent.

Based upon the past decisions of the United States District Court for the SD of Ohio issued by Magistrate Litkovitz and Judge McFarland and the fact that no decisions have been issued on this case within approximately a year. Applicant personally does not have any faith that the United States District Court for the SD of Ohio will ever be impartial and issue decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme

Court. In the attached memorandum in support of the emergency motion for injunctive relief applicant has requested that this case be transferred to another circuit judge in accordance with binding legal precedent.

Applicant respectfully requests that Justice Brett Kavanaugh and if applicable the full Supreme Court exercise its discretion and issue emergency injunctive relief as requested by this application. Oh please! Oh please! Take a strong stand to ensure that applicants First, Fourth, Fifth and Fourteenth constitutional rights as well as the rights of others are not further trampled and encroached upon by the FBI and defendants.

This emergency application for injunctive relief seeks injunctive and declaratory relief from the below named defendants.

United States of America; James Comey, Former Director of the FBI; official capacity Adm. Michael Rodgers, Former Director of The National Security Agency, official capacity; Eric Holder, Former Attorney General, official capacity; Kevin Cornelius, Former FBI Special Agent, Cincinnati Division; individual capacity; FBI John Doe(s); Paula Boggs-Muething, Solicitor City of Cincinnati, individual and official capacity; William Hicks, Assistant City Solicitor, individual and official capacity; Emily Woerner, Assistant Solicitor, individual and official; Terrance Nester, Former Assistant City Solicitor, individual and official; John Cranley, Mayor, City of Cincinnati; individual and official capacity; Harry Black, Former Cincinnati City Manager; individual and official capacity; Jeffrey Blackwell, Former Cincinnati Police Chief, individual and official capacity; Scott Stiles, Former City Council Member Councilman, individual and official capacity; Yvette Simpson, Former City Council Member, individual and official capacity; Kevin Flynn, Former City Council Member Cincinnati Councilman; individual and official capacity; Amy Murray, Former City Council Member, individual and official capacity; Chris Seelbach, Current City of Cincinnati Councilman; individual and official capacity; P.G. Sittenfeld, Current City of Cincinnati Councilman; individual and official capacity; Christopher Smitherman, Current Vice Mayor, individual and official capacity; Charlie Windburn, Former City of Cincinnati Councilman, individual and official capacity; Wendell Young, Current City of Cincinnati Councilman, individual and official capacity; Elizabeth Tuck (formerly Loring), individual and official capacity; Tuck Firm; Kelly Mulloy Myers, Partner, Freking, Reul & Myers, individual and official capacity; Randy Freking, Partner, Freking, Myers, Reul individual and official capacity; George M. Reul, Partner Freking, Myers & Reul, individual and official capacity; Freking, Myers, Reul; Tuck Firm; Catherine Russo, Assistant Disciplinary Counsel, individual and official capacity; Joseph Caligiuri, Disciplinary Counsel, individual and official capacity; The Estate of Scott Drexel, Former Ohio Disciplinary Counsel, individual and official capacity; Jessica Banks, Lakefront at West Chester Property Manager, individual and official capacity; Jacque Keller, Lakefront; Lakefront at West Chester; PLK Communities, State of Ohio, Georgia Pacific; Georgia Pacific Does individual and official capacity; Enterprise Rent A Car; Enterprise Rent A Car Does, individual and official capacity, Landings at Beckett Ridge, Hills Properties, Jenn Taylor, Landings Property Manager, individual and official capacity, Regina Bray, Hill Properties Regional Manager, individual and official capacity, Butler County Sheriff Richard K. Jones, individual and official capacity Sergeant Connie Rockey, individual and official capacity, Honorable Jeffrey Schlessman, individual and official capacity, Assistant Butler Cty., Oh Prosecutor, individual and official capacity, Honorable Michael Gmoser, Prosecutor, Butler Cty., Oh., individual and official capacity, Debbie Bolser, Clerk, Butler Cty., Area I, II, & III Courts, Connie Miller, Assistant Clerk, Butler Cty., Oh., individual and official capacity, Macy's Inc., David Clark, Executive Vice President, individual and official capacity, Thomas Cody, Vice Chair, individual and official capacity, Sheryl Long, individual and official capacity, Four Bridges, Butler County, Ohio, Dinsmore & Shohl LLP, Does of Dinsmore and Shohl LLP., Christ Hospital and Does of Christ Hospital.

On October 20, 2020, plaintiff filed Motion for Equitable Tolling due to Defendants F.B.I., City of Cincinnati, State of Ohio Disciplinary Counsel, and others Fraudulent Concealment. Subsequently, plaintiff also filed a motion for

preliminary relief on October 20, 2020. On February 8, 2020, Magistrate Karen Litkovitz denied plaintiffs' motions for equitable tolling due to defendant's fraudulent concealment. In denying plaintiffs' motion for fraudulent concealment Magistrate Karen Litkovitz stated:

Equitable tolling generally "applies when a litigant's failure to meet a legally mandated deadline unavoidably arose from circumstances beyond that litigant's control." *Graham-Humphreys v. Memphis Brooks Museum of Art, Inc.*, 209 F.3d 552, 560-61 (6th Cir. 2000) (citing *Baldwin County Welcome Ctr. v. Brown*, 466 U.S. 147, 151 (1984)). Plaintiff bears the burden of establishing equitable tolling applies to her claims. *Jackson v. United States*, 751 F.3d 712, 718-19 (6th Cir. 2014). To carry her burden, plaintiff must demonstrate more than just "a garden variety claim of excusable neglect." *Zappone v. United States*, 870 F.3d 551, 556 (6th Cir. 2017) (quoting *Chomic v. United States*, 311 F.3d 607, 615 (6th Cir. 2004)). Equitable tolling is applied sparingly. *Zappone*, 870 F.3d at 556 (citing *Jackson*, 751 F.3d at 718). Whether to apply equitable tolling in a given case "lies solely within the discretion of the trial court." *Betts v. C. Ohio Gaming Ventures, LLC*, 351 F. Supp. 3d 1072, 1075 (S.D. Ohio 2019) (citing *Truitt v. Cty. Of Wayne*, 148 F.3d 644, 648 (6th Cir. 1998)). Courts in the Sixth Circuit consider five factors to determine whether the equitable tolling doctrine should be applied. *Zappone*, 870 F.3d at 556 (citing *Jackson*, 751 F.3d at 718) (citing *Truitt*, 148 F.3d at 648). The factors are: (1) lack of notice of the filing requirement;(2) lack of constructive knowledge of the filing requirement; (3) diligence in pursuing one's rights; (4) absence of prejudice to the defendant; and (5) the plaintiffs' reasonableness in remaining ignorant of the particular legal requirement. *Truitt*, 148 F.3d at 648.Often "the most significant consideration in courts' analyses" will be the plaintiffs' "'failure to meet a legally-mandated deadline' due to 'unavoidable[le] . . . circumstances beyond'" the plaintiffs' control, not any one of the five *Truitt* factors. *Zappone*, 870 F.3d at 556 (quoting *Graham-Humphreys*, 209 F.3d at 560-61) (citations omitted) Plaintiff has failed to allege facts justifying equitable tolling in this case. Her conclusory allegations of a secret conspiracy, warrantless surveillance, and retaliation are insufficient to meet her burden to show her failure to meet the statutory deadlines for filing her causes of action were due to circumstances beyond her control. *Zappone*, 870 F.3d at 556. Nor has plaintiff shown that she satisfied the five *Truitt* factors. Plaintiff fails to present an argument or explanation why the facts of this case warrant the benefit of equitable tolling. Because plaintiffs' federal claims are time-barred and the doctrine of equitable tolling does not apply, her claims pre-dating October 2018 should be dismissed. (*Holmes v. U.S.A. et al.*, No: 1:20-cv-00825, Magistrate Report and Recommendation, RE13, PAGE ID 1421-1423)

In this instance, plaintiffs' motion specifically requested equitable tolling due to **defendants fraudulent concealment and conspiracy**, the District Court, applied the incorrect legal standard of the doctrine of equitable tolling, generally. The correct legal standard of equitable estoppel or equitable tolling due to defendants fraudulent concealment is distinguishable from the doctrine of equitable tolling, generally. Equitable tolling generally allows a plaintiff to extend the limitations period when they have been prevented in some extraordinary way from asserting their claims timely. A plaintiff invoking the doctrine of equitable tolling generally asserts that some **extraordinary circumstances beyond their control prevented them from asserting their claims timely**. The general doctrine of equitable tolling **does not** involve a situation where a defendant engages in misconduct or conspiracy and takes steps to conceal their claims. By contrast, equitable tolling due to defendants fraudulent concealment **involves situations where a defendant has taken actions to prevent a plaintiff from discovering and asserting their claims timely**. More importantly, the District Court relied on clearly erroneous facts when they dismissed counts I-XXIII of plaintiffs' amended complaint. Plaintiff properly plead facts sufficient to explain the fraudulent acts of each defendant, the circumstances of the alleged fraud with sufficient particularity including the dates, times, place, who, what, where, when, why and how in her amended complaint and motion.

On February 22, 2021, plaintiff filed her objections to Magistrate Litkovitz's report and recommendation and clearly outlined by page number the fraudulent concealment committed by defendants that were included in her memorandum to her motion for equitable tolling due to defendant's fraudulent concealment. (*Holmes v. U.S.A. et*

al., No: 1:20-cv-00825, Objections to the Magistrate R &R, RE 14, PAGEID #: 1429-1447) Plaintiffs' motion for equitable tolling by fraudulent concealment¹ and objections² filed in federal court provide an explanation (date, time, place, who, what, why, how, when and where) of the fraudulent concealment committed by defendants and each page number of where Magistrate Judge Karen Litkovitz and Judge Matthew McFarland could have referenced. Despite filing the objections, on February 26, 2021, Judge Matthew McFarland issued his order adopting the report and recommendation of Magistrate Judge Litkovitz. (*Holmes v. USA et al.*, No: 1:20-cv-00825, Entry and Order, RE18, PAGE ID 1467-1468) Judge Matthew McFarland's decision to adopt Magistrate Litkovitz's R & R, is prejudicial and represents a clear error or abuse of discretion mandating immediate reversal.

Judge McFarland final order left plaintiffs' claims against Georgia Pacific one single defendant which is where the matter *Holmes v. U.S.A. et al.*, No: 1:20-cv-00825, USDC SD of Ohio is intact.

As explained in applicants' memorandum in support of the preliminary and permanent injunction. On November 15, 2022, applicant filed a Writ of Mandamus Case number 22-6505 in the US Supreme Court where she notified the Supreme Court that Judge McFarland's political and professional relationship with Chief Justice O'Connor the BPC and the Ohio Disciplinary Counsel presented a significant conflict of interest and weighs heavily on his requirement to be a fair and impartial judge and presented the appearance of impropriety. Coincidentally, on December 22, 2022, Chief Judge Marbley reassigned applicants' case to Judge Jeffrey Hopkins.

In her Writ and Application plaintiff explained that on October 20, 2020, she filed a federal complaint pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* and *Davis vs Passman* and included the FBI Cincy, Ohio Disciplinary Counsel, City of Cincinnati, Freking, Myers, Reul, and Elizabeth Tuck among others. *Holmes v USA et.al.* 1:20-CV-00825, U.S. Dist. Court S.D. of Ohio Plaintiff explained her frustration with Magistrate Judge Litkovitz and Judge Matthew McFarland repeated orders that were contrary to federal law and binding legal precedent in the Sixth Circuit and US Supreme Court. Plaintiff also criticized U.S. Magistrate Judge Karen Litkovitz, and Judge Matthew McFarland, United States District Court Southern Division of Ohio, judgments as an abuse of discretion and asked that their orders be vacated.

Plaintiff also criticized Judge Courtney Caparella-Kramer of Butler County Area III Court, August 19, 2021, order of an eviction against Plaintiff, as exceeding her subject matter jurisdiction, and asked for the order to be vacated. She also criticized Judge Dan Haughey, former Butler County Area III Court Judge, March 4, 2020, order of an eviction against her as an abuse of discretion and asked for the order to be vacated. Plaintiff explained that she was consistently harassed by the FBI Cincy who placed camera's into her apartment, unlawfully entered her apartment, sabotaged and stole her personal belongings, and circulated chemicals and foul odors throughout her apartment among other criminal activities.

Plaintiff explained to the United States Supreme Court that the repeated adverse judgments demonstrated partiality, prejudice, discrimination, retaliation, gross indifference and bias against Plaintiff, were contrary to binding legal authority as established by the U. S. Court of Appeals Sixth Circuit, the Ohio Supreme Court and the U.S. Supreme Court and violates the judicial code of conduct for U.S. judges. The orders issued by the judges involved in the matters were in direct violation of Plaintiffs' right to equal protection and due process guaranteed under the Fifth and Fourteenth Amendment to the U.S. Constitution.

¹ On November 3, 2020, Petitioner filed a Motion for Equitable tolling based on defendants fraudulent concealment, breach of contract due to fraudulent concealment and retaliation, etc. (*Holmes v. United States of America et al.*, No: 1:20-cv-00825, Motion for relief, RE 6, PAGEID #: 1119-1147)

² On February 22, 2021, Petitioner filed Objections to Magistrate Litovitz's Report and Recommendation where she outlined the fraudulent act taken to conceal her claims. (*Holmes v. United States of America et al.*, No: 1:20-cv-00825, Objections to the Magistrate R &R, RE 14, PAGEID #: 1429-1447)

Plaintiffs' November 15, 2020, writ of Mandamus filed in the U.S. Supreme Court 22-6505, meticulously explained her criticisms of the thirty-six orders and justified by legal precedent, merits, and evidence. Subsequently, on May 13, 2023, plaintiff filed an application for injunctive relief in the US Supreme Court. Plaintiff can't understand why the United States Supreme Court denied her entire writ of mandamus and application for injunctive relief. Defendants Butler County Ohio Sheriff Richard K. Jones, FBI-Cincy, City of Cincinnati, State of Ohio Disciplinary Counsel, Freking, Myers, & Reul, LLC, Judge Courtney Caparella-Kramer, amongst many others were given a fair opportunity to defend against plaintiff, Rosalind Holmes' claims. In fact, Prosecutor, Mike Gmoser, of Butler County, Ohio, civil team represented Judge Courtney Caparella-Kramer, and Magistrate Judge Federick Miller.

On March 20, 2023, the United States Supreme Court held a conference on Plaintiffs' writ of mandamus and application both were denied. On March 24, 2023, plaintiff was fired from her job as a Senior Accountant with Huffey Corporation in direct retaliation for filing her application for injunctive relief. Plaintiff worked for Huffey Corporation from February 27, 2023, to March 24, 2023, less than one month of employment.

On August 8, 2023, defendants engaged in conspiratorial retaliation by filing false criminal charges of making false police report pursuant to O.R.C. 2917.32 against her in the matter of **State of Ohio vs. Rosalind Holmes Case No: CVG2300684** Butler County Area II Court. Judge Kevin C. McDonough recused himself from the criminal case for reasons not known to applicant. Therefore, the matter of **State of Ohio vs. Rosalind Holmes Case No: CVG2300684** Butler County Area II Court was transferred to **State of Ohio vs. Rosalind Holmes Case No: CRB2300455 Butler County, Ohio Area I Court.**

Now it is time for the US Supreme Court to exercise its' jurisdiction over this matter. To ensure that the government quarterbacks never conspire with corporate executives, employees and others to chill another American citizens free speech rights to petition the government for redress of grievances. This false arrest and prosecution is representative of the defendant's conspiratorial, discriminatory and retaliatory animus and ulterior motives against plaintiff in direct violation of the due process and equal protection clauses to the Fifth and Fourteenth Amendment. Respectfully the false arrest significantly reeks of the Ohio and federal judiciary involvement in the ongoing conspiratorial retaliation against applicant and violation of federal, state and local law.

There is a significant deficit in the power and influence possessed by applicant as compared to defendants which has resulted in an egregious abuse of power on the part of defendants. The fact that applicant due process rights were violated courts by the lack of impartiality by the judges involved in the matter of *Holmes v. USA et.al.*, 1:20-cv-00825 inequities in the distribution of justice, to applicant.

The Retaliatory Arrest and Prosecution of Plaintiff

State of Ohio vs. Rosalind Holmes Case No: CRB2300455 Butler County, Ohio Area I Court

On August 8, 2023, approximately five months after she had filed her application for injunctive relief to the U.S. Supreme Court. In direct retaliation for requesting mandamus and injunctive relief plaintiff was handcuffed, arrested and accused of making a false report to the Butler County Sheriff's an alleged offense or other incident within its concern, knowing that such offense did not occur. **R.C. 2917.32(A)(3)** (Exhibit 60)

Although, Rosalind Holmes, had no criminal record and was not a flight risk, she was booked and spent a day in the Butler County Jail, wearing a brown jail shirt, and forced to sit tightly handcuffed and shackled on a metal bench. Instead of taking Sgt. Connie Rockey's affidavit to a judge or prosecutor for review the Butler County Sheriff's Office submitted the affidavit to Debbie Bolser and Connie Miller, both non-attorney Clerks, Butler County Area I, II, & III, who reviewed the affidavit and issued a warrant for plaintiff's arrest. (Exhibit 61) The next day plaintiff was tightly handcuffed, shackled and transported to the Butler County Area I Court, where she was arraigned around 2:00 pm

and released on her own recognizance. The affidavit filed with the Court and signed by Sgt C. Rockey 1709 clearly exaggerated my report and stated the following:

July 23 2023 at 0121 hrs. Rosalind Holmes reported to the Butler County Dispatch Center that the property management and the government are pumping foul odors into her apartment.

July 23, 2023 at 0950 hrs. Rosalind Holmes reported to the Butler County Dispatch Center that she will continue to call 911 until the property management stops pumping foul odors into her apartment and reports the government is harassing her.

July 23, 2023 at 2155 hrs. Rosalind Holmes reported to the Butler County Dispatch Center that the, F. B. I. is going into her walls, messing with her electricity and changed her \$50.00 bill.

On the Main Document of this Writ of Mandamus which lists 121 pages, please review page number 75 using the digital numbering. (65 using physical page numbering) With respect to petitioners' police reports filed with the Butler County Sheriff, plaintiff reports to the police consistently stated the following:

[Plaintiff]... has made several reports to Four Bridges property management and the Butler County Sheriff's office about people entering her apartment stealing, sabotaging her personal belongings, going into her purse and stealing, circulating foul odors throughout the air, such as cat pee, dog poop, and chemicals that irritate her upper respiratory system, etc.

Additionally, on pages 50, 51, and 108 of this Writ of Mandamus which lists 121 pages, with respect to the West Chester, Ohio, Police, plaintiffs' police reports consistently stated the following:

Please stop the harassment through the air conditioning vents. I have been smelling foul odors and I believe the air conditioning vents and air conditioning is set-up or booby trapped to allow foul odors of cat pee, dog poop, smoke and other foul odors to circulate through the air conditioning vents. I have experienced unexplained vomiting, coughing, sneezing and upper respiratory issues due to this illegal harassment." (*Holmes vs. The Honorable, Judge C. Caparella-Kraemer* No: 22-0683, Exhibit 20). Lakefront intentionally circulated cat pee a.k.a. ammonia, dog poop, smoke, etc., throughout the vents and the ducts of petitioners' apartment to cause physical harm and/or death and to ensure petitioner would be incapable of attending the eviction hearing held, in the Butler County Area III Court on August 18, 2021.

The same information cited above was filed in the US Supreme Court January 10, 2023, Writ of Prohibition case number 22-6505. More importantly, Exhibits 1 and 2 physical page numbers 1-38, which consist of several incident and police reports that petitioner had already included in her Writ of Prohibition 22-6505 and her Motion for Injunctive Relief filed May 13, 2023 with the U.S. Supreme Court. In her motion for injunctive relief petitioner stated the following:

Every time petitioner contacts the police the Butler County Sheriff Department claims they cannot assist with the unlawful entry and no investigation ensues. The Butler County Sheriff's Office has branded petitioner as being paranoid and suffering from a mental illness for reporting what she reasonably believes is harassment by the F.B.I. and Respondents. As petitioner explained in her writ of prohibition, the Butler County Sheriff along with the Butler County Crisis Team unlawfully placed her on a 72-Hold in the Psychiatric Unit of Christ Hospital. The Butler County Sheriff's actions toward petitioner of writing reports alleging that petitioner is paranoid and suffering from a psychotic mental illness and placing her on a 72-hour hold is direct proof that petitioner is receiving substandard and decreased police services.

Therefore, petitioner cannot rely on the local law enforcement, to protect her and she is not safe. This factor weighs heavily in favor of granting a permanent injunction. As petitioner cannot expect local law enforcement protection from the FBI, she is being asked to supply the Butler County Sheriff's office with physical evidence such as a video or intruders entering her home. This is virtually impossible; petitioner has cameras setup in her apartment which run by WI-FI and subject to hacking by the FBI. Even if petitioner could purchase a camera that doesn't require the use of WI-FI she would have to order it to be shipped to her. Since respondents have been intercepting petitioners mail and delaying, sabotaging packages they can easily intercept petitioners' shipment for a camera that does not require the use of WI-FI, and sabotage, tamper, and alter the functioning of any camera that petitioner buys without notifying this petitioner.

In her May 13, 2023, Motion for Injunctive Relief, filed in the U.S. Supreme Court she respectfully requested that the Court

Issue an order to the Butler County Sheriff's Office to destroy any police reports referencing that petitioner may be suffering from a mental illness. In the alternative, redact information referencing that petitioner may be suffering from a mental illness and require permission from the US Supreme Court to release and unredacted report to anyone. Sgt. Connie Rockey and Debbie Bolser, Butler County Area I, II, & III, Clerk, undertook a series of highly unusual maneuvers to circumvent the district attorney's office, ensuring that Rosalind Holmes would be arrested and jailed, rather than simply issued a summons. (Exhibit 61) On September 11, 2023, plaintiff hired Attorney Clyde Bennett to represent her in this criminal matter and he filed a motion for discovery. (Exhibit 62)

Upon receiving plaintiffs' discovery request, Jeffrey Schlessman, Assistant Butler County Prosecutor submitted the same police reports plaintiff provided in her petition for mandamus and application for injunctive relief filed in the United States Supreme Court. (Exhibit 63) Even though, Defendant FBI Cincy, City of Cincinnati, Ohio Disciplinary Counsel, Freking, Myers, Reul LLC., Elizabeth Tuck, Butler County Sheriff's Office, Judge Courtney Caparella-Kramer and many others were provided a fair opportunity to defend against plaintiffs' claims.

Ultimately, Jeffrey Schlessman was using the same police reports that were included in plaintiff's application for injunction and petition for mandamus filed in the United States Supreme Court to obtain a conviction. Thereby, relitigating the same claims and issues that had been litigated in other courts, which is unlawful under the doctrine of claim preclusion.

On April 18, 2024, the case was dismissed in the Butler County Area I Court, Oxford, Ohio after plaintiff defended the false criminal charges of making false alarms for nearly ten months. (Exhibit 64) The unlawful arrest and prosecution gives rise to retaliation and/or malicious prosecution in violation of plaintiff's First, Fourth, Fifth and Fourteenth Constitutional rights.

As plaintiff, believes that defendants tried to extort her because they had an ulterior motive behind the decision to initiate a false arrest and prosecution. That ulterior motive was to obtain a conviction, admission of guilt or to place her in a treatment in lieu of prosecution program to defend or sow deception about her competency in the U.S. District Court amongst others. This constitutes a malicious prosecution claim.

Holmes vs U.S.A et. al. Case No: 1:20-cv-00825, 10/20/2020, USDC SD Ohio

On May 8, 2024, plaintiff filed an Amended Complaint (Doc# 109), in the matter of *Holmes vs USA et.al.*, Case No: 1-20-CV-00825, on May 14, 2024, plaintiff filed an Emergency Motion for Leave to File Third Amended Complaint (Doc 111), On May 21, 2024, plaintiff filed an Emergency Motion for Leave of Court (Doc# 114) and Emergency Motion for

Injunctive Relief (Doc# 115) in the matter of *Holmes vs. USA et.al.*, 1:20-CV-00825. On May 21, 2024, Magistrate Litkovitz issued an order denying her motion for leave to file the third amended complaint Dkt. 116. Magistrate Litkovitz stated the following, "pending the District Judge's ruling on the Court's Report and Recommendation of dismissal (Doc. 98). Consistent with that Order (Doc. 106) and in the interests of judicial economy, the Court **DENIES** plaintiff's motion (Doc. 111) without prejudice to refile if the District Judge rejects that recommendation and orders that this action may continue."

On October 25, 2022, Magistrate Litkovitz issued her report and recommendation to dismiss this case for want of prosecution. (Doc# 98) The report and recommendation has been under the advisement of the Court for over a year. The Court has not issued a decision to dismiss this case for want of prosecution in over a year. Moreover, Georgia Pacific never requested a response from Judge Hopkins and failed to file a writ. It should be obvious that the Court has denied the dismissal for want of prosecution, but Magistrate Litkovitz and Georgia Pacific are attempting to resurrect and revive Georgia Pacific's attempt to have this case dismissed. Magistrate Litkovitz has **REPEATEDLY** issued judicial decisions that are prejudicial, an abuse of her discretion or result in clear error.

From October 25, 2022, - May 15, 2024, Georgia Pacific never once requested the Court to issue an Order on DKT 98 and failed to file a Writ. The fact that Georgia Pacific has never contacted chambers or requested a decision on DKT 98 for over an entire year demonstrates that they were not duly diligent in prosecuting this case and have unreasonably delayed the case. If Georgia Pacific was diligently acting in good faith, they would not have waited over an entire year to ask the Court for an order on Magistrate Litkovitz's report and recommendation. Dkt 98

On the other hand, plaintiff was diligently pursuing this case in good faith because she contacted chambers on several occasions beginning in August of 2023 requesting to know if the Court required additional information from her and why they had not issued any orders. (Exhibit 1)

More importantly, on November 6, 2022, Dkt. 99, plaintiff submitted a doctor's excuse to the Court which explained her reasons for missing a scheduling conference were due to medical necessity. Additionally, as explained in plaintiffs' third amended complaint and emergency motion for injunctive relief, Georgia Pacific and the defendants named in the Third Amended Complaint, conspired to prevent plaintiff from attending the conference as scheduled by the Court. Plaintiffs' evidence and explanation would negate Magistrate Likovitz's R & R Dkt. 98 to dismiss the case for want of prosecution. In addition, Georgia Pacific and the defendants named in the Third Amended Complaint have conspired by engaging in long-term retaliation, involving an August 9, 2024, retaliatory arrest and prosecution that lasted for approximately **TEN** months, wrongful terminations, wrongful evictions, falsification of plaintiffs' medical records, denial of medical and dental services, deficient police services, etc. All of which has been documented in plaintiffs' third amended complaint and emergency motion for injunctive relief.

On June 10, 2024, Georgia Pacific filed a response to plaintiffs' Motion to Transfer the case to another circuit Dkt. 124. In Dkt. 127, Defendants have argued, "Plaintiff references her retaliatory arrest and prosecution. *Id.*, pp. 4-6. This is irrelevant – Georgia-Pacific (the only defendant in this case) did not arrest or prosecute Plaintiff. Plaintiff claims housing retaliation. *Id.*, pp. 6-7. However, Georgia-Pacific had nothing to do with Plaintiff's housing and Plaintiff does not claim any such connection existed. Plaintiff references warrantless surveillance. *Id.*, pp. 7-8. But Plaintiff does not claim that Georgia-Pacific ever surveilled her or is in any way related to her allegations. In short, Plaintiff's motion has nothing to do with the only defendant in this case."

On February 1, 2023, Magistrate Litkovitz issued a **stay of discovery and dispositive motions**. Dkt 106 Defendants claims that plaintiff has no respect for the Court or Georgia Pacific are without merit. Every motion that plaintiff has filed is permissible under federal law. Plaintiff has filed **several non-dispositive motions such as motion for leave to**

amend, motion for injunctive relief, motion to transfer the case to another circuit court which have merit and rely on binding legal precedent of the Sixth Circuit, Ohio Supreme Court and the United States Supreme Court. Based upon the past decisions issued by Magistrate Litkovitz and Judge McFarland and the fact that no decisions have been issued on this case in over a year. Plaintiff personally does not have any faith that this Court will ever be impartial and issue decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court.

Additionally, applicant has contacted Judge Jeffrey Hopkins and Chief Judge Algenon Marbley and have not received any response from February 4, 2024, to the present. (Exhibit 1)

Law and Analysis

Federal Rule of Civil Procedure 15(a)(2) allows parties to make consecutive amendments to their pleadings only with leave of the opposing party or the court. The latter should allow amendments when justice so requires.

Plaintiff contends that she should be allowed to amend her pleadings to include the defendants listed in her Third Amended Complaint because it will "ensure plaintiffs' ability to obtain preliminary, and permanent injunctive relief from all defendants if she prevails in the litigation. Moreover, the plaintiff argues that her amendment passes the muster under the Supreme Court's *Foman* test, which lists factors that the District Court is to consider in determining whether to grant a plaintiff's permissive Motion to Amend

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"Where the underlying facts would support a claim [,] leave to amend should be granted, except in cases of undue delay, undue prejudice to the opposing party, bad faith, dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, or futility." *Duggins v. Steak 'N Shake, Inc.*, 195 F.3d 828, 834 (6th Cir. 1999) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)). A finding of prejudice is the most significant of the *Foman* factors, however. *Moore v. City of Paducah*, 790 F.2d 557, 562 (6th Cir. 1986) (If a court is to deny a motion to amend, there must be "at least some significant showing of prejudice to the opponent").

So far, discovery has not even begun in this case because of the following:

- (1) Because defendants FBI, City of Cincinnati, Georgia Pacific, Macys, Freking Myers Reul LLC, Dinsmore & Shohl, LP, and others have engaged in a long-term retaliation to exact revenge against this plaintiff. As explained in plaintiff's Third Amended Complaint and in the matter of *In Re Rosalind Holmes*, Case No: (23A1033) United States Supreme Court. Plaintiff has been subjected to an August 9, 2024, retaliatory arrest and prosecution that lasted for approximately TEN months, wrongful terminations, wrongful evictions, homelessness, falsification of her medical records, denial of medical and dental services, deficient police services, deficient medical treatment by medical doctors, judicial bias, etc.

Due to defendants ongoing campaign of retaliation to exact revenge against plaintiff, she has had to attend multiple legal proceedings and defend herself in the Area II Court, Butler County, the 12th District Court of Appeals, the Ohio Supreme Court, United States District Court and the United States Supreme Court. This has resulted in the lack of judicial economy, abuse of the judicial system and the unnecessary cost and delay of filing several unnecessary pleadings within the federal, state and local Courts. This is explained in great detail in plaintiffs' Third Amended Complaint and is a reasonable explanation for any delay by this plaintiff.

Plaintiff has been wrongfully evicted four times first from Bridges Domestic Violence Center, which is a women's shelter located in Franklin, Tennessee. Second from Landings at Beckett Ridge located in West Chester, Ohio, owned by Hills Properties, March 4, 2020. The third eviction involved Lakefront at West Chester, owned by PLK Communities, located in West Chester, Ohio, August 19, 2021. Fourth, from Latitude Apartments located in Mason, Ohio, on January 26, 2024. Her living situation is unstable and can change at any point with or without notice. Plaintiff is currently unemployed and homeless and having to travel by car back and forth from Mason, Ohio, Radcliff, Kentucky, Nashville, Tennessee and Sandy Springs, Georgia.

"Where the underlying facts would support a claim[,] leave to amend should be granted, except in cases of undue delay, undue prejudice to the opposing party, bad faith, dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, or futility." *Duggins v. Steak 'N Shake, Inc.*, 195 F. 3d 828, 834 (6th Cir. 1999) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)). A finding of prejudice is the most significant of the Foman factors, however. *Moore v. City of Paducah*, 790 F. 2d 557, 562 (6th Cir. 1986) (If a court is to deny a motion to amend, there must be "at least some significant showing of prejudice to the opponent").

Whether the Potential Joinder is Permissible Under Fed. R. Civ. P. 20

The Supreme Court has stated that where there is a common question of fact or law and the claim against the new defendant asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences, a plaintiff may join a new defendant into an existing action. *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). In the Sixth Circuit, the term "transaction or occurrence" is given a broad interpretation. *Lasa Per L'Industria Del Marmo Societa Per Azioni v. Alexander*, 414 F.2d 143, 147 (6th Cir. 1969). "The purpose of Rule 20(a) is to promote judicial economy and trial convenience." *Nevada-Martinez v. Amhad*, 2016 WL 1559426 (E.D. Ky. April 15, 2016) at *13 (quoting *Evans v. Midland Funding, LLC*, 574 F. Supp. 2d 808, 811 (S.D. Ohio 2008)).

Joinder of Georgia Pacific complies with the requirements of Rule 20(a). There is a common question of law and fact that applies to all the proposed defendants (whether they jointly, severally, and collectively, engaged in a conspiracy of retaliation in the context of retaliatory terminations to exact revenge against plaintiff), and Georgia Pacific is alleged to have done so jointly and severally (engaged in conspiratorial retaliatory terminations of plaintiff) as the additional defendants included in plaintiffs third amended complaint. Moreover, the joinder of the additional defendants will achieve the goal of judicial economy, as the Plaintiff will not be forced to file additional, separate lawsuits against the additional defendants included in her Third Amended Complaint.

B. Plaintiff's Motion for Injunctive Relief

On May 15, 2024, Defendants filed their Brief in Opposition to Plaintiff's Motion for Leave to Amend filed on May 8, 2024. Defendants contend, that "plaintiff failed to show any interest in prosecuting her case in an orderly manner herself when she had the chance. Plaintiff has **unreasonably delayed** in prosecuting her case and has failed to proceed in good faith. The Court has yet to rule on Judge Litkovitz's Report and Recommendation, and discovery has

been stayed for over a year pending a ruling.” Dkt. 106. Georgia-Pacific **will be prejudiced** if it is required to continue spending time and legal fees addressing matters in this lawsuit that do not even remotely relate to Plaintiff’s claims against the company or to her employment with Georgia-Pacific.” *Holmes vs. USA, et. al.*, Case No: 1-20-cv-00825, U.S. District Court, Doc. 112, Brief in Opposition To Motion for Leave to File Third Amended Complaint

Defendants claims that plaintiff has no respect for the Court or Georgia Pacific are without merit. Every motion that plaintiff has filed is permissible under federal law. Plaintiff has filed several non-dispositive motions such as motion for leave to amend, motion for injunctive relief, motion to transfer the case to another circuit court which have merit and rely on binding legal precedent of the Sixth Circuit, Ohio Supreme Court and the United States Supreme Court. Based upon the past decisions issued by Magistrate Litkovitz and Judge McFarland and the fact that no decisions have been issued on this case in over a year. Plaintiff personally does not have any faith that this Court will ever be impartial and issue decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court.

Once an agreement is established and a wrong committed, any co-conspirator may be liable for all unlawful acts done to further that agreement. The Defendant can attack the conspiracy claim in several ways: 1. By disproving the underlying unlawful act to which the conspiracy claim is a derivative. 2. By disproving the elements of the conspiracy claim. 3. By proving the partial affirmative defense of withdrawal or abandonment. Once a person becomes a member of a conspiracy, that person remains a member until they actively withdraw from it. Indeed, the person is presumed to continue in the conspiracy unless they produce affirmative evidence of withdrawal. Withdrawal is typically only a partial defense: If the defendant is proven to have joined the conspiracy, subsequent withdrawal won't negate their liability for participation in the conspiracy and its acts up to the point of withdrawal. Instead, it limits the defendant's liability for any actions taken by the conspirators after the defendant's withdrawal. That is, it cuts off the defendant's liability at the date of withdrawal.

In *Lugar v. Edmondson Oil Co.*, 639 F.2d 1058 (4th Cir.), cert. granted, 452 U.S. 937, 101 S.Ct. 3078, 69 L.Ed.2d 951 (1981), the court stated that the concert of action between private actor and state official required to support a finding of section 1983 liability "implies such a usurpation or corruption of official power by the [private party] or surrender of power by the [state official] that the independence of the enforcing official has been compromised to a significant degree and the official powers have become in practical effect shared by the two."

In *Adickes v. Kress Co.*, 398 U.S. 144, 90 S. Ct. 1598 (1970) the Supreme Court held that a private person who conspires with government actors to deprive a plaintiff of her constitutional rights acts "under color of law" for purposes of § 1983. Under Section 1983, conduct allegedly causing the deprivation of a constitutional right protected against infringement by a State must be fairly attributable to the State.

In determining the question of "fair attribution," (a) the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by it or **by a person for whom it is responsible, and (b) the party charged with the deprivation must be a person who may fairly be said to be a state actor, either because he is a state official, because he has acted together with or has obtained significant aid from state officials,** or because his conduct is otherwise chargeable to the State. If the challenged conduct of the defendant constitutes state action as delimited by this Court's prior decisions, then that conduct is also action under color of state law and will support a suit under § 1983. *Lugar v. Edmondson Oil Co.*, 639 F.2d 1058 (4th Cir.), cert. granted, 452 U.S. 937, 101 S.Ct. 3078, 69 L.Ed.2d 951 (1981) Pp. 926-935.

Since Georgia Pacific has not successfully attacked plaintiff's claims of conspiracy by producing affirmative evidence. This Court must assume that plaintiffs' claims are true and that Georgia Pacific cannot defend against the conspiracy.

Conclusion

Based on the foregoing, there is no reasonable explanation that Magistrate Litkovitz should have to deny my motions for leave to amend and file my Third Amended complaint and Motion of Injunctive Relief. Additionally, there is no reasonable explanation as to why this case should be further delayed in District Court. This is exactly why I am respectfully requesting the U.S. Supreme Courts intervention by issuing the orders requested in my attached memorandum in support of applicants emergency motion for injunctive relief.

Respectfully Submitted,

Rosalind Holmes

Rosalind Holmes
5285 Natorp Blvd Apt. 100
Mason, Ohio 45040
(513) 306-8837
June 24, 2024

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ROSALIND HOLMES,
Plaintiff,

Case No. 1:20-cv-825
Hopkins, J.
Litkovitz, M.J.

vs.

UNITED STATES OF AMERICA, *et al.*,
Defendants.

ORDER

This matter is before the Court on plaintiff's motion for leave to file a third amended complaint (Doc. 111), defendant Georgia Pacific's response (Doc. 112), and plaintiff's reply (Doc. 113). The Court recently issued an Order striking the third amended complaint attached to plaintiff's "Motion to File Confidential Medical Records Under Seal" (Doc. 109). (Doc. 110). The Court struck the third amended complaint both because it was filed without leave of Court under Federal Rule of Civil Procedure 15(a)(2) *and* because of the Court's prior Order (Doc. 106) staying discovery and dispositive motion deadlines pending the District Judge's ruling on the Court's Report and Recommendation of dismissal (Doc. 98). Consistent with that Order (Doc. 106) and the interests of judicial economy, the Court **DENIES** plaintiff's motion (Doc. 111) without prejudice to refile if the District Judge rejects that recommendation and orders that this action may continue.

IT IS SO ORDERED.

Date: 5/21/2024


Karen L. Litkovitz
United States Magistrate Judge



Rosalind Holmes <holmesrrh48@gmail.com>

Case# 1:20-cv-00825

2 messages

Rosalind Holmes <holmesrrh48@gmail.com>

Wed, Jun 19, 2024 at 3:16 PM

To: OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>

Dear Judge Hopkins:

I am urging you to issue an immediate decision on my emergency motion for leave to amend and motion for injunctive relief. As I am homeless, jobless, and without medical insurance. I have sent emails to Judge Hopkins Chambers several times requesting that a decision be issued and I have filed the emails in District Court. I can only assume that your failure to respond is intentional because I have not received any response from you or any other person working on your staff. I am well aware that a federal judge has his own staff members who perform judicial duties, such as responding to emails, drafting decisions, etc. This is why I believe that the failure to respond is intentional.

Because you have not issued a decision on the emergency motion for injunctive relief, I am in need of additional relief that was not included in my original May 21, 2024 request. Therefore, I had to file a supplemental emergency motion for injunctive relief to include the additional information. Please review the attached Supplement to the emergency motion for injunctive relief and issue a decision in accordance with the Sixth Circuit and the U.S. Supreme Court immediately.

Because of my current situation of being homeless, jobless, lack of health insurance and having to travel from place to place. I am putting this Court on Notice that if any additional motions, decisions are filed which require that I respond within a specific time frame I may not be capable of responding because defendants continue to engage in conspiratorial retaliation to keep me homeless, jobless, and without health insurance. So please understand that if something is filed in this court which requires that I issue a response within a specific time frame I may be incapable of responding because of my current situation.

Thanks for your time and attention,

Rosalind Holmes

**Doc 131 Emergency Motion To Supplement Emergency Motion for Injunctive Relief.pdf**

177K

Rosalind Holmes <holmesrrh48@gmail.com>

Wed, Jun 19, 2024 at 3:28 PM

To: "Oldham, Douglas" <Douglas.oldham@btlaw.com>, OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>, cherida_west@ohsd.uscourts.gov

Dear Judge Hopkins,

In my prior email, I mistakenly forgot to include opposing counsel. By copy of this email, I have included opposing counsel.

Thanks,

Rosalind Holmes

[Quoted text hidden]

**Doc 131 Emergency Motion To Supplement Emergency Motion for Injunctive Relief.pdf**

177K



Rosalind Holmes <holmesrrh48@gmail.com>

Holmes v. U.S.A. et. al. 1:20-cv-00825

13 messages

Rosalind Holmes <holmesrrh48@gmail.com>

Sat, Aug 19, 2023 at 10:21 AM

To: "Hopkins_Chambers@ohsd.uscourts.gov" <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

To Whom It May Concern:

Just wanted to know why this case remains inactive and why there have been no orders for almost six months.

Is there something the court requires from me?

Thanks,

Rosalind Holmes
513-306-8837 (phone)**Rosalind Holmes** <holmesrrh48@gmail.com>

Tue, Sep 5, 2023 at 1:29 AM

To: "Hopkins_Chambers@ohsd.uscourts.gov" <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

2nd Request

[Quoted text hidden]

[Quoted text hidden]

Holly Coats <Holly_Coats@ohsd.uscourts.gov>

Tue, Sep 5, 2023 at 9:23 AM

To: Rosalind Holmes <holmesrrh48@gmail.com>, OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

Good morning Ms. Holmes,

This matter is under advisement before the Court. Generally, if anything is needed from you, it would be communicated through a filing on the docket. So long as you are signed up to receive communications through the CM/ECF system, you should be alerted via email when anything is posted to the docket that may require any action.

Thank you!

**Holly L. Coats**Law Clerk to the Honorable Jeffery P. Hopkins
United States District Court
Southern District of Ohio
(513) 564-7543 | Holly_Coats@ohsd.uscourts.gov**From:** Rosalind Holmes <holmesrrh48@gmail.com>**Sent:** Tuesday, September 5, 2023 1:29 AM**To:** OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>; douglas.oldham@btlaw.com**Subject:** Re: Holmes v. U.S.A. et. al. 1:20-cv-00825**CAUTION - EXTERNAL:**

[Quoted text hidden]

Thank you!



Holly L. Coats

Law Clerk to the Honorable Jeffery P. Hopkins
United States District Court
Southern District of Ohio
(513) 564-7543 | Holly_Coats@ohsd.uscourts.gov

From: Rosalind Holmes <holmesrrh48@gmail.com>
Sent: Tuesday, September 5, 2023 1:29 AM
To: OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>; douglas.oldham@btlaw.com
Subject: Re: Holmes v. U.S.A. et. al. 1:20-cv-00825

CAUTION - EXTERNAL:

2nd Request

To Whom It May Concern;

Just wanted to know why this case remains inactive and why there have been no orders for almost six months.

Is there something the court requires from me?

Thanks,

Rosalind Holmes
513-306-8837 (phone)

On Saturday, August 19, 2023, Rosalind Holmes <holmesrrh48@gmail.com> wrote:

To Whom It May Concern:

Just wanted to know why this case remains inactive and why there have been no orders for almost six months.

Is there something the court requires from me?

Thanks,

Rosalind Holmes

513-306-8837 (phone)

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

Erica Vanheyde <Erica_Vanheyde@ohsd.uscourts.gov>
To: "holmesrrh48@gmail.com" <holmesrrh48@gmail.com>
Cc: OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

Wed, Dec 13, 2023 at 2:23 PM

Good afternoon Ms. Holmes,

This matter is still under advisement before the Court and will be decided in due course. You will be alerted via email through the CM/ECF system when the Court has issued an order.

Very Best,

Erica Van Heyde



Erica M. Van Heyde

Law Clerk to the Honorable Jeffery P. Hopkins
United States District Court
Southern District of Ohio
(513) 564-7543 | Erica_VanHeyde@ohsd.uscourts.gov

[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Sun, Feb 4, 2024 at 12:03 AM

To: Erica Vanheyde <Erica_Vanheyde@ohsd.uscourts.gov>, "Oldham, Douglas" <Douglas.oldham@btlaw.com>

Hello Erica,

Just wanted to let you know that I am in the process of amending my federal complaint and requesting emergency injunctive relief with an emergency request for a hearing. I wanted to know if you can schedule a hearing by the end of next week. Also, due to the additional retaliation by additional defendants I will be moving to the state of Tennessee. I have financial and health issues that will make it difficult for me to appear in the Cincinnati Courtroom. Is it possible, that I can appear at the hearing in the United States District Court in Nashville Tennessee.

Please advise me regarding this matter immediately.

Respectfully,

Rosalind Holmes
513-306-8837(phone)
[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Mon, May 6, 2024 at 9:27 AM

To: Erica Vanheyde <Erica_Vanheyde@ohsd.uscourts.gov>, "Oldham, Douglas" <Douglas.oldham@btlaw.com>

Hello Erica,

Just wanted to let you know that I am in the process of amending my federal complaint. Due to the additional retaliation by additional defendants. I will also need to file a motion to redact certain portions of the complaint that references confidential medical information. Is it possible, that the motion can be reviewed on an emergency basis? Please advise as to how I should proceed.

Thank you,

Rosalind Holmes
513-306-8837

On Wednesday, December 13, 2023, Erica Vanheyde <Erica_Vanheyde@ohsd.uscourts.gov> wrote:
[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Wed, May 22, 2024 at 3:07 PM

To: "Hopkins_Chambers@ohsd.uscourts.gov" <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

To Whom It May Concern:

I have filed an emergency motion for leave to file a third Amended Complaint and an Emergency Injunction after defendants conspired with Butler County sheriff's and prosecutors to falsely arrest and initiate a false prosecution that lasted ten months in violation of my constitutional rights. In addition defendants conspired to have me wrongfully fired and evicted any I am unemployed and homeless. It is unjust to delay issuing an immediate decision. Please immediately let me know when you will be issuing a decision. If I don't receive any information as to when a decision will be issued by 5pm Thursday I will seek a writ in the Sixth Circuit on Friday morning.

On Saturday, August 19, 2023, Rosalind Holmes <holmesrrh48@gmail.com> wrote:

[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Thu, May 23, 2024 at 12:07 AM

To: "Hopkins_Chambers@ohsd.uscourts.gov" <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

Judge Hopkins,

I am strongly requesting that you issue an order immediately on the Injunction because I am homeless and unemployed because the defendants have conspired against me by having me wrongfully terminated and wrongfully evicted, falsely arrested, and initiated a false prosecution for TEN months when they had no grounds to do so. I can't receive medical treatment nor necessary medications because I am unemployed and have no money and no place to live. An order must be issued on May 23, 2024 or else I will seek a Writ to force you to issue the complaint and an order on my Injunction immediately.

[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Fri, May 24, 2024 at 1:03 AM

To: "Hopkins_Chambers@ohsd.uscourts.gov" <Hopkins_Chambers@ohsd.uscourts.gov>, "douglas.oldham@btlaw.com" <douglas.oldham@btlaw.com>

3rd Request

Judge Hopkins,

I am requesting that you issue an immediate order on my emergency motions so that this case can move forward. Justice is delayed by you failing to issue timely orders on my emergency motions for leave of Court to file the Third Amended Complaint and for Injunctive Relief. As I have explained in my emergency motions that I have and will continue to experience homelessness, unemployment, lack of necessary medical and dental treatment as a direct result of the Court delaying issuing timely orders on the emergency motions. I am not asking you to rule in my favor, but I am asking you to issue a decision based on the merits, and binding legal precedent of the Sixth Circuit, and the US Supreme Court. I do not have any faith that this Court will issue its decisions according to binding legal precedent as determined by the Sixth Circuit and the US Supreme Court.

Because I have filed a lawsuit against some or many of your colleagues including Dinsmore & Shohl LLP., Freking, Myers, Reul LLC, Joseph Caliguri, Ohio Disciplinary Counsel, Emily Woerner, Solicitor, at the City of Cincinnati, Paula Boggs-Muething, former City of Cincinnati Solicitor, John Cranley, former Mayor of Cincinnati, and many others. This case poses a conflict because many of the defendants are your colleagues that practice or have practiced before this Court in the past or have the ability to influence the decisions of the Judges involved in the matter.

More importantly, I am suing the Joseph Caliguri and the policies and procedures of the Ohio Disciplinary Counsel and the Ohio Supreme Court are being called into question. Joseph Caliguri serves at the direction and under the discretion of the Ohio Supreme Court Taking everything into consideration, this is the equivalent of suing the Chief Judge of the Sixth Circuit and calling into question the policies and procedures of the Sixth Circuit. That is why this case should not be heard by a judge in the US District Court S.D. or the Sixth Circuit because of the obvious conflict of interest. This case should be transferred to a judge in another circuit who is capable of rendering impartial decisions in accordance with binding legal precedence.

Based upon the past decisions of this Court issued by Magistrate Litkowitz and Judge McFarland and the fact that no decisions have been issued on this case within approximately a year. I personally do not have any faith that this Court will ever be impartial and issue decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court. In my emergency motion for injunctive relief I have requested that this case be transferred to another circuit judge in accordance with binding legal precedent. Please issue an immediate order on my emergency motions so that justice will not be delayed any further.

Thanks,

Rosalind Holmes
513-306-8837(phone)

Transfers should not be a regular occurrence, but some complaints might be better handled by judges outside the circuit. We can see reasons for and against doing so. Complaints that a circuit might wish to transfer to another circuit include: • a supported, nonfrivolous complaint against all the active judges of the court of appeals or against the chief judge alone, if all other active judges have recused themselves—in either case, no appellate judge would be available to perform the chief judge's duties under the Act (we say "a supported, nonfrivolous" complaint because, as commentary in the Illustrative Rules recognizes, many multiple-judge complaints are meritless; for those, it is proper for judges to invoke a rule of necessity and dismiss the complaint⁴⁷); • a complaint, especially a high-visibility complaint, whose local disposition might create a threat to public confidence in the process—the view that judges will go easy on colleagues with whom they dine or socialize; • a complaint filed in a circuit beset by internal tension tied to the alleged conduct that prompted the complaint; and • a complaint that challenges the conduct of a judge but also calls into question the policies or governance of the entire court of appeals.

[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Sat, May 25, 2024 at 1:29 AM

To: "cherida_west@ohsd.uscourts.gov" <cherida_west@ohsd.uscourts.gov>, "Oldham, Douglas" <Douglas.oldham@btlaw.com>, OHSDdb_Hopkins_Ch
<Hopkins_Chambers@ohsd.uscourts.gov>

Dear Chief Judge Algenon Marbley,

Just wanted to know if you can assist with having this case *Holmes vs. USA et. al.* 1:20-CV-00825 assigned to an out of circuit judge (Intercircuit assignment). Below is an explanation of the reasons I am requesting your assistance with this matter.

Because I have filed a supported, nonfrivolous complaint against some or many of your colleagues including the law firm of Dinsmore & Shohl LLP., Freking, Myers, Reul LLC, Joseph Caliguiri, Ohio Disciplinary Counsel, Emily Woerner, Solicitor, at the City of Cincinnati, Paula Boggs-Muething, former City of Cincinnati Solicitor, John Cranley, former Mayor of Cincinnati, and many others. This case poses a significant conflict of interest because many of the defendants are your colleagues that practice or have practiced before this Court in the past or have the ability to influence the decisions of the Judges involved in the matter.

Additionally, some or many of the defendants involved in this matter may socialize, dine, have children who attend the same schools, may be your neighbors, close friends and colleagues. The judges involved in this matter may want to or have an interest in protecting the defendant's reputations, firms, organizations, etc., and are incapable of being an impartial trier of fact that will issue decisions according to the merits and binding legal precedent of the Sixth Circuit and the U.S. Supreme Court.

More importantly, this supported, nonfrivolous complaint is against Joseph Caliguiri, Disciplinary Counsel, Ohio Supreme Court, and the policies and procedures of the Ohio Disciplinary Counsel, Ohio Board of Professional Conduct and the Ohio Supreme Court are being called into question. Joseph Caliguiri serves at the direction and under the discretion of the Ohio Supreme Court. Taking everything into consideration, this is the equivalent of suing the Chief Judge of the Sixth Circuit and calling into question the policies and procedures of the Sixth Circuit and the US Supreme Court. That is why this case should not be heard by a judge in the US District Court S.D. of Ohio or the Sixth Circuit because of the obvious and significant conflict of interest. This case should be transferred to a judge in another circuit who is capable of rendering impartial decisions in accordance with binding legal precedent. Moreover, an outside Federal Court Monitor should be assigned to this case to ensure compliance with the decisions of the Court and to investigate and resolve complaints.

You and I both know the difficulties and the chances of me obtaining a lawyer to represent me in this matter are slim because I have filed a complaint against Joseph Caliguiri, Disciplinary Counsel, Ohio Supreme Court. Any lawyer who represents or assists in this matter will face extreme scrutiny and retaliation from their colleagues and defendants for their assistance and representation. It's important that you understand my fight is against the defendants including judiciary, the FBI, and the Department of Justice who protects well connected lawyers and judges. The disparity in power, and influence between us is significant which is the very reason this case should not be heard by a District Judge or Circuit Judge located in Ohio or anywhere in the Sixth Circuit.

At the same time, the judges involved in this matter are incapable of being impartial and rendering decisions based upon the merits and in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court. Because of the extreme impartiality, bias and retaliation by the judiciary on a federal and state level, I have filed a Writ of Mandamus in the US Supreme Court in the matter of *In Re Rosalind Holmes*, Case No: (23A1033) against several US District S.D. of Ohio, Sixth Circuit and State of Ohio Judges including Magistrate Litkowitz, Judge Matthew McFarland, Judge Timothy Black, Magistrate Stephanie Bowman, to name a few. Please read my Writ of Mandamus, it clearly details prejudicial decisions that have repeatedly resulted in an abuse of discretion by the judges involved in the matters.

On May 8, 2024, I filed an Amended Complaint (Doc# 109), May 14, 2024, Emergency Motion for Leave to File Third Amended Complaint (Doc 111), May 21, 2024, Emergency Motion for Leave of Court (Doc# 114) and Emergency Motion for Injunctive Relief (Doc# 115) in the matter of *Holmes vs. USA et.al.*, 1:20-CV-00825, and on May 21, 2024, Magistrate Litkowitz denied my motion for leave to file the third amended complaint pursuant to Rule 15(a), "pending the District Judge's ruling on the Court's Report and Recommendation of dismissal (Doc. 98). Consistent with that Order (Doc. 106) and the interests of judicial economy, the Court DENIES plaintiff's motion (Doc. 111) without prejudice to refiling if the District Judge rejects that recommendation and orders that this action may continue."

I have filed objections (Doc# 117) to Magistrate Litkowitz order denying leave of Court to file the Amended Complaint because her prior Report and Recommendation (Doc# 98) has been under the advisement of the Court for almost an entire year. The Court has not issued a decision to dismiss this case for want of prosecution in a year. Georgia Pacific never requested a response from the judge and failed to file a writ. It should be obvious that the Court has denied the dismissal for want of prosecution but Magistrate Litkowitz is attempting to revive Georgia Pacific's attempt to have this case dismissed. Magistrate Litkowitz has repeatedly issues judicial decisions that are prejudicial and abuse of discretion or result in clear error.

Furthermore, I submitted a doctor's excuse to the Court and as explained in my third amended complaint and emergency motion for injunctive relief, defendants prevented me from attending conference as scheduled by the Court. In addition, defendants have engaged in long-term retaliation, involving an August 9, 2024, retaliatory arrest and prosecution that lasted for approximately TEN months, wrongful terminations, wrongful evictions, falsification of my medical records, denial of medical and dental services, deficient police services, etc. All of which has been documented in my third amended complaint and emergency motion for injunctive relief.

Based upon the past decisions of this Court issued by Magistrate Litkowitz and Judge McFarland and the fact that no decisions have been issued on this case within approximately a year. I personally do not have any faith that this Court will ever be impartial and issue decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court. In my emergency motion for injunctive relief I have requested that this case be transferred to another circuit judge in accordance with binding legal precedent. Please immediately transfer this case to another circuit court, appoint an outside independent federal court monitor and issue an order on my emergency motions so that justice will not be delayed any further.

Thank you for your time and attention,

Rosalind Holmes
513-306-8837

----- Forwarded message -----

From: **Rosalind Holmes** <holmesrrh48@gmail.com>

Date: Fri, May 24, 2024 at 1:03 AM

Subject: Re: Holmes v. U.S.A. et. al. 1:20-cv-00825

[Quoted text hidden]

[Quoted text hidden]

Rosalind Holmes <holmesrrh48@gmail.com>

Mon, Jun 3, 2024 at 3:59 AM

To: "cherida_west@ohsd.uscourts.gov" <cherida_west@ohsd.uscourts.gov>, "Oldham, Douglas" <Douglas.oldham@btlaw.com>, OHSDdb_Hopkins_Ch <Hopkins_Chambers@ohsd.uscourts.gov>

Dear Chief Judge Marbley and Judge Hopkins,

Please issue an order expeditiously in this matter. As I have explained defendants including the FBI continues to engage in conspiratorial harassment against me. I remain homeless traveling by car. I'm In Nashville Tennessee and in pain because I don't have a job or money cannot obtain proper medical treatment.

[Quoted text hidden]

IN THE UNITED STATES SUPREME COURT

ROSALIND HOLMES) CASE NUMBER:
)
Plaintiff - Plaintiff)
)
vs)
)
United States of America et al.,)
)
Defendant)
)

EMERGENCY MOTION FOR INJUNCTIVE RELIEF

For nearly twenty years, defendants secret conspiratorial campaign of discrimination, retaliation, unlawful actions and activities against Rosalind Holmes has attracted many co-conspirators including the Federal Bureau of Investigation and the judiciary.

As outlined in the matter of *Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Plaintiff was employed by Macy's Inc., formerly Federated Department Stores, from February 21, 2006 – September 29, 2006. Defendants secret conspiratorial campaign of discrimination, retaliation, harassment and otherwise unlawful actions and activities against Rosalind Holmes, began on April 24, 2006.

On or around April 24, 2006, plaintiff reported Christine Koper, Accounting Manager at Macy's Inc., for verbal harassment and attempting to physically attack her while walking to her car located in the parking lot. The report was made to the City of Cincinnati Police Department. (Exhibit 48) Witnesses with first-hand knowledge of the altercation contacted the Cincinnati Police. After reporting Christine Koper to the Cincinnati Police, Brian Cox, Director of HR and Ernest Hayes, Macy's Human Resource Management, offered plaintiff money to settle and leave her employment several times, but plaintiff refused. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

Consequently, throughout the police investigation misinformation and lies were repeatedly reported about this plaintiff. Specifically, information about plaintiff's mother's mental disease, and about her reports of the physical attack between Christine Koper and her being unfounded surfaced. Although,

reports of the physical attack between Christine Koper and her being unfounded surfaced. Although, plaintiff had never disclosed that her mother suffered from a complicated mental disease to anyone at Macy's and witnesses came forward to the police to corroborate the altercation. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

Additionally, plaintiff noticed strange activity occurring on her personal cell phone and yahoo email account. However, plaintiff is not an IT or computer expert, she just purchased a new cell phone believing it would resolve the issues.

During her employment at Macy's Inc., plaintiff was repeatedly subjected to a hostile work environment, and isolated from other co-workers, her work product was sabotaged, hacked, she was subjected to false accusations, undermined, and denigrated about her job performance. Due to this hostile work environment her entire life story was aired by co-workers and management who constantly scrutinized everything plaintiff did while employed by Macy's. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

On or around, May 16, 2006, plaintiff discovered an offensive email laying on her desk. (Exhibit 49) The email consisted of management discussing her religion and having Brian Cox force plaintiff out of the company. Later, plaintiff was falsely accused of fabricating this email, which plaintiff never sent or received by several members of management including but not limited to David Clark, Senior Vice President of Human Resources, at Macy's Inc. On May 31, 2006, plaintiff contacted David Clark, Former Senior Vice President of Human Resources to access the in-house complaint procedure to schedule a meeting to discuss the offensive emails. At the time, Mr. Clark was unwilling to schedule a meeting and referred plaintiff back to Brian Cox and Ernest Hayes. (Exhibit 50)

On June 27, 2006, plaintiff filed a complaint of race and religion discrimination with the Ohio Civil Rights Commission ("OCRC") and the Equal Employment Opportunity Commission ("EEOC"). On September 8, 2006, plaintiff filed a charge of retaliation with the OCRC for being falsely accused and written up for making threats against Linda Sarno, Director of Accounting. (Exhibit 51-52)

On September 12-13, 2006, plaintiff contacted Thomas Cody, Vice Chair, among several other senior and executive members of Macy's top management to report her claims of retaliation and to request a resolution. At the time, Thomas Cody, was David Clark's manager and held responsibility for the entire human resources and legal areas of Macy's Inc. (Exhibit 53) David Clark and Thomas Cody owed plaintiff a duty of candor when she reported what she reasonably believed to be discrimination, harassment, retaliation, conspiracy, etc.

On September 15, 2006, plaintiff agreed to mediate the charges against Christine Koper and she attended a mediation session held in the Hamilton County Municipal Court. (Exhibit 54) (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

On September 29, 2006, David Clark, Senior Vice President of Human Resources, while plaintiff's OCRC and EEOC complaint were under investigation, called plaintiff into a meeting. Mr. Clark informed plaintiff that she was required to meet with his hired outside attorney who worked for Dinsmore and Shohl LLP., to answer questions regarding her allegations of discrimination.

Immediately following the question-and-answer process, David Clark informed plaintiff that she was being terminated for "misrepresenting facts in the interview," with the attorney and that "everyone told a different story than plaintiff." At no point, did David Clark disclose his contact and communications with the FBI-Cincinnati Division to plaintiff. Plaintiff was completely unaware of the FBI-Cincy involvement in the investigation. In fact, plaintiff did not become aware of the FBI's involvement, until February 2024. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

David Clark and his hired attorney conspired with FBI-Cincinnati, City of Cincinnati, the State of Ohio and many others. By falsely accusing plaintiff of fraud and discriminatorily terminating her employment. Defendants engaged in a secret conspiracy of retaliation against her, on account of her legitimate discrimination complaints. The false fraud accusation's purpose was to ruin plaintiff's reputation and negate the intent of U.S. Congress by conspiring with the FBI, City and State to continue their campaign of retaliation, to violate plaintiff rights to due process and equal protection and falsely brand plaintiff as a criminal whose rights should be violated. Thereby, negating the intent of U.S. Congress in enacting Title VII to improve the economic and social conditions for minorities and women by providing equality of opportunity in the workplace. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

Before and after plaintiff left Macy's, she was repeatedly subjected to verbal harassment, and denigration, by Detective Robin Upchurch. In fact, Detective Robin Upchurch came to plaintiff's physical address in the middle of the night knocking on her door and harassing her about reporting Christine Koper, Accounting Manager and about her lawsuit against Macy's.

The harassment by the Cincinnati Police force continued well beyond her leaving Macy's. The City of Cincinnati Police officers repeatedly stopped her, searched her vehicle, asked questions about if she took any street drugs, and towed her vehicle without probable cause. The harassment was so frequent and retaliatory that plaintiff eventually had to move out of the City of Cincinnati to West Chester Ohio.

On March 26, 2007, plaintiff filed a federal lawsuit against Macy's, formerly Federated Department Stores for retaliation. (Exhibit 56)

On February 12, 2008, plaintiff settled her lawsuit against Macy's. Plaintiff entered into a contract with Macy's Inc., when she agreed to settle her federal lawsuit in the matter of *Holmes v Federated Department Stores, Inc.* 1:07 CV 240, U.S. District Court for the S.D. of Ohio. (Exhibit 57) Macy's was obligated to engage in honest good faith negotiations and required to cease all discrimination and retaliation against plaintiff. Defendants, David Clark, Thomas Cody, and Macy's Inc. breached that contract by failing to disclose their communications, activities and unlawful conspiracy with their hired Dinsmore and Shohl attorneys, the FBI-Cincy, State of Ohio, and City of Cincinnati.

On March 9, 2008, plaintiff reported these incidents to Former Police Chief Thomas Streicher who didn't investigate her complaints, as required by federal law under the collaborative agreement. On March 27, 2008, Sergeant S. Huellemeier contacted plaintiff requesting additional information regarding her complaints. (Exhibit 58)

Plaintiff provided additional information as requested which included dates and times Robin Upchurch had harassed her at home, records from the Hamilton County Municipal Court and the impound lot where the Cincinnati Police had towed her car. As plaintiff recalls, Former Police Chief Thomas Streicher contacted her by email personally and claimed her allegations were unfounded against Detective Robin Upchurch and others.

As plaintiff recalls, she could not find a full-time permanent job for at least an entire year and half after leaving Macy's. Because the FBI-Cincy, State of Ohio, City of Cincinnati, David Clark, Thomas Cody and Does of Macy's Inc., Dinsmore & Shohl LLP. and others blacklisted her from bona fide employment opportunities in the accounting profession.

Defendants, David Clark, Thomas Cody, FBI-Cincinnati, City of Cincinnati, State of Ohio, Macy's and many others, conspiratorial actions, false allegations and cover-up is evidence that they deliberately, knowingly, intentionally and with reckless disregard, acquiesced, approved, authorized, ratified and were complicit to the ongoing constitutional violations and fraud against plaintiff.

As a result, of plaintiff's prior employment litigation, participation in a criminal investigation, mediation, and complaints against City police officers and detectives. The City of Cincinnati police force, City Solicitor's Office, Macy's Inc., David Clark and Thomas Cody, Macy's hired attorney's employed by Dinsmore and Shohl LLP., and many others held strong feelings of animosity, resentment, unlawfully and improperly shared the false fraud allegations about Rosalind Holmes, amongst many other attorneys, law enforcement, Macy's management, FBI-Cincy, State of Ohio and many other co-conspirators.

The misinformation, and improper sharing of the false fraud allegations, anger, and resentment held by David Clark, SVP of HR, Thomas Cody, Former Vice Chair of Macy's Inc. and their hired counsel at Dinsmore & Shuhl LLP, the City of Cincinnati Solicitors and law enforcement, the State of Ohio, the FBI-Cincy and many other co-conspirators significantly influenced the discriminatory treatment plaintiff was subjected to while employed by the City of Cincinnati. Thereby, continuing the conspiracy, bias, retaliation, abuse of power, resulting in violation of plaintiff's Constitutional rights. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

It is important that the Court understands that the relentless campaign of conspiratorial discrimination, harassment, retaliation and other unlawful actions and activities resulted from plaintiff's April 24, 2006, criminal complaint filed against Christine Koper and the false fraud accusations by management and their hired attorneys at Macy's Inc. (Exhibits 48 & 49)

In November 2008, defendants steered plaintiff into becoming employed by the City of Cincinnati, after they blacklisted her from bona fide job opportunities in the accounting profession for at least two years. Since plaintiff was in desperate need of employment and had no other employment offers or options. Plaintiff began employment as an Accountant on or around November 18, 2008, with the City of Cincinnati.

While employed by the City of Cincinnati she was subjected to conspiratorial discrimination, harassment, retaliation, false fraud allegations and many other unlawful actions and activities by City Officials and City Solicitors. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, parag., 135-139, Pg. 3377-3381, parag., 161-163, Pg. 3383-3384, parag., 183-191 Pg. 3388-3390)

On or around April 2, 2010, plaintiff reported the unauthorized disclosure of her personal medical records to Lisa Berning. Specifically, in April of 2010, someone at the City of Cincinnati forged plaintiff's signature on a medical release and obtained her medical records, from her doctor's office. (Exhibit 10) Lisa Berning, the City Solicitor's Office, and several City Officials accused plaintiff of fraud related to the unauthorized disclosure of her personal medical information.

On November 15, 2022, Plaintiff, Rosalind Holmes, filed an Emergency Application for a Writ of Mandamus with the U.S. Supreme Court. Additionally, Plaintiff filed an application for injunctive relief on May 16, 2023. Plaintiff's writ of mandamus was one hundred fifty-two pages and included over three hundred exhibits, pages 1-204, consisted of thirty-six orders or judgements from various federal, state, and local jurisdictions. Specifically, Plaintiff identified thirty-six orders, in which the judges and/or justices involved in the proceedings either lacked or exceeded their subject matter jurisdiction, and/or clearly and indisputably abused their discretion by ruling against binding legal authority in the respective jurisdictions.

In her Writ and Application plaintiff explained that on October 20, 2020, she filed a federal complaint pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics* and *Davis vs Passman* and included the FBI Cincy, Ohio Disciplinary Counsel, City of Cincinnati, Freking, Myers, Reul, and Elizabeth Tuck among others. *Holmes v USA et.al.* 1:20-CV-00825, U.S. Dist. Court S.D. of Ohio Plaintiff explained her frustration with Magistrate Judge Litkovitz and Judge Matthew McFarland repeated orders that were contrary to federal law and binding legal precedent in the Sixth Circuit.

Plaintiff, also criticized U.S. Magistrate Judge Karen Litkovitz, and Judge Matthew McFarland, United States District Court Southern Division of Ohio, judgments as an abuse of discretion and asked that their orders be vacated. Plaintiff explained that Judge Matthew McFarland was appointed by former Chief Justice Maureen O'Connor to serve on the Ohio Board of Professional Conduct ("BPC") formerly the Ohio Board of Grievances and Discipline. (Exhibit 9) Plaintiff filed her complaint of attorney misconduct with the Ohio Disciplinary Counsel in July 2014, while Judge Matthew McFarland was on

the BPC and served on the Advisory Opinion Committee. BPC and the Ohio Disciplinary Counsel work together to resolve allegations of attorney misconduct.

The board's primary responsibility is to adjudicate allegations of professional misconduct on the part of lawyers and judges and make recommendations to the Supreme Court regarding the appropriate sanction to be imposed when a lawyer or judge is found to have engaged in professional misconduct. The BPC provides advice to the Ohio Disciplinary Counsel, judges, lawyers and law firms regarding the handling, investigation, resolution and adjudication of allegations involving attorney misconduct. Judge McFarland's political and professional relationship with Chief Justice O'Connor the BPC and the Ohio Disciplinary Counsel presented a significant conflict of interest and weighs heavily on his requirement to be a fair and impartial judge and presents the appearance of impropriety.

More importantly, there is a strong possibility that Judge Matthew McFarland and/or Magistrate Litkovitz could potentially become a witness or party in the matter of *Holmes v. U.S.A. et. al.* No: 1-20-cv-00825. Plaintiff expressed her concerns with the Ohio Disciplinary Counsel and the Ohio Board of Professional Conduct ("BPC") significant ability to influence the attorneys, judges and the politicians involved and sway the outcome of the proceedings. Most attorneys, judges, and politicians are reluctant to challenge the Ohio Disciplinary Counsel and the BPC. There is a significant conflict of interest involving the Ohio Disciplinary Counsel, the BPC, the attorneys and the judges on the Butler County Area III Court, Ohio's 12th District Court of Appeals, the U.S. District Court S.D. and the Sixth Circuit Court of Appeals fairness in adjudicating the proceedings as described in her writ of mandamus petition.

Plaintiff criticized Magistrate Judge Stephanie K. Bowman, and Judge Timothy S. Black, for declining to interfere with pending state court proceedings pursuant to the doctrines of *Younger*, *Rocker-Feldman*, and the *Anti-Injunction Act*, even though this case fell into the statutory exceptions of each doctrine, failing to issue a temporary restraining order and failing to grant Plaintiffs' motion to appoint counsel, on August 23 and August 26, 2021, respectively. (*Holmes v Lakefront*, No:1:21-cv-00505, United States District Court) Plaintiff criticized Judge Timothy Black for clearly and indisputably abusing his discretion when he dismissed Plaintiffs' complaint for failure to state a claim pursuant to *Rooker-Feldman*, denied Plaintiffs' motion for a stay pursuant to the *Anti-Injunction Act* and issued an injunction against Plaintiff imposing pre-filing restrictions because of her history of repetitive or vexatious litigation.

Plaintiff also criticized Judge Courtney Caparella-Kramer of Butler County Area III Court, August 19, 2021, order of an eviction against Plaintiff, as exceeding her subject matter jurisdiction, and asked for the order to be vacated. She also criticized Judge Dan Haughey, former Butler County Area III Court Judge, March 4, 2020, order of an eviction against her as an abuse of discretion and asked for the order to be vacated. Plaintiff explained that she was consistently harassed by the FBI Cincy who placed camera's into her apartment, unlawfully entered her apartment, sabotaged and stole her personal belongings, and circulated chemicals and foul odors throughout her apartment among other criminal activities.

Plaintiff list of criticisms of the thirty-six orders were justified by legal precedent, merits, and evidence. Plaintiff can't understand why the United States Supreme Court denied her entire writ of mandamus. Plaintiff explained to the United States Supreme Court that the repeated adverse judgments demonstrated partiality, prejudice, discrimination, retaliation, gross indifference and bias against Plaintiff, were contrary to binding legal authority as established by the U. S. Court of Appeals Sixth Circuit, the Ohio Supreme Court and the U.S. Supreme Court and violates the judicial code of conduct for U.S. judges. The orders issued by the judges involved in the matters were in direct violation of Plaintiffs' right to equal protection and due process guaranteed under the Fifth and Fourteenth Amendment to the U.S. Constitution.

More importantly, plaintiff's application for injunctive relief provided further explanation and evidence of the conspiracy, harassment, retaliation, and abuse by the FBI Cincy, City of Cincinnati, Butler County Sheriff's Office, Ohio Disciplinary Counsel, Freking, Myers, Reul, LLC., Elizabeth Tuck, and many other government allies including Medical Doctor's. Plaintiff explained that she made several reports to Four Bridges property management and the Butler County Sheriff's office about people unlawfully entering her apartment stealing, sabotaging her personal belongings, circulating foul odors throughout the air etc. Defendants continued to unlawfully enter plaintiffs home stealing, sabotaging and tampering with her food in the refrigerator, cabinets, clothing, etc., repeatedly. Additionally, Defendants had been circulating a chemical irritant which plaintiff suspects was mold and caused her allergic reactions such as upper respiratory issues, nose bleeds, trouble breathing, and her skin had become very itchy, red and dry. Defendants contaminated the running water throughout the apartment to cause harm to plaintiff's skin and hair and tampered with plaintiff's toiletries, such as her body wash, lotion, deodorant and hair products etc.. This proves Defendants lack of respect for the U.S. Supreme Court and this plaintiff.

On Monday January 9, 2023, Plaintiff noticed that her towels and underwear had been sabotaged in her apartment while she was not at home. Specifically, Plaintiff noticed that her panties, bras, and towels etc., had been worn, tampered or used and wet with a fluid on them. Plaintiff contacted the Butler County Sheriff's office and made a report that her underwear and towels had been sabotaged and tampered with while she was not at home. The Butler County Sheriff's office took a report and stated that there was nothing that they could do about Defendants unlawfully entering her apartment.

On Tuesday, January 10, 2023, Plaintiff suddenly began itching in private parts of her body. Ultimately, Plaintiff contracted a skin infection from the unlawful entry, tampering and sabotage of her personal belongings. The infection could have been eliminated in just three days if Plaintiffs treating physicians including her former dermatologist Dr. Kyle Burton had prescribed oral terbinafine as she requested. Instead, Dr. Kyle Burton prescribed topical steroid creams which caused the infection to worsen, stretch marks and scarring. Plaintiff's skin infection lasted for approximately three weeks until she was prescribed oral terbinafine by an emergency room doctor practicing at University of Cincinnati Hospital in West Chester, Ohio. Plaintiff explained that she was unlawfully banned from Dr. Sara Lyons, OBGYN, Tri-Health, her gynecologist for over fifteen years.

On March 20, 2023, the United States Supreme Court held a conference on Plaintiffs' writ of mandamus and application both were denied. On March 24, 2023, plaintiff was fired from her job as a Senior Accountant with Huffy Corporation in direct retaliation for filing her application for injunctive relief. Plaintiff worked for Huffy Corporation from February 27, 2023, to March 24, 2023, less than one month of employment. More importantly, Defendants Butler County Ohio Sheriff Richard K. Jones, FBI-Cincy, City of Cincinnati, State of Ohio Disciplinary Counsel, Freking, Myers, & Reul, LLC, Judge Courtney Caparella-Kramer, and many others were given a fair opportunity to defend against plaintiff, Rosalind Holmes' claims. In fact, Prosecutor, Mike Gmoser, of Butler County, Ohio, civil team represented Judge Courtney Caparella-Kramer, and Magistrate Judge Federick Miller.

Permanent Injunctive Relief

Permanent injunctive relief will be granted only after a plaintiff demonstrates:

(1) that she has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, such a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. *eBay Inc. v. MercExchange, L.L.C.*, 126 S. Ct. 1837, 1838 (2006); *see also Audi AG v. D'Amato*, 469 F.3d 534, 550 (6th Cir. 2006). The factors for a preliminary injunction vary by circuit, but are similar to those considered for a permanent injunction. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (moving party must show "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in its favor, and that an injunction is in the public interest"); *Centro Tepeyac v. Montgomery Cty.*, 722 F.3d 184, 188 (4th Cir. 2013); *Melendres v. Arpaio*, 695 F.3d 990, 1000 (9th Cir. 2012); *In re Navy Chaplaincy*, 697 F.3d 1171, 1178 (D.C. Cir. 2012); *EEOC v. KarenKim, Inc.*, 698 F.3d 92, 100 (2d Cir. 2012).

(1) Plaintiff has suffered an irreparable injury.

On or around July 2014, after she filed a complaint of attorney misconduct against her former Attorney Elizabeth Tuck (formerly Loring) ("Tuck"), with the Ohio Disciplinary Counsel and a federal discrimination lawsuit against the City of Cincinnati, *Holmes v. City of Cincinnati*, No. 1:14-CV-582, U.S. District Court S.D., she was falsely accused of fraud. On September 24, 2014, Plaintiff was falsely accused of providing fraudulent emails to the Ohio Disciplinary Counsel and the United States District Court. (Exhibit 38) The conspiratorial false fraud allegations were orchestrated by the defendants, Federal Bureau of Investigation's-Cincinnati Division ("FBI-Cincy"), Officials with the Ohio Disciplinary Counsel ("ODC"), Officials with the City of Cincinnati Solicitor's Office ("Cincy"), Partners of the Freking, Myers, Reul LLC. ("FMR"), Elizabeth Tuck and others collectively ("perpetrators" or "defendants").

Defendants engaged in conspiracy, fraud and escaped liability by failing to conduct proper investigations into Plaintiffs' complaint of attorney misconduct, warrantless surveillance and discriminatory harassment. Additionally, defendants hid their conspiracy, withheld pertinent

information such as the findings of any investigations, withheld information requested pursuant to the Freedom of Information Act ("F.O.I.A.") by Plaintiff, and engaged in nearly twenty-years of conspiratorial harassment, discrimination, retaliation, defamation, libel, slander, fraudulent conduct, etc., to deprive Plaintiff of her legal and constitutional rights.

More importantly, this is sufficient evidence of a First Amendment violation because the Ohio Disciplinary Counsel failed to investigate plaintiffs' July 2014, complaint of attorney misconduct and engaged in a conspiracy of retaliation, bias, abuse of power, etc., with defendants. Thus, plaintiff was still employed by the City of Cincinnati when she filed the attorney misconduct grievance against attorney, Elizabeth Tuck. The right to petition the government for redress of grievances is protected by the first amendment.

There is no ambiguity in the law guaranteeing the Plaintiffs' First Amendment right to petition the government for redress of grievances. *See, e.g., California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510, 92 S.Ct. 609, 30 L.Ed.2d 642 (1972); *Losch*, 736 F.2d at 910 Nevertheless, absolute First Amendment protection is not accorded to any grievance a public employee files against an employer, without regard to content. An individual does not lose this right because she is employed by the government. *Connick v. Myers*, 461 U.S. 138, 140, 103 S.Ct. 1684, 1686, 75 L.Ed.2d 708 (1983). In *Connick*, the Supreme Court struck a balance between the speech rights of the employee as a citizen and the interests of the State as employer and provider of essential services, holding that:

[w]hen employee expression cannot be fairly considered as relating to any matter of political, social, or other concern to the community, government officials should enjoy wide latitude in managing their offices, without intrusive oversight by the judiciary in the name of the First Amendment. *Id.* at 146, 103 S.Ct. at 1690; *see Gray v. Lacke*, 885 F.2d 399, 412-13 (7th Cir. 1989); *Belk v. Town of Minocqua*, 858 F.2d 1258 (7th Cir. 1988).

When government officials abuse their offices, "action[s] for damages may offer the only realistic avenue for vindication of constitutional guarantees." *Harlow v. Fitzgerald*, 457 U.S., at 814. Thus, the public employee's right to petition the government with respect to matters of public concern has been clearly established since *Connick*, at least. Nevertheless, *Anderson v. Creighton* requires us to determine not only whether the right was clearly established but also whether a reasonable official "would understand that *what he is doing* violated that right." *Anderson*, 483 U.S. at 640, 107 S.Ct. at 3039

The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373, 96 S.Ct. 2673, 2690, 49 L.Ed.2d 547 (1976) (plurality opinion of Brennan, J.); *id.* at 374-75, 96 S.Ct. at 2690 (Stewart, J., concurring in judgment) (termination from employment for political reasons violated First Amendment rights; injunctive relief properly accorded under such circumstances).

The Retaliatory Arrest and Prosecution of Plaintiff

State of Ohio vs. Rosalind Holmes Case No: CRB2300455 Butler County, Ohio Area I Court

On August 8, 2023, approximately five months after she had filed her application for injunctive relief to the U.S. Supreme Court. In direct retaliation for requesting mandamus and injunctive relief plaintiff was handcuffed, arrested and accused of making a false report to the Butler County Sheriff's an alleged offense or other incident within its concern, knowing that such offense did not occur. R.C. 2917.32(A)(3) (Exhibit 60)

Although, Rosalind Holmes, had no criminal record and was not a flight risk, she was booked and spent a day in the Butler County Jail, wearing a brown jail shirt, and forced to sit tightly handcuffed and shackled on a metal bench. Instead of taking Sgt. Connie Rockey's affidavit to a judge or prosecutor for review the Butler County Sheriff's Office submitted the affidavit to Debbie Bolser and Connie Miller, both non-attorney Clerks, Butler County Area I, II, & III, who reviewed the affidavit and issued a warrant for plaintiff's arrest. (Exhibit 61) The next day plaintiff was tightly handcuffed, shackled and transported to the Butler County Area I Court, where she was arraigned around 2:00 pm and released on her own recognizance.

Sgt. Connie Rockey and Debbie Bolser, Butler County Area I, II, & III, Clerks, undertook a series of highly unusual maneuvers to circumvent the district attorney's office, ensuring that Rosalind Holmes would be arrested and jailed, rather than simply issued a summons. (Exhibit 61) On September 11, 2023, plaintiff hired Attorney Clyde Bennett to represent her in this criminal matter and he filed a motion for discovery. (Exhibit 62)

Upon receiving plaintiffs' discovery request, Jeffrey Schlessman, Assistant Butler County Prosecutor submitted the same police reports plaintiff provided in her petition for mandamus and application for injunctive relief filed in the United States Supreme Court. (Exhibit 63) Even though, Defendant FBI Cincy, City of Cincinnati, Ohio Disciplinary Counsel, Freking, Myers, Reul LLC., Elizabeth Tuck, Butler County Sheriff's Office, Judge Courtney Caparella-Kramer and many others were provided a fair opportunity to defend against plaintiffs' claims.

Ultimately, Jeffrey Schlessman was using the same police reports that were included in plaintiff's application for injunction and petition for mandamus filed in the United States Supreme Court to obtain a conviction. Thereby, relitigating the same claims and issues that had been litigated in other courts, which is unlawful under the doctrine of claim preclusion.

On August 18, 2024, the case was dismissed in the Butler County Area I Court, Oxford, Ohio after plaintiff defended the false criminal charges of making false alarms for nearly ten months. (Exhibit 64) The unlawful arrest and prosecution gives rise to retaliation and/or malicious prosecution in violation of plaintiff's First, Fourth, Fifth and Fourteenth Constitutional rights.

As plaintiff, believes that defendants tried to extort her because they had an ulterior motive behind the decision to initiate a false arrest and prosecution. That ulterior motive was to obtain a conviction, admission of guilt or to place her in a treatment in lieu of prosecution program to defend or sow deception about her competency in the U.S. District Court amongst others. This constitutes a malicious prosecution claim.

A review of plaintiffs' Third Amended Complaint in the matter of *Holmes vs. USA et.al.*, will confirm plaintiff's belief that defendants were trying to extort her by **REPEATEDLY** falsely accusing plaintiff of fraud and intentional misrepresentation. Defendants repeated false accusations of fraud and intentional misrepresentation purpose is to gain an admission of guilt, damage plaintiffs' reputation, sow deception about plaintiffs' character, sow deception about plaintiffs' mental health competency, cause embarrassment, public ridicule and ultimately obtain information necessary to defend against plaintiffs' claims.

Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. *Allen v. McCurry, supra*, at 94; *Cromwell v. County of Sac, supra*, at 352. Under collateral estoppel, once a court decides an issue of fact or law necessary to its judgment, that decision precludes relitigating of the same issue on a different cause of action between the same parties. *Montana v. United States, supra*, at 153. *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326, n. 5 (1979).

Thus, invocation of res judicata and collateral estoppel "relieve[s] parties of the cost and vexation of multiple lawsuits, conserve[s] judicial resources, and, by preventing inconsistent decisions, encourage[s] reliance on adjudication." *Allen v. McCurry*, 449 U.S., at 94. When a state court has adjudicated a claim or issue, these doctrines also serve to "promote the comity between state and federal courts that has been recognized as a bulwark of the federal system."

In *Bouye v. Bruce*, 61 F.4th 485 (6th Cir. 2023) the plaintiff alleged that she suffered an injury because she had to defend against a state lawsuit that Mariner had no right to bring in the first place. Under our precedent, that harm establishes a concrete injury that meets the injury-in-fact requirement. See *Hurst v. Caliber Home Loans, Inc.*, 44 F.4th 418, 423 (6th Cir. 2022).

Even a minimal infringement upon First Amendment rights results in irreparable harm. *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville and Davidson Cty.*, 274 F.3d 377, 400 (6th Cir. 2001). The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.

This court previously has approved the granting of a preliminary injunction on the grounds that "even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief." *Newsom v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989); see also *Foti v. City of Menlo Park*, 146 F.3d 629, 643 (9th Cir. 1998) (quoting *Elrod*); *New York Magazine*, 136 F.3d 123, 127 (2d Cir. 1998) (same); *Maceira v. Pagan*, 649 F.2d 8, 18 (1st Cir. 1981) ("It is well established that the loss of first

amendment freedoms constitutes irreparable injury."). The irreparable injury stems from "the intangible nature or the benefits flowing from the exercise of those rights; and the fear that, if these rights are not jealously safeguarded, persons will be deterred, even if imperceptibly, from exercising those rights in the future." Newsom, 888 F.2d at 378 (quoting *Cate v. Oldham*, 707 F.2d 1176, 1188-89 (11th Cir. 1983)).

The D.C. Circuit has stated unequivocally that it "clearly established in 1988 ... the contours of the First Amendment right to be free from retaliatory prosecution." *Moore v. Hartman*, 704 F.3d 1003, 1004 (D.C. Cir. 2013). More generally, in *Hartman*, the Supreme Court stated that "the law is settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions, including criminal prosecutions, for speaking out" 547 U.S. at 256, 126 S.Ct. 1695. As support for that general proposition, the Supreme Court relied upon two earlier decisions, *Crawford*, issued in 1998, and *Perry*, issued in 1972. *Id.*; *Crawford–El v. Britton*, 523 U.S. 574, 588, 592, 118 S.Ct. 1584, 140 L.Ed.2d 759 (1998) ("the general rule has long been clearly established [that] the First Amendment bars retaliation for protected speech"); *Perry v. Sindermann*, 408 U.S. 593, 597, 92 S.Ct. 2694, 33 L.Ed.2d 570 (1972) (noting that the government may not punish a person or deprive him of a benefit on the basis of his "constitutionally protected speech").

Based on these precedents, it has been clearly established, long before plaintiff filed suit against defendants, that retaliatory action by Federal and State officials against protected speech is unconstitutional. And this general principle was further crystalized by authorities which held that retaliatory prosecutions were a particular example of this sort of unconstitutional behavior. That these cases did not involve an administrative proceeding is ultimately a distinction without a difference. The pertinent question is whether the general constitutional principle was sufficiently established that it should have been clear to the Individual Defendants that their conduct, if the allegations prove true, was unlawful. Here, the case law had clearly established the unlawfulness of retaliatory conduct generally, and retaliatory prosecutions more specifically.

Housing Retaliation by Defendant

Additionally, Plaintiff has been wrongfully evicted four times first from Bridges Domestic Violence Center, which is a women's shelter located in Franklin, Tennessee. Second from Landings at Beckett Ridge located in West Chester, Ohio, owned by Hills Properties, March 4, 2020. The third eviction involved Lakefront at West Chester, owned by PLK Communities, located in West Chester, Ohio, August 19, 2021.

Even though Defendants had arrested and initiated retaliatory prosecution against plaintiff they continued their conspiratorial campaign of harassment and retaliation. In January 2024, plaintiff received a bill from Four Bridges and National Credit Systems in the amount of \$4,570.33. (Exhibit 67) Plaintiff does not owe Four Bridges any money because Defendants had unlawful access to her apartment at all times, they circulated foul odors of chemicals, raw sewage, dog poop, cat pee, etc. throughout the ventilation system daily, permitted the unlawful entry into her apartment stealing, sabotaging, and destroying her personal belongings and infected plaintiff with a skin infection and

coerced her treating physicians to provide inadequate and substandard treatment. Plaintiff repeatedly reported the incidents to the Butler County Sheriff's Office who failed to investigate, participated in and contributed to the unlawful harassment.

The Fourth eviction involved Latitude Apartments, owned by PLK Communities, located in Mason, Ohio, January 26, 2024. On or around, January 26, 2024, Defendants conspired with Latitude Apartments, a PLK Community, to have plaintiff unlawfully evicted from staying with her friend, Adwoa Akoto, in the Latitude Apartments. Specifically, Defendants and Natasha McBerry, Assistant Property Manager, falsely accused plaintiff of disturbance in the apartment and cited a prohibited conduct provision per the lease agreement. (Exhibit 68) Thereby, forcing plaintiff to leave the apartment instead filing an eviction in court as required under Ohio law.

On or around, January 29, 2024, Natasha McBerry played a tape of plaintiff talking loudly while on her telephone to Adwoa Akoto. Adwoa Akoto confirmed that it was plaintiff's voice and was required to inform plaintiff that she could not stay in her apartment any longer. (Exhibit 69) Therefore, plaintiff was required to vacate the apartment immediately as a result of the taped telephone call and email by Natasha McBerry. Additionally, plaintiff contacted Charles Statt, Recovery & Compliance at PLK Communities law department and requested a copy of the alleged taped telephone conversation. Charles Statt of PLK Communities refused to provide plaintiff with a copy of the recording.

This constitutes retaliation on the part of Defendants and PLK Communities. Most importantly, the disclosure of plaintiff's private conversations constitutes warrantless surveillance under Section 702 of the Foreign Intelligence Surveillance Act. Plaintiff has repeatedly complained about the F.B.I.'s conspiratorial harassment involving the warrantless surveillance of her personal cellphones, personal residence or dwelling, internet/Wi-Fi activities, etc.

It would be impossible to accurately explain every violation plaintiff has suffered because of defendant secret ongoing conspiratorial campaign of harassment, warrantless surveillance, discrimination and retaliation and otherwise illegal or fraudulent conduct. Her living situation is unstable and can change at any point with or without notice. Plaintiff is currently unemployed and homeless and having to travel by car back and forth from Mason, Ohio, Radcliff, Kentucky, Nashville, Tennessee and Sandy Springs, Georgia

In addition, plaintiff does not have access to health insurance because of her being homeless, unemployed and having to travel back and forth from place to place asking others for a place to stay.

Losing one's house or access to medical care would clearly constitute irreparable harm. The potential medical consequences and the financial uncertainty caused by defendants are sufficient to demonstrate irreparable harm. *Schalk v. Teledyne, Inc.*, 751 F.Supp. 1261, 1268 (W.D.Mich.1990). These factors weigh heavily in favor of granting the permanent injunction.

"Remedies available at law are inadequate to compensate for violation of an individual's civil rights." *Nat'l Fed'n of the Blind v. Lamone*, No. 14-1631, 2014 WL 4388342, at *15 (D. Md. Sept. 4, 2014), *aff'd sub nom.* 813 F.3d 494 (4th Cir. 2016). *Hindel v. Husted*, Case No.: 2:15-cv-3061 (S.D. Ohio

Feb. 1, 2017) Plaintiff argues, and the Court agrees, that "the only relief that will remedy Plaintiffs' injury is relief that will prevent its reoccurrence...

Warrantless Surveillance

More importantly, the disclosure of plaintiff's private conversations constitutes an injury in fact a warrantless surveillance under Section 702 of the Foreign Intelligence Surveillance Act, a violation of plaintiff's Fourth Amendment rights. This retention and searching of the plaintiffs' personal data and communications is an ongoing infringement of plaintiffs' privacy interests an injury-in-fact for Article III standing purposes¹. *Menard v. Saxbe*, 498 F.2d 1017, 1023-24 (D.C. Cir. 1974) (holding that retention of records is a 'cognizable legal injury").

Plaintiff has repeatedly complained about the F.B.I.'s conspiratorial harassment involving the warrantless surveillance of her personal cellphones, personal residence or dwelling, internet/Wi-Fi activities, etc.

Repeated Discriminatory Unlawful Terminations

From September 2006 to the present, plaintiff suffered the embarrassment of retaliatory wrongful terminations, unlawful blacklisting from employment, unlawfully banned from accessing medical and dental services, unlawfully banned from renting cars, reputational harm and deficient law enforcement services. Combined with the injuries she has suffered as explained in her Third Amended Complaint filed in the matter of *Holmes vs USA, et. al.*, 1:20-CV-00825, U.S. District Court S.D. Ohio. Defendants have and continue to **REPEATEDLY** violate her First, Fourth, Fifth and Fourteenth Amendment rights by engaging in an ongoing conspiratorial campaign of harassment. Including but not limited to conspiratorial false defamation, libel, slander, allegations of fraud, warrantless surveillance, wiretapping, bugging, monitoring etc.

Unlawful Termination at Macy's Inc. Cincinnati, Ohio September 2006

Plaintiff was employed by Macy's Inc., formerly Federated Department Stores, from February 21, 2006 – September 29, 2006.

On September 29, 2006, David Clark, Senior Vice President of Human Resources, while plaintiff's OCRC and EEOC complaint was under investigation, called plaintiff into a meeting. Mr. Clark informed plaintiff that she was required to meet with his hired outside attorney who worked for Dinsmore and Shohl LLP, to answer questions regarding her allegations of discrimination.

Immediately following the question-and-answer process, David Clark informed plaintiff that she was being terminated for "misrepresenting facts in the interview," with the attorney and that "everyone told a different story than plaintiff." At no point did David Clark disclose his contact and

¹ See, e.g., *Mayfield v. United States*, 599 F.3d 964, 971 (9th Cir. 2010) (agreeing with the district court that the plaintiff 'continue[s] to suffer a present, on-going injury due to the government's continued retention of derivative material from the FISA seizure");

communications with the FBI-Cincinnati Division to the plaintiff. Plaintiff was completely unaware that the FBI was involved. (*Holmes vs USA et.al.*, 1:20-cv-00825, US District Court S.D. of Ohio, Doc#109, Amended Complaint, paragraphs 95-130, Pg. 3371-3376)

Unlawful Blacklisting from October 2006 – November 2008

As plaintiff recalls, she could not find a full-time permanent job for at least an entire year and half after leaving Macy's. Because the FBI-Cincy, State of Ohio, City of Cincinnati, David Clark, Thomas Cody and Does of Macy's Inc. and others blacklisted her from bona fide employment opportunities in the accounting profession.

Unlawful City of Cincinnati Constructive Termination December 2016

In July 2014, after plaintiff filed her federal discrimination lawsuit against the City, she was subjected to a hostile work environment, warrantless surveillance, conspiratorial harassment which prompted her resignation from employment, of eight years with the City, in December 2016.

In December 2016, plaintiff resigned employment of eight years with the City of Cincinnati as an Accountant due to the ongoing harassment, retaliation, and hostile work environment.

Unlawful Termination from Dover Corporation West Chester, Ohio March 2017

Plaintiff obtained a Senior Accountant position, with Dover Corporation in December 2016. (Exhibit 41) In March 2017, after agreeing to settle her case against the City of Cincinnati, Plaintiff was fired from her Senior Accountant job with Dover Corporation, without reason. (Exhibit 42)

Unlawful Blacklisting from March 2017 – March 2018

From March 2017 to the present, Plaintiff could only obtain employment with temporary services, and Walmart. Because defendants blacklisted her from bona fide employment opportunities in the accounting profession.

In July 2017, plaintiff moved to Radcliff, Ky, which is just ten miles from Elizabethtown, Ky, the hometown of Paula Boggs-Muething, City Solicitor. In Louisville, Radcliff and Elizabethtown, Ky, plaintiff was consistently denied employment for almost an entire year.

Unlawful Termination from Walmart Corporation Mason, Ohio June 2018

In March 2018, plaintiff secured a job working as a cashier where she was terminated after working approximately four months without reason. Plaintiff was fired in June 2018, without reason.

Unlawful Termination from Deloitte LLP. Hermitage Tennessee October 2018

In July 2018, plaintiff moved to Nashville, TN, where she secured a job working as the Lead Accountant, for Staffmark, in July 2018. She was assigned to work as a Lead Accountant at Deloitte LP, and was terminated, without reason in October 2018. (Exhibit 43) Although the Ohio Office of Unemployment Compensation determined that plaintiff had been laid off, this was really a termination disguised as a layoff. At Deloitte LP, plaintiff worked under a mob form of management, in complete isolation and was not permitted to associate with other employees.

While working at Deloitte LP, in Hermitage, Tennessee, plaintiff experienced the same form of harassment she had experienced at the City of Cincinnati, from unknown employees, and agents. For example, every time plaintiff attempted to associate with the other employees, unknown employees would tell her that she was just a temp with college level experience in Accounting.

Unlawful Termination from Bridges Domestic Violence Center Franklin, Tennessee October 2018

In August 2018, plaintiff secured a job with Bridges Domestic Violence Center, in Franklin, TN, plaintiff worked as a live in, Domestic Violence Advocate, where she was continuously surveilled and monitored by the FBI.

In October 2018, an employee purposely left an entire freezer full of spoiled food without notifying plaintiff. Plaintiff ate the food and came down with food poisoning and was abruptly fired again without reason. On or around October 20, 2018, plaintiff was given less than one day to vacate the apartment that she lived in while working for Bridges Domestic Violence Center. In October 2018, plaintiff moved back to Cincinnati, Ohio.

Unlawful Blacklisting from October 2018 – March 2019

From October 20, 2018, to March 2019, plaintiff was continuously denied employment and homeless.

Unlawful Termination from Multi-Color Corporation Cincinnati, Ohio June 2019

On or around, March 2019, plaintiff obtained a temporary position with Accountemps as an Accountant. Plaintiff was placed in an Accountant position with Multi-Color Corporation in Mason, Ohio. At the time, Multi-Color Corporation was undergoing several audits due to lost profits and a potential buyout.

In March 2019, Multi-Color Corporation was purchased by Platinum Equity LLC., a private equity firm. The corporate law firm that advised and represented Multi-Color Corporation was Keating Muething & Klekamp. Ms. Paula Boggs-Muething, City of Cincinnati Solicitor, holds a significant partnership interest with her husband in Keating, Muething & Klekamp, a leading corporate law firm, based in Cincinnati, Ohio, with lawyers throughout America. Plaintiffs' employment with Accountemps abruptly ended in June 2019. (Exhibit 44) Once again, the Ohio Office of Unemployment made the determination that plaintiff was laid off, however, this was just another termination disguised as a layoff.

Forced to Cash-Out Pension From City of Cincinnati June 2019

The long periods of unemployment forced plaintiff to cash out her City pension to obtain funds to survive, in June 2019. Since defendants have engaged in a continuous campaign of conspiratorial retaliation of having plaintiff wrongfully terminated off many jobs.

Plaintiff had to apply for health insurance through the Medicaid Program in Ohio and she has been placed on Medicaid for health and dental insurance.

Unlawfully Banned from UC Dental Clinic June 2019

In June 2019, defendants conspired with the University of Cincinnati Medical Center to have plaintiff dismissed from its low-cost Dental Center in the middle of having a dental implant developed for her front tooth. (Exhibit B) This is the only low-cost Dental Center in the Cincinnati area that provides low costs dental services to the poor.

UC Dental provided false statements to Molina regarding plaintiffs' dismissal from the practice. At the time of her dismissal, plaintiff had an attorney write a letter to UC Dental and Jerome McMahon responded, "it has become apparent that our practice is unable to meet your expectations. We believe your dental needs would be better met at another dental practice and we are requesting that you seek a new dental care provider." Although they provided a totally different explanation to Molina Healthcare. This is just a cover-up for unlawful discrimination.

From June 17, 2019, to the present plaintiff has been incapable of obtaining the dental implant and still has her front tooth missing presently. As a direct result leukoplakia and calluses have started to grow on the sides and under Plaintiff's tongue, due to wearing a flipper that doesn't fit well and causes her teeth to bite her tongue. In October 2022, Plaintiff had to have a biopsy on her tongue due to calluses growing underneath her tongue. (Exhibit 1) Although there was no sign of cancer, Plaintiff must continue to monitor the callus and Leukoplakia growth which could potentially lead to cancer. Because she cannot afford to pay full price to have a dental implant placed in her mouth she has to continue wearing a flipper.

In December 2019, Plaintiff was referred to a surgeon to have her gallbladder removed and she has been incapable of obtaining the surgery due to defendant's constant harassment and retaliation and having to live under the threat of being evicted at any time. (Exhibit 2) Failing to have your gallbladder removed could lead to serious health complications and consequences.

In January 2023, plaintiff was unlawfully dismissed from treating with Dr. Sara Lyons, her gynecologist of fifteen years.(Exhibit 3)

Unlawful Termination from Georgia Pacific November 2019

On October 23, 2019, plaintiff obtained employment as a Plant Accountant at Georgia Pacific in Lebanon, Ohio and was fired on November 15, 2019. (Exhibit 45) It's torture!

In November 2019, plaintiff was fired from Georgia Pacific after just three weeks of working. The reason provided for plaintiffs' termination was that she just did not fit with the culture. Plaintiff filed a complaint with the Ohio Civil Rights Commission, which is ran by the State of Ohio.

Plaintiff reported that Ms. Deborah Heater, Regional Director of the Dayton OCRC, was discriminatorily bias and requested that she be removed from the investigation. (Exhibit 46)

Unlawfully Banned from Enterprise Rent A Car March 2020

On March 13, 2020, defendants conspired with Entérprise Rent A Car and had plaintiff placed on the "Do Not Rent List." (Exhibit C) To date, Enterprise Rent A Car has failed to provide a response or explanation as to why plaintiff has been placed on the "Do Not Rent List."

Unlawful Termination from Huffy Corporation March 2023

On February 27, 2023, plaintiff was hired by Huffy Corporation as a Senior Accountant. On March 24, 2023, Plaintiff was fired from her job as a Senior Accountant with Huffy Corporation in direct retaliation for filing her application for injunctive relief. Plaintiff worked for Huffy Corporation from February 27, 2023, to March 24, 2023, less than one month of employment. (Exhibit 59)

Unlawful Blacklisting from March 2023 – present

From October 20, 2018, to March 2019, plaintiff was continuously denied employment and homeless.

Reputational Harm

Additionally, defendants have been **REPEATEDLY** accused plaintiff of criminal fraud, which has severely damaged her reputation.

On September 29, 2006, David Clark, Senior Vice President of Human Resources, while plaintiff's OCRC and EEOC complaint was under investigation, called plaintiff into a meeting. Mr. Clark informed plaintiff that she was required to meet with his hired outside attorney who worked for Dinsmore and Shohl LLP, to answer questions regarding her allegations of discrimination.

Immediately following the question-and-answer process, David Clark informed plaintiff that she was being terminated for "misrepresenting facts in the interview," with the attorney and that "everyone told a different story than plaintiff."

On or around April 2, 2010, plaintiff reported the unauthorized disclosure of her personal medical records to Lisa Berning. Specifically, in April of 2010, someone at the City of Cincinnati forged plaintiff's signature on a medical release and obtained her medical records, from her doctor's office. (Exhibit 10) Lisa Berning, the City Solicitor's Office, and several City Officials accused her of fraud related to the unauthorized disclosure of her personal medical information.

On September 24, 2014, Plaintiff was falsely accused of providing fraudulent emails to the Ohio Disciplinary Counsel and the United States District Court. (Exhibit 38)

The false fraud accusation's purpose was to ruin plaintiff's reputation and discriminatorily prevent her from obtaining employment in the Accounting Profession.

Deficient Services from Governmental Agencies

Plaintiff explained as a direct result, of Defendant's conspiratorial actions, plaintiff has been subjected to deficient services from federal, state and local law enforcement agencies, attorney misconduct, judiciary misconduct and prosecutorial misconduct and adverse judgments and orders by the Judiciary anywhere she has resided. Because of the ongoing conspiratorial harassment, retaliation, discrimination, other unlawful activities and the unlawful arrest and prosecution plaintiff lacks trust in the judicial system and in federal, state, and local law enforcement's ability to keep her safe.

This is an injury-in-fact because plaintiff is less safe and secure than other citizens and has been subjected to disparate treatment, denied criminal and civil justice, as a direct result of defendant ongoing fraud, collusion and conspiratorial harassment. Because of defendants secret conspiratorial actions to cover up their fraud, collusion, unlawful behavior and use government personnel and resources to protect themselves, their agencies or organizations. Plaintiff has suffered a number of distinct injuries. Plaintiff has suffered disparate treatment, retaliatory arrest and prosecution, wrongful evictions, wrongful employment terminations, abuse of power, violation of her rights to due process, equal protection, defamation, libel, slander, privacy violations, gross negligent falsification of plaintiffs' medical records, emotional, bodily and physical harm etc. Plaintiff has been falsely branded by defendants and local law enforcement as being paranoid, delusional and suffering from a psychotic mental illness, forced to a psychiatric facility, placed on a 72-hour hold, forced to accept unnecessary mental health treatment all in violation of her civil liberties and constitutional rights as guaranteed under First, Fourth, Fifth and Fourteenth Amendment.

Spoilage of Evidence -Additional Retaliation by Modern Psychiatry and Wellness, Dr Quinton Moss

On November 13 and December 4, 2020, plaintiff attended follow-up visits with Dr. Quinton Moss and was provided Medical Treatment Plan Updates which did not have [REDACTED]," selected. (Exhibit F-1) Plaintiff attended another office visit with Dr. Moss, on May 11, 2021, and asked him to write a letter explaining that plaintiff had been having [REDACTED]

[REDACTED]. Dr. Moss initially agreed to write the letter for plaintiff and as plaintiff left the office, she was provided a Medical Treatment Plan Update which indicated "[REDACTED]," as part of her treatment. (Exhibit G-1) Despite the fact, that plaintiff's prior treatment plans did not indicate "[REDACTED]." Plaintiff asked the staff member why he had selected [REDACTED]," as part of her treatment plan and she explained that it was due to the change in her medications. Plaintiff responded that she did [REDACTED]. The staff member advised her that she was aware that her diagnosis was anxiety, and that plaintiff should discuss treatment with Dr. Moss.

On May 14, 2021, Plaintiff contacted Dr. Moss to follow up on the letter he agreed to write and the update in her treatment plan. On May 19, 2021, plaintiff received a telephone call from Dr. Moss, who informed plaintiff that he was willing to write a letter to the court indicating that she was [REDACTED]. (Exhibit H-1) Plaintiff explained that she did not believe that [REDACTED]. Plaintiff explained that she had treated with Dr. Jalynn Barnett, a local psychiatrist for approximately eight years prior and was [REDACTED]. On May 23, 2021, plaintiff requested [REDACTED]

and received copies of her medical records from Dr. Moss, at Modern Psychiatry and Wellness. (Exhibit I-1)

Plaintiff was outraged that her medical records had been falsified. Specifically, Dr. Moss changed plaintiff's [REDACTED]. Clearly, plaintiff's medical records have been falsified because the prior medical treatment plan updates did not have [REDACTED]. Dr. Moss never advised plaintiff that he diagnosed her [REDACTED]. Moreover, Dr. Moss prescribed the same medications and doses that plaintiff's [REDACTED].

Based on this information, Dr. Moss changed/alterd plaintiff's medical records and diagnosis on or, after May 11, 2021. Plaintiff contacted Dr. Moss' office staff and advised that the medical records had been falsified and she requested corrections. (Exhibit J-1) On May 21, 2021, Leslie Stump, Modern Psychiatry, Director of Quality Services sent an email agreeing to write a letter stating that Modern Psychiatry did not have any communication with Carissa Piper. (Exhibit K-1) On May 24, 2020, Suzanna Lozano, Modern Psych, COO, refused to write the letter. (Exhibit K-1) In addition, Dr. Moss refused to correct her medical records resulting in a breakdown in their relationship and [REDACTED]. Defendants engaged in a conspiracy to spoil plaintiff's medical record evidence to disrupt and sow deception regarding plaintiff injuries and competency. Thereby violating plaintiffs' Fifth and Fourteenth rights under the U.S. Constitution and Ohio Law.

Plaintiff is no longer interested in continuing treatment with Dr. Moss and has contacted her insurance company, Molina Healthcare to find a new [REDACTED]. To date, Molina Healthcare has located [REDACTED] who are booked up until the end of this year. Therefore, plaintiff will not be capable of seeing a [REDACTED], until November 2021, as a result plaintiff cannot obtain [REDACTED] which prevents or reduces her [REDACTED].

Spoilage of Evidence- Additional Retaliation by UC Health

On May 25, 2021, plaintiff went to [REDACTED]. Dr. Mya Sabai, MD, Psychiatrist, performed [REDACTED]. Before plaintiff left the hospital, she advised Dr. Sabai and other UC Health PES employees that she wanted the notes from her medical records. As plaintiff was genuinely concerned that her medical records would be revised/alterd or tampered with once she left the hospital. Therefore, Dr. Mya Sabai, provided plaintiff with her notes that she included in plaintiff's medical records. (Exhibit L-1) Dr. Mya Sabai notes in relevant part stated:

"Rosalind R. Holmes is a 41y.o. female who presented to the emergency department with [REDACTED]. She came to [REDACTED]. Pt reported that she is [REDACTED] for pst 3-4 months.....Denies [REDACTED]. Pt also brought some records related to her lawsuit against the FBI. Pt records include a copy of an email 4/2013, copy of letter from Ohio Supreme Court 09/2014, copy of a letter from Congressman John Boehner 4/2015,

copy of letter from FBI 4/2020, Per copies of the records: Pt was accused by her attorney of some fraudulent emails and is being investigated by the supreme court and FBI. Supreme court asked her to provide explanation of why she have incorporated the context of fraudulent emails into a filing in federal court. Pt states that she has been falsely accused by her attorney and was never arrested or charged with crime.” (Exhibit L-1)

Plaintiff was provided with an After Visit Summary that [REDACTED], as she was leaving the hospital. (Exhibit L-1) Plaintiff asked Dr. Mya Sabai, why the [REDACTED] was included on her after visit summary, and she advised that [REDACTED] was from Atrium Medical Center. Apparently, [REDACTED] had automatically populated from “care everywhere medical records.” Plaintiff asked Dr. Mya Sabai, to write down that the [REDACTED] was from Atrium Medical Center and that it automatically populated on her After Visit Summary. Dr. Mya Sabai wrote this information on both her notes and on the After Visit Summary.

On May 27, 2021, plaintiff requested her medical records from UC Health Medical Records Department. (Exhibit M-1) Plaintiff received her medical records, on June 7, 2021, and noticed several fraudulent, insulting, and deceitful notations by the doctors, social workers and medical staff. (Exhibit M-1) Also, the medical records include reference to plaintiff’s race and portray her in a false light. Plaintiff also noticed that Dr. Mya Sabai’s notes had been revised/alterd. (Exhibit M-1) Specifically, Dr. Mya Sabai revised notes in relevant part stated:

“Rosalind R. Holmes is a 41 year old divorced AAF [REDACTED] per chart review from care everywhere, brought self [REDACTED] with cc of wanting to have [REDACTED] adjusted. Pt reported that she is having [REDACTED] for pst 3-4 months, felt like she is going to have stroke or heart attack. Denies she is feeling si/hi or intent or plan. Pt also brought some stacks of paper, dated 2013, 2014, 2015, 2019 and last one is 4/2020 related to law suits against City of Cincinnati, copy of letter from Congressman John Boehner and pt also suit her defense lawyer, per some of the paper work her case has been dismissed. Pt continues to preoccupied with [REDACTED] about FBI and CIA. Per copies of records; there is no such FBI nor CIA involved. There were simply records of explanation from supreme court and DOJ that there is not such records found in their record system. (Pt obviously [REDACTED])”

It is important to note that plaintiff never provided Dr. Mya Sabai with any records or paperwork from the CIA or any orders from the U.S. District Court with reference to the City of Cincinnati.

On June 8, 2021, Plaintiff reported the falsification of her medical records to Janie Myatt, Director of Patient Relations. (Exhibit N-1)

On June 1, plaintiff completed UC Health’s Amendment Form to have the “[REDACTED] [REDACTED] from the After Visit Summary. (Exhibit N-1) UC Health agreed to correct the after-visit summary as requested by plaintiff.

Janie Myatt advised that she had requested assistance from UC Health’s Information Technology Department to find out how the change in the medical records happened. Jane Myatt advised that the Information Technology Department could not locate the records provided by plaintiff in their system.

In addition, Jane Myatt advised that Dr. Mya Sabai sent her an email denying providing plaintiff with the notes. However, Dr. Mya Sabai wrote on the back of the notes from plaintiff's medical records in her own handwriting. (Exhibit N-1)

Janie Myatt, refused to provide plaintiff with a copy of the email because she would have to obtain Dr. Sabai's authorization. According to Janie Myatt, UC Health has refused to change the medical records and Janie Myatt advised plaintiff that she would have to sue the hospital.

Most of the notes documented to plaintiff's medical records have been falsified and are unreliable. (Exhibit M-1) More importantly, it is obvious that Dr. Mya Sabai and UC Health PES are aware of plaintiff's prior discrimination lawsuit against the City of Cincinnati and that they are retaliating against her by falsifying her medical records. Nevertheless, UC Health was already a defendant in plaintiff's Bivens lawsuit filed in this Court. Defendants engaged in a conspiracy to spoil plaintiff medical record evidence to disrupt and sow deception regarding plaintiff injuries and competency. Thereby violating plaintiff's Fifth and Fourteenth rights under the U.S. Constitution and Ohio Law.

Spoilage of Evidence- Additional Retaliation by Christ Hospital

In July 2019, plaintiff informed her Counselor that she was [REDACTED], due to the continual surveillance and retaliation by defendants. Currently, Plaintiff was not [REDACTED] and expressed an interest in [REDACTED]. In fact, plaintiff explained to her Counselor that she would willingly [REDACTED] just as she had done in the past. Plaintiff explained that she wanted to go home and that she would willingly come back to seek additional [REDACTED]. Suddenly a nurse appeared and requested that plaintiff go with her. Plaintiff asked the nurse where she was taking plaintiff and the nurse explained that she was taking plaintiff to the [REDACTED]. Plaintiff explained to the nurse that she would willingly come back another day to seek treatment. The nurse and plaintiff's counselor continued to request that plaintiff go to the [REDACTED]. Finally, plaintiff willingly went to [REDACTED] under the assumption that she would be released that same day. When plaintiff arrived at the [REDACTED], the nurse advised her that she was [REDACTED] based upon telling her counselor stories about the F.B.I. and others unlawful surveillance and unlawful actions taken against her. In other words, plaintiff was placed on an [REDACTED] pending a hearing with the probate court.

As plaintiff previously explained, defendants, conspired with the Butler County, Ohio Sheriff, to have plaintiff placed on [REDACTED] at Christ Hospital on October 22, 2022. Plaintiff requested her medical records and noticed that she was being falsely diagnosed [REDACTED]

Plaintiff was reporting the truth to the [REDACTED] that the FBI was engaged in conspiratorial retaliation, warrantless surveillance, and otherwise unlawful actions against her. Plaintiff is not a [REDACTED] and plaintiff will be subjected to the same false diagnosis with an injunction.

Defendants **REPEATEDLY** conspired with plaintiffs' treating physicians and hospitals to falsely diagnose plaintiff with a severe mental disease, to sow deception about her mental health competency, character, to damage her reputation, to incite conflicts between plaintiff, the hospitals and her treating physicians.

False Allegations of Mental Disease by Butler County Sheriff's
In the matter of *State of Ohio vs. Rosalind Holmes* Case No: CRB2300455
Butler County, Ohio Area I Court

Every time petitioner contacts the police the Butler County Sheriff Department claims that they cannot assist with the unlawful entry and no investigation ensues. The Butler County Sheriff's Office has branded petitioner as being [REDACTED] for reporting what she reasonably believes is harassment by the F.B.I. and Respondents. As petitioner explained in her writ of prohibition, in October 2022, the Butler County Sheriff along with the Butler County Crisis Team unlawfully placed her on a 72-Hold in the [REDACTED]. The Butler County Sheriff's actions toward petitioner of writing reports alleging that petitioner [REDACTED] [REDACTED] and placing her on a 72-hour hold is direct proof that petitioner is receiving substandard and decreased police services. Therefore, petitioner cannot rely on the local law enforcement, to protect her and she is not safe. This factor weighs heavily in favor of granting a permanent injunction. As petitioner cannot expect local law enforcement protection from the FBI, she is being asked to supply the Butler County Sheriff's office with physical evidence such as a video or intruders entering her home. This is virtually impossible, petitioner has cameras setup in her apartment which run by WIFI and subject to hacking by the FBI. Even if petitioner could purchase a camera that doesn't require the use of WIFI she would have to order it to be shipped to her. Since respondents have been intercepting petitioners mail and delaying, sabotaging packages they can easily intercept petitioners' shipment for a camera that does not require the use of WIFI, and sabotage, tamper, and alter the functioning of any camera that petitioner buys without notifying this petitioner. Additionally, petitioner will have to keep the camera inside her apartment or car and respondents have a key to petitioner's apartment and car and they are highly likely to find the camera and destroy or sabotage it. (Exhibit 14)

Because defendants Butler County Sheriff's deputies, including Sergeant Connie Rockey, and others falsely accused plaintiff of suffering from [REDACTED] in their police reports, which were submitted as evidence to obtain a conviction. Plaintiffs' attorney advised her that it was necessary to obtain a court ordered Psychological Evaluation. Therefore, on January 12, 2024, Attorney Clyde Bennett, filed a motion in the Butler County Ohio Area I Court, for plaintiff to undergo "evaluation to determine if she is competent to stand trial and if she is guilty by reason of insanity." (Exhibit 66)

Although the case has been dismissed, plaintiff suspects that defendants have conspired with Dr. Nitching, Forensic Psychologist, Forensic Evaluation Service Center located in Fairfield, Ohio. On April 27, 2024, plaintiff filed a Motion to Disclose the Expert's Report to review and or obtain a copy of the Forensic Psychologist Report submitted to the Butler County, Ohio Area I Court, in the matter of *State*

of Ohio vs. Rosalind Holmes Case No: CRB2300455 Butler County, Ohio Area I Court. (Exhibit 70) On May 9, 2024, the Court denied plaintiffs' request for disclosure of the expert's report. (Exhibit 71)

Plaintiff believes it is necessary to obtain a copy of Dr. Nitching's report because defendants have **REPEATEDLY** conspired with plaintiff's treating physicians to falsely diagnose plaintiff with suffering from a severe mental disease. Dr. Nitching's report may be further evidence of defendant's relentless campaign of conspiratorial retaliation and harassment if she ruled plaintiff incompetent for unjustifiable or unlawfully impermissible reasons.

Irreparable Harm

This is not a coincidence or just bad luck, Defendants, **REPEATEDLY** conspired to have plaintiff terminated, unlawfully blacklisted, unlawfully banned from accessing medical and dental services, unlawfully evicted, falsely diagnosed plaintiff with a severe mental disease to spoil her medical record evidence, engaged in retaliatory false accusations or fraud, false arrest and prosecutions and malicious false fraud allegations from September 2006 to the present, nearly twenty years. Because of defendants conspiratorial retaliation, and harassment there is no accurate method to quantify the monetary damages that plaintiff has suffered and will continue to suffer in her career and finances. As plaintiff has been repeatedly fired off every job since September 29, 2006. Without an immediate permanent injunction for recovery of financial losses, the establishment of a monthly income, housing, living expenses and/or reinstatement, retroactive promotions, retroactive backpay, front pay beginning on September 29, 2006, insurance benefits punitive damages, etc., plaintiff will be continuously fired off every job, evicted from housing, unlawfully banned from medical and dental services because of defendants campaign of retaliation.

Defendants intentionally engaged in a twenty year conspiratorial campaign of retaliation to drive plaintiff into financial disarray. Plaintiff has been diligently seeking redress and a resolution to defendants conspiracy for nearly twenty years. It is evident, that the governments conspiratorial campaign of retaliation is an extraordinary circumstance that plaintiff cannot control. Plaintiff is unemployed, homeless and very close to filing a personal bankruptcy. Without immediate injunctive relief plaintiff will suffer the irreparable harm of having to file a bankruptcy. This is an extraordinary genuine situation that constitutes irreparable harm.

In *Sampson*, the Supreme Court acknowledged the following:

We recognize that cases may arise in which the circumstances surrounding an employee's discharge, together with the resultant effect on the employee, may so far depart from the normal situation that irreparable injury might be found. Such extraordinary cases are difficult to define in advance of their occurrence. But we do not wish to be understood as foreclosing relief in the genuinely extraordinary situation. *Sampson v. Murray*, 415 U.S. 61, 90 (1974).

This case will allow the Supreme Court to further define and describe what constitutes a "genuinely extraordinary situation."

In *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008), the Supreme Court held that it is not enough for a party seeking injunctive relief to show

a "possibility" of irreparable harm; instead, it must be shown that irreparable injury "is likely in the absence of an injunction." The harm alleged cannot be "speculative or theoretical." Rather, "[i]n order to substantiate a claim that irreparable injury is likely to occur, a movant must provide some evidence that the harm has occurred in the past and is likely to occur again." *Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 154 (6th Cir.1991).

Currently, plaintiff is homeless and unemployed and very close to filing a personal bankruptcy because defendants drove her into financial ruin by having her unlawfully terminated from September 2006 to the present. There is no accurate method to quantify the monetary damages to her career, personal finance personal credit rating.

However, a significant body of case law establishes that "in certain circumstances the threat of eviction and the realistic prospect of homelessness constitute a threat of irreparable harm and satisfy the first prong of the test for preliminary injunctive relief." *Smith v. State Farm Fire and Cas. Co.*, 737 F. Supp. 2d 702, 714 (E.D. Mich. 2010)

The Sixth Circuit has held that "financial ruin qualifies as irreparable harm." *Warren v. City of Athens, Ohio*, 411 F.3d 697, 711 (6th Cir. 2005). In *Warren*, the court affirmed the order of a permanent injunction prohibiting the defendant city from setting up a barricade that rendered inoperable the drive-thru at the plaintiff's fast food restaurant. *Id.* at 712.

(2) Plaintiff is likely to succeed on the merits of her claims outlined in her Third Amended Complaint under Bivens and 42 USC § 1968, malicious prosecution, warrantless surveillance, conspiracy, retaliatory arrest and prosecution, etc.

"[A]s a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions" for engaging in protected speech. *Hartman v. Moore*, 547 U.S. 250, 256, 126 S.Ct. 1695, 164 L.Ed.2d 441 (2006). If an official takes adverse action against someone based on that forbidden motive, and "non-retaliatory grounds are in fact insufficient to provoke the adverse consequences," the injured person may generally seek relief by bringing a First Amendment claim. *Ibid.* (citing *Crawford-El v. Britton*, 523 U.S. 574, 593, 118 S.Ct. 1584, 140 L.Ed.2d 759 (1998) ; *Mt. Healthy City Bd. of Ed. v. Doyle*, 429 U.S. 274, 283–284, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977)).

This Court held that a plaintiff alleging a retaliatory prosecution must show the absence of probable cause for the underlying criminal charge. *Id.*, at 265–266, 126 S.Ct. 1695. If there was probable cause, the case ends. If the plaintiff proves the absence of probable cause, then the *Mt. Healthy* test governs: The plaintiff must show that the retaliation was a substantial or motivating factor behind the prosecution, and, if that showing is made, the defendant can prevail only by showing that the prosecution would have been initiated without respect to retaliation. See 547 U.S., at 265–266, 126 S.Ct. 1695 *Lozman v. City of Riviera Beach*, 138 S. Ct. 1945, 201 L. Ed. 2d 342 (2018)

To prevail on such a claim, a plaintiff must establish a "causal connection" between the government defendant's "retaliatory animus" and the plaintiff's "subsequent injury." *Hartman*, 547 U.S. at 259, 126 S.Ct. 1695. It is not enough to show that an official acted with a retaliatory motive and that the plaintiff

was injured—the motive must *cause* the injury. Specifically, it must be a "but-for" cause, meaning that the adverse action against the plaintiff would not have been taken absent the retaliatory motive. *Id.*, at 260, 126 S.Ct. 1695 (recognizing that although it "may be dishonorable to act with an unconstitutional motive," an official's "action colored by some degree of bad motive does not amount to a constitutional tort if that action would have been taken anyway").

Although probable cause should generally defeat a retaliatory arrest claim, a narrow qualification is warranted for circumstances where officers have probable cause to make arrests, but typically exercise their discretion not to do so. In such cases, an unyielding requirement to show the absence of probable cause could pose "a risk that some police officers may exploit the arrest power as a means of suppressing speech." *Lozman*, 585 U.S., at —, 138 S.Ct., at 1953–1954. When § 1983 was adopted, officers were generally privileged to make warrantless arrests for misdemeanors only in limited circumstances. See Restatement of Torts § 121, Comments *e*, *h*, at 262–263. Today, however, "statutes in all 50 States and the District of Columbia permit warrantless misdemeanor arrests" in a much wider range of situations—often whenever officers have probable cause for "even a very minor criminal offense." *Atwater*, 532 U.S. at 344–345, 354, 121 S.Ct. 1536; see *id.*, at 355–360, 121 S.Ct. 1536 (listing state statutes).

For example, at many intersections, jaywalking is endemic but rarely results in arrest. If an individual who has been vocally complaining about police conduct is arrested for jaywalking at such an intersection, it would seem insufficiently protective of First Amendment rights to dismiss the individual's retaliatory arrest claim on the ground that there was undoubted probable cause for the arrest. In such a case, because probable cause does little to prove or disprove the causal connection between animus and injury, applying *Hartman*'s rule would come at the expense of *Hartman*'s logic.

For those reasons, we conclude that the no-probable-cause requirement should not apply when a plaintiff presents objective evidence that he was arrested when otherwise similarly situated individuals not engaged in the same sort of protected speech had not been. Cf. *United States v. Armstrong*, 517 U.S. 456, 465, 116 S.Ct. 1480, 134 L.Ed.2d 687 (1996). That showing addresses *Hartman*'s causal concern by helping to establish that "non-retaliatory grounds [we]re in fact insufficient to provoke the adverse consequences." 547 U.S. at 256, 126 S.Ct. 1695. And like a probable cause analysis, it provides an objective inquiry that avoids the significant problems that would arise from reviewing police conduct under a purely subjective standard. Because this inquiry is objective, the statements and motivations of the particular arresting officer are "irrelevant" at this stage. *Devenpeck*, 543 U.S. at 153, 125 S.Ct. 588. After making the required showing, the plaintiff's claim may proceed in the same manner as claims where the plaintiff has met the threshold showing of the absence of probable cause. See *Lozman*, 585 U.S., at —, 138 S.Ct., at 1952–1953.

Additionally in Appendix A, attached to this application for relief plaintiff has fully explained the reasons she is highly likely to succeed on all thirty claims included in her Third Amended Complaint.

(2) The Remedies available at law, such as monetary damages, are inadequate to compensate for that injury

Plaintiff has and will continue to suffer irreparable harm of the nearly twenty years of her life she has lost and there is no adequate remedy to compensate plaintiff for the following: lost friendships, lost professional and business relationships, loss of her marriage, the pain and suffering from being jobless and homeless, repeatedly being falsely accused of fraud, not being able to have children, family, exposed to public ridicule, embarrassment, damaged reputation, damaged family relationships, retaliation, hatred from defendants many allies, having her personal credit rating destroyed, being prevented from becoming a Certified Public Accountant and other educational and academic opportunities, loss of vacations, lost work experience the opportunity to compete for promotions, the birthdays, holidays, time with family, etc.

Due to the genuinely extraordinary situation, back pay would not remedy plaintiffs' injuries. The loss of experience, twenty years of REPEATED conspiratorial retaliation, being prevented from obtaining her Certified Public Accounting licensure and chances to compete for promotions are not easily valued. *See NAACP v. City of Mansfield, Ohio*, 866 F.2d 162, 171 (6th Cir. 1989) (citing *Firefighters Inst. for Racial Equal. v. City of St. Louis, Mo.*, 616 F.2d 350, 362 (8th Cir. 1980) (*finding that continual delays in the promotion of black firefighters constituted irreparable injury as a matter of law*))

Plaintiff is very close to having to file a personal bankruptcy because she has no income and she is homeless. Bankruptcies, foreclosures, repossessions, etc., require the passage of time before they are removed from an individuals credit. Personal credit damage causes emotional turbulence, anger, resentment and a significant loss of enjoyment of life. This damage can persist long after financial restoration is made as in some instances relationships are destroyed as a consequence of the credit damage. There is no adequate remedy in law to compensate plaintiff for irreversible credit damage.

Because of the federal, state and local judiciary bias, and involvement in the conspiratorial campaign of discriminatory harassment, retaliation, false criminal allegations and prosecution, warrantless surveillance, and otherwise unlawful activities. Their prejudice, bias and partiality in imposing their adverse orders made it extremely difficult for plaintiff to receive Equal Justice and Equal Protection under the law. As a direct result of the judges prejudicial, bias and adverse orders that were contrary to binding legal precedent in their respective jurisdictions. Plaintiff, does not trust the judiciary to perform their duties according to law and follow the judicial code of ethics. There is virtually no remedy at law, such as monetary damages that are adequate to compensate plaintiff for the conspiratorial retaliation involving the judiciary. Therefore, this case requires transfer outside the Sixth Circuit (Intercircuit). Please see Appendix B for further explanation.

Harm is irreparable if it cannot be fully compensated by money damages, or if the nature of the injury makes money damages difficult to calculate. *See Overstreet v. Lexington–Fayette Urban County Gov't*, 305 F.3d 566, 578 (6th Cir.2002); *Basicomputer Corp. v. Scott*, 973 F.2d 507, 511 (6th Cir.1992).

(3) Considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted

The balance of hardships is determined by weighing the harm that will be suffered by the plaintiff if an injunction is not granted, against the harm that will be imposed upon the defendant by the granting of an injunction.

Plaintiff argues that the balance of hardships weighs heavily in favor of granting her a permanent injunction. Plaintiff asserts that she has and is currently suffering from the harm imposed by defendants for over eighteen years including but not limited to being **REPEATEDLY** subjected to wrongful terminations, being **REPEATEDLY** subjected to wrongful evictions, being **REPEATEDLY** subjected to embarrassment, being **REPEATEDLY** subjected to false fraud accusation, being **REPEATEDLY** unemployed and homeless, **REPEATED** violations to her constitutional rights, **REPEATEDLY** blacklisted from employment, **REPEATEDLY** banned from accessing medical and dental services, **REPEATEDLY** denied promotions, **REPEATEDLY** prevented from obtaining her CPA licensure, and prevented from competing for promotions, loss of work experience, **REPEATEDLY** retaliated and harassed through the judicial system, **REPEATED** harassment by law enforcement everywhere, loss of professional and business relationships due to false fraud accusations etc., public hatred, ridicule, and embarrassment, etc.

On the other hand, Defendants will not suffer any harm by imposing a permanent and declaratory relief and granting equitable relief against them.

Without permanent and declaratory relief, plaintiff is at a severe disadvantage of investigating, exposing and preventing defendant's ongoing conspiratorial retaliation and unlawful conduct because she has not and will not receive equal protection and due process from the federal, state, and local judicial systems and law enforcement agencies anywhere. Because defendant's have created a barrier impeding her from receiving due process and equal justice under the law.

As evidence, plaintiff explains that she was subjected to a malicious and retaliatory arrest and prosecution just five months after filing for injunction in the US Supreme Court, which lasted nearly ten months. She was subjected to conspiratorial retaliation in the form of false fraud allegations after filing a legitimate complaint of attorney misconduct. As explained in plaintiff's complaint she has contacted former Mayor John Cranley, City Council, the City Manager and the Chief of Police on July 25, 2014, and October 20, 2014. No action was taken by City Management to address or alleviate the conspiratorial harassment, warrantless surveillance, etc.

From the period of December 2014 to the present, Plaintiff has explained that she has contacted the local authorities, the West Chester, Ohio Police, the Butler County Sheriffs, the Federal Bureau of Investigations, the U.S. Department of Justice, the Inspector General for the DOJ, the City of Cincinnati

Mayor, City Council, Police Chief, several government watchdog agencies such as the American Civil Liberties Union, the Center For Constitutional Rights, several attorneys, her U.S. Senators, U.S. Congressman, and Ohio Representatives and Senators and the President of the United States of America. These agencies, individuals and officials have declined to investigate, assist, intervene, expose or prevent the relentless unlawful conspiratorial actions of defendants. Except for former Congressman John Boehner who sent Plaintiff's request for an investigation to the U.S. Department of Justice. However, Congressman John Boehner no longer holds political office.

Plaintiff, has done everything a reasonably diligent individual would do to prevent any further retaliation and harm by defendants. Nonetheless, Plaintiff has been unsuccessful in her many attempts to stop the defendants from denying her promotions, engaging in unlawful retaliation, wrongful terminations, housing discrimination, warrantless surveillance, false fraud allegations, violations to her privacy, sabotaging and destroying her personal belongings, causing her bodily harm, conspiratorial harassment and violations to her Constitutional rights. Plaintiff has set forth sufficient facts to prove that her diplomatic and litigation efforts to stop the unlawful conspiratorial harassment by defendants has failed.

Without the assistance of these agencies, individuals, attorneys and officials any investigation, legal action taken by plaintiff to prevent Defendant's unlawful actions have been rendered useless. Plaintiff's good faith efforts to investigate and prevent defendants conspiratorial unlawful behavior has proven fruitless. Plaintiff has been and continues to be harassed by defendants and continues to suffer harm due to defendant's ongoing campaign of conspiratorial harassment.

Based upon the past sequence of events it is likely that plaintiff will continue to suffer harm by defendants without permanent injunctive, declaratory and equitable relief. There is no substantial disadvantage to defendants by granting permanent injunctive and equitable relief. These facts weigh heavily in favor of granting permanent injunctive and equitable relief.

More importantly, Defendants Cincinnati Field Office of the FBI, State of Ohio Office of the Disciplinary Counsel, Ohio Board of Professional Conduct, City of Cincinnati Solicitors Office, Cincinnati Police Department, City Manager, Mayor, City Council, Freking, Myers, Reul, Elizabeth Tuck, Macy's Inc. and others cannot be trusted to follow the law and to end the ongoing campaign of conspiratorial retaliation against this Plaintiff. Defendants were required to disclose their conspiratorial retaliation prior to plaintiffs' agreement to settle the lawsuit in the matter of *Holmes v Cincinnati*, 1:14-cv-0052. (Exhibit A) Additionally, once plaintiff agreed to settle the matter *Holmes v Macy's Inc., formerly Federated Department Stores*, defendants were required by law to refrain from any form of discriminatory retaliation. (Exhibit 57) However, defendants Macys Inc., City of Cincinnati, along with many others fraudulently concealed their ongoing conspiratorial campaign of discriminatory harassment, warrantless surveillance, retaliation and many other unlawful actions, etc., that even now have not ceased.

Plaintiff has been and continues to be harassed by defendants and continues to suffer harm due to defendant's ongoing campaign of conspiratorial harassment. Based upon the past sequence of events it is likely that plaintiff will continue to suffer harm by defendants without permanent injunctive, declaratory and equitable relief. There is no substantial disadvantage to defendants by granting permanent injunctive and equitable relief. These facts weigh heavily in favor of granting permanent injunctive and equitable relief.

Additionally, a reporting process should be implemented to provide petitioner with the opportunity to make reports periodically directly to a court monitor overseen by the US Supreme Court regarding additional retaliation and harassment by defendants. Also, the US Supreme Court should maintain jurisdiction over any violations of the permanent injunction imposed against respondents.

In other words, any future reporting, including but not limited to disputes, violations, enforcement, revocation, changes, supplementation etc., of the permanent injunction would have to be handled directly by the US Supreme Court.

It is absolutely necessary for the US Supreme Court to indefinitely maintain jurisdiction over the permanent injunction to prevent respondents from engaging in any future conspiratorial retaliation in violation of the permanent injunction, declaratory and equitable relief requested and imposed by the U.S. Supreme Court.

(4) The public interest would not be disserved by a permanent injunction.

The public certainly has an interest in preventing any further erosion of plaintiffs clearly established First Amendment rights. The First Amendment protects the right to freedom of religion and freedom of expression from government interference. It prohibits any laws that establish a national religion, impede the free exercise of religion, abridge the freedom of speech, infringe upon the freedom of the press, interfere with the right to peaceably assemble, or prohibit citizens from petitioning for a governmental redress of grievances. Furthermore, the Court has interpreted the Due Process Clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments.

The Fourth Amendment of the U.S. Constitution provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Similarly, it is in the public interest to ensure that individuals are not subjected to impermissible discrimination or retaliated against for the exercise of their constitutional or federally protected rights. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The due process clause also promises that before depriving a citizen of life, liberty or property, the government must follow fair procedures. The Fifth

Amendment's Due Process Clause requires the federal government to practice equal protection. Under the equal protection clause the federal government body may not deny people equal protection of its governing laws. The federal government must treat an individual in the same manner as others in similar conditions and circumstances. The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. The Fourteenth Amendment's Equal Protection Clause requires states to practice equal protection.

As the Sixth Circuit said in *Connection Distributing Co.*, "it is always in the public interest to prevent the violation of a party's constitutional rights." *Connection Distributing Co.* at 288 (quoting *G V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)).

Moreover, the public interest is served by issuing permanent injunctive relief which protects an individual's First, Fourth, Fifth and Fourteenth Amendment rights.

As Plaintiff has advised this Court that she is currently on the verge of a financial bankruptcy because Georgia Pacific and the defendants included in plaintiff's Proposed Third Amended Complaint have engaged in conspiratorial retaliatory terminations and blacklisting from the year of 2006 to the present. As a direct result of defendant's conspiratorial campaign of retaliation to exact revenge against plaintiff, she is incapable of obtaining employment and experiencing extreme financial difficulties with meeting her current obligations.

Currently, plaintiff is struggling to pay for her storage rent with Public Storage, her car insurance with Progressive Insurance, her car note with Ally Financial, her cell phone bill with T-Mobile, among many others. Specifically, plaintiff has two storage units of her personal belongings including home furnishings, televisions, and many other important personal effects. Plaintiffs' storage units 1319 and 1353 are located at Public Storage, 3461 Tylersville Rd, Hamilton, OH 45011. Unit 1353 is currently in Adwo Akoto, plaintiffs' friend name and Unit 1319 is currently in plaintiffs' name. Since defendants have continued to prevent this plaintiff from obtaining employment and earning a living wage she will lose all of her life possessions of which are irreplaceable.

Additionally, plaintiff cannot afford to renew her driver's license or vehicle registration with the State of Ohio. She cannot afford to pay for her car insurance with Progressive Insurance. Additionally, plaintiff is homeless traveling between Ohio to Georgia asking friends and family for a place to live. Through no fault of her own, her living situation is very unstable, at times she has lived in violent, abusive, unsafe conditions. Due to defendants conspiratorial campaign of retaliation, she currently does not have a place to live.

Defendants are intentionally making it very difficult for this plaintiff to earn a living. Plaintiff is in desperate need of earning an income and having a safe place to live because defendants have caused her employment terminations, homelessness and they are holding up her good faith efforts to earn a living. This represents irreparable harm.

Permanent Injunctive Relief Request by Petitioner

Petitioner respectfully requests that injunctive and equitable relief be issued by the US Supreme Court as follows:

- A. Issue an order to Chief Judge Algenon L. Marbley of the U.S. District Court SD. Ohio and the Sixth Circuit Chief Judge Jeffrey S. Sutton to transfer the matter of *Holmes v USA et al.* 1:20-CV-00825, to another Circuit Judge who does not have any conflict of interest, financial interest, and who will be an impartial trier of fact.
- B. Issue an order to the United States District Court to serve plaintiffs' Third Amended Complaint Doc# 109 on all defendants of record and require that they issue a response to plaintiffs' claims. Please do not let a Magistrate Judge review and defend the case for defendants. Require that defendants issue their own individual responses to plaintiff's complaint.
- C. Issue an order to the United States District Court for the Southern Division of Ohio to seal all orders for the period of October 20, 2020 – February 1, 2023.
- D. Issue an order to appoint a Court Monitor to oversee the matter of *Holmes v USA et.al.* 1:20-CV-00825. The Court Monitor shall report directly to Brett Kavanaugh, Sixth Circuit Justice who will supervise the case, ensure compliance with the Supreme Court's, U.S. District Court S.D. Ohio, U.S. Sixth Circuit injunction and orders, serve as a supervisor of the Court, resolve any conflicts as to discovery, admissible evidence, witnesses, expert witnesses, adverse orders (orders contrary to jurisdictional precedent), any other relevant matters etc.
- E. Issue an order to Christopher Asher Wray, Director of the Federal Bureau of Investigation and Elena Iatarola, Special Agent in Charge of the Cincinnati Field Office of the FBI, prohibiting the F.B.I. from monitoring petitioners' location, engaging in any form or type warrantless surveillance, wiretapping of petitioner's personal cell phone, landline, internet, Wi-Fi, computers and devices by agents, informants, contractors, operatives, employees, etc., working for or with the FBI targeting this petitioner.. Including but not limited to the unlawful entry and warrantless surveillance of petitioner's home or dwelling; removal of any and all things, objects, devices, cameras, technology that they have affixed to petitioner's apartment, home or dwelling.
- F. Issue an order to Christopher Asher Wray, directing him to turn over any and all things, information, files, documentation, audio recordings, video recordings, pictures, records, archives, evidence, investigative work product etc., related to this petitioner's April 20, 2020, request made to the Federal Bureau of Investigation and U.S. Office of Inspector General for the F.B.I., under the Freedom of Information Act for "any and everything pertaining to her." The revised date is from February 1, 2006, to the present. (Exhibit 13)

G. Issue an order to Michael E. Horowitz, Inspector General for the Department of Justice, directing him to turn over any and all things, information, files, documentation, audio recordings, video recordings, pictures, records, archives, evidence, investigative work product etc., related to this petitioner's April 20, 2020, request made to the Federal Bureau of Investigation and U.S. Office of Inspector General for the F.B.I., under the Freedom of Information Act for "any and everything pertaining to her." The revised date is from February 1, 2006, to the present. (Exhibit 13)

H. Issue an order to Butler County Sheriff Richard K. Jones' Office directing them to destroy any police reports referencing that petitioner may be suffering from a mental illness. Plaintiff resided at 6673 Boxwood Lane Apt C. Liberty Township, Ohio from March 1, 2022 -October 1, 2023.

I. Issue an order to Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Bulter County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Boggs Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, prohibiting them from initiating, advocating and participating in discriminatory retaliation against petitioner. To immediately and completely disengage from any conspiratorial retaliatory, covert or clandestine investigations, operations, harassment or retaliation, warrantless surveillance of any kind, unlawful entry upon petitioner's dwelling anywhere, directed or targeted against petitioner. Including but limited to covert, conspiratorial retaliatory investigations, warrantless surveillance of any kind, wiretapping petitioner personal cell phone, internet, Wi-Fi computers and devices; unlawful entry into petitioner's apartment or dwelling anywhere with Does of the State of Ohio, Ohio Office of the Disciplinary Counsel, Ohio Board of Professional Conduct, Ohio Bureau of Criminal Investigations, City of Cincinnati Police Department, Solicitor's Office, City Manager's Office, Freking Myers Reul, Elizabeth Tuck or any other governmental agencies of any type including but not limited to the Federal Bureau of Investigations and all federal agencies, (i.e., including federal contractors, CIA, NSA, Secret Service, Homeland Security) state and local law enforcement agencies, and any other individuals, parties, organizations, etc., located anywhere in the world.

J. Issue an order to The Christ Hospital, Atrium Medical Center, Dr. Quinton Moss, Modern Psychiatry and UC Psychiatric Emergency Services directing them to remove and/or destroy medical records related to petitioners treatment including but not limited to the conspiratorial retaliatory 72-hour holds, any Psychiatric Emergency Treatment and Outpatient Psychiatric Treatment petitioner was forced to accept as a result of exercising her First Amendment right of reporting what she reasonably believed to be government harassment to the police and others and the Outpatient Psychiatric

Treatment petitioner received from Doctor Quinton Moss, Modern Psychiatry. Petitioner requests that all references and descriptions in which petitioner can be regarded or perceived as having or suffering from paranoia, delusions, psychosis and/or a psychotic mental illness requiring treatment with antipsychotic medicines. In other words, In the alternative petitioner, is requesting that the medical records be revised and rewritten innocuously. So as not to portray petitioner as having or suffering from paranoia, delusions, psychosis or a psychotic mental illness. With respect to Christ Hospital psychiatric medical records from the period of July 26, 2019 - August 2, 2019, (Behavioral Sciences) & October 22, 2022 -October 25, 2022, (Behavioral Sciences) have been falsified. (Exhibit 14) Regarding Atrium Medical Center-Premier Health, medical records dated November 13, 2020 -November 16, 2020. (Exhibit A-1) With respect to Dr. Quinton Moss, of Modern Psychiatry and Wellness, medical records dated September 1, 2019 – May 24, 2021, have been falsified. (Exhibit I-1) Last UC Health Psychiatric Emergency Services medical records dated June 25, 2021, have been falsified. (Exhibit M-1) Please note that the records presented in the exhibits are not the complete medical records. If petitioner were to include the complete medical records the exhibits would include several hundred pages of information.

K. Issue an order to Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Boggs Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, upon receipt of this injunction to provide plaintiff with the names of any and all FBI, DOJ, Macy's Inc., Georgia Pacific, Dinsmore and Shohl LLP., Ohio Disciplinary Counsel, Ohio Board of Professional Conduct, State of Ohio, City of Cincinnati, Freking Myers Reul LLC. and NSA Management, Attorneys, Investigators, Executives, Employees, Agents and Officials, FBI, DOJ and NSA informants, FBI, DOJ, Macy's Inc., Georgia Pacific, Dinsmore and Shohl LLP., Ohio Disciplinary Counsel, Ohio Board of Professional Conduct, State of Ohio, City of Cincinnati, Freking Myers Reul LLC and NSA contacts, FBI, DOJ, Macy's Inc., Georgia Pacific, Dinsmore and Shohl LLP., Ohio Disciplinary Counsel, Ohio Board of Professional Conduct, State of Ohio, City of Cincinnati, Freking Myers Reul LLC and NSA Does and all defendants of record who were involved in any of the unlawful conduct as described by plaintiffs' complaint in the matter of *Holmes v USA et. al.* 1-20-CV-00825, US Dist. Court SD Ohio. All defendants of record are to disclose their specific roles in the unlawful conduct as described in plaintiffs' complaint.

L. Issue an order to all defendants of record to immediately cease all forms of conspiratorial, retaliation, discrimination, harassment and other criminal and civil violations of federal, state and local law against plaintiff immediately.

M. Issue an order to all defendants of record to be held jointly and severally liable to immediately provide plaintiff with a Monthly Maintenance Income and expenses for immediate housing, furnishings, housewares, electronics, accommodations, other living necessities, etc., of her own reasonable choosing and a lump sum payment to indemnify her for financial losses from the date of filing on record in the matter of *Holmes v. USA et.al*, 1:20-CV-00825, U.S. Dist. Court S.D. of Ohio

The Monthly Maintenance Income and lump sum payment for financial losses should include interest, account for punitive damages, medical, dental, vision, life insurance, short and long-term disability, retirement programs, profit sharing, and any other relevant factors and will be calculated as of October 20, 2020, to the present. The Monthly Maintenance Income amount calculated for medical, dental, vision, life insurance, short and long-term disability, retirement programs, profit sharing, shall be paid to the Supreme Court to purchase plaintiffs' benefits and pay into a retirement program that she would have received as if she was employed. The Supreme shall designate a reputable Company to oversee and administer the insurance benefit and retirement program for plaintiff. The Monthly Maintenance Income to cover plaintiffs' monthly loss of income until she becomes gainfully employed making a salary equal to or greater than the Monthly Maintenance Income, as determined by the U.S. Supreme Court. The Monthly Maintenance income shall remain in effect until plaintiff dies. If plaintiff obtains future employment making a salary equal to or greater than the Monthly Maintenance Income she is to inform the Supreme Court and her Monthly Maintenance Income will cease after a full year of employment. If plaintiffs' salary decreases below the Monthly Maintenance Income amount, or if she is terminated, or laid off from future gainful employment for any reason, the Monthly Maintenance Income will be redetermined and reinstated again. The Monthly Maintenance Income can never be included as income for tax reporting purposes and subjected to any garnishment, bankruptcy, foreclosure actions, repossession, divorce proceedings and any debt obligations including but not limited to any private, federal, state, or local financial obligations.

The Monthly Maintenance Income should be equivalent to what plaintiff would have earned if defendants had not engaged in a conspiratorial campaign of retaliatory terminations against plaintiff, for twenty years. The Monthly Maintenance Income shall include cost of living increases, salary increases, promotions, inflationary factors, include decreases in the value of the dollar, account for time value, include punitive damages and any other relevant factors and expenses for medical, dental, vision, health, life insurance, short-term and long-term disability, and other relevant factors, etc., comparable to what plaintiff would have earned or received if defendants had not engaged in conspiratorial retaliatory terminations, for twenty years. Defendants and plaintiff are required to engage in open discussions amongst each other and the Supreme Court to come to an agreement on how to proceed with the Court's order.

Defendants will be held jointly and severally liable for the expenses of any expert required to provide financial, legal and economic recommendations to the Supreme Court in determining the amount of the Monthly Maintenance Income and lump sum financial losses payable to plaintiff. Plaintiff is free to obtain her own expert of her choosing to make recommendations to the Court as to the amount of the Monthly Maintenance Income and lump sum payment for financial losses at defendant's expense. In addition, plaintiff requests this Court to impose any other equitable, financial relief as determined to be just by the Supreme Court.

N. First, issue an order requiring respondents Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, LLP., Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Boggs Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, to make a press release to the mainstream national and local media outlets (i.e., CNN, Fox News, MSNBC, The Associated Press, ABC, CBS, Wallstreet Journal, NBC -4 Columbus Fox -28 Columbus WCPO-Cincinnati, WXIX-Cincinnati, Journal-News, Cincinnati Enquirer, Columbus Dispatch, etc.) **Directly from Christopher Asher Wray's, Office,** admitting that the Ohio Office of the Disciplinary Counsel and the Ohio Board of Professional Conduct, along with defendants of record engaged in an abuse of power against plaintiff, falsely accused petitioner of fraud, initiated a false arrest and prosecution and engaged in conspiratorial retaliation against petitioner from the period of April 24, 2006, to the present to protect themselves, their agencies and organizations. Including a statement that petitioner was the victim of terror, warrantless electronic surveillance, monitoring and tracking petitioners' location, unlawful entry upon petitioner's dwelling, harassment through the judicial systems, employment discrimination, housing discrimination, retaliation, defamation, libel, slander, fraud, collusion etc., for approximately twenty years, in violation of petitioners First, Fourth, Fifth and Fourteenth rights as guaranteed by the US Constitution. Defendants are to **REPEATEDLY** issue press releases to reputable mainstream media outlets providing the public with weekly updates in the matter of *Holmes v USA et.al.*, 1:20-cv-00825 until the resolution of the case including all appeals.

O. Second require Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, LLP., Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff,

Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Bogg Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, to make a press release to the mainstream national and local media outlets (i.e., CNN, Fox News, MSNBC, The Associated Press, ABC, CBS, Wallstreet Journal, NBC -4 Columbus Fox -28 Columbus WCPO-Cincinnati, WXIX-Cincinnati, Journal-News, Cincinnati Enquirer, Columbus Dispatch, etc.) **Directly from Dave Yost, Ohio Attorney General Office**, admitting that the Ohio Office of the Disciplinary Counsel and the Ohio Board of Professional Conduct, along with defendants of record engaged in an abuse of power against plaintiff, falsely accused petitioner of fraud, initiated a false arrest and prosecution and engaged in conspiratorial retaliation against petitioner from the period of April 24, 2006, to the present to protect themselves, their agencies and organizations. Including a statement that petitioner was the victim of terror, warrantless electronic surveillance, monitoring and tracking petitioners' location, unlawful entry upon petitioner's dwelling, harassment through the judicial systems, employment discrimination, housing discrimination, retaliation, defamation, libel, slander, fraud, collusion etc., for approximately twenty years, in violation of petitioners First, Fourth, Fifth and Fourteenth rights as guaranteed by the US Constitution. Defendants are to **REPEATEDLY** issue press releases to reputable mainstream media outlets providing the public with weekly updates to the press in the matter of *Holmes v USA et.al.*, 1:20-CV-00825, until the resolution of the case including all appeals.

P. Third require respondents Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, LLP, Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Bogg Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, to make a press release to the mainstream national and local media outlets (i.e., CNN, Fox News, MSNBC, The Associated Press, ABC, CBS, Wallstreet Journal, NBC -4 Columbus Fox -28 Columbus WCPO-Cincinnati, WXIX-Cincinnati, Journal-News, Cincinnati Enquirer, Columbus Dispatch, etc.) **Directly from Sheryl Long, City Manager, City of Cincinnati Office** admitting that the City of Cincinnati along with defendants of record engaged in an abuse of power against plaintiff, falsely accused petitioner of fraud, initiated a false arrest and prosecution and engaged in conspiratorial retaliation against petitioner from the period of April 24, 2006, to the present to protect themselves, their agencies and organizations. Including a statement that petitioner was the victim of terror, warrantless electronic surveillance, monitoring and tracking petitioners' location, unlawful

entry upon petitioner's dwelling, harassment through the judicial systems, employment discrimination, housing discrimination, retaliation, defamation, libel, slander, fraud, collusion etc., for approximately twenty years, in violation of petitioners First, Fourth, Fifth and Fourteenth rights as guaranteed by the US Constitution. Defendants are to **REPEATEDLY** issue press releases to reputable mainstream media outlets providing the public with weekly updates in the matter of *Holmes v USA et.al.*, 1:20-CV-00825 until the resolution of the case including all appeals.

Q. Fourth require respondents Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, LLP, Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones, Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Bogg Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, to make a press release to the mainstream national and local media outlets (i.e., CNN, Fox News, MSNBC, The Associated Press, ABC, CBS, Wallstreet Journal, NBC -4 Columbus Fox -28 Columbus WCPO-Cincinnati, WXIX-Cincinnati, Journal-News, Cincinnati Enquirer, Columbus Dispatch, etc.) **Directly from Tony Spring, Chief Executive Officer, Macy's Inc. admitting that Macy's Inc. and its hired lawyers at Dinsmore & Shohl, LLP**, along with defendants of record engaged in an abuse of power against plaintiff, falsely accused petitioner of fraud, initiated a false arrest and prosecution and engaged in conspiratorial retaliation against petitioner from the period of April 24, 2006, to the present to protect themselves, their agencies and organizations. Including a statement that petitioner was the victim of terror, warrantless electronic surveillance, monitoring and tracking petitioners' location, unlawful entry upon petitioner's dwelling, harassment through the judicial systems, employment discrimination, housing discrimination, retaliation, defamation, libel, slander, fraud, collusion etc., for approximately twenty years, in violation of petitioners First, Fourth, Fifth and Fourteenth rights as guaranteed by the US Constitution. Defendants are to **REPEATEDLY** issue press releases to reputable mainstream media outlets providing the public with weekly updates in the matter of *Holmes v USA et.al.*, 1:20-CV-00825, until the resolution of the case including all appeals.

R. Fifth issue an order requiring **Director Christopher Asher Wray** to publish news articles on the front page of the Wall Street Journal, Washington Post, New Times, Cincinnati Enquirer, Dayton Daily News with **Director Christopher Wray** admitting that the F.B.I along with defendants of record Tony Spring, Chief Executive Officer of Macy's Inc., David Clark, Former Senior Vice President of Human Resources, Macy's Inc., Thomas Cody, Former Vice Chair of Macy's Inc., Joshua A. Lorentz, Managing Partner and Chief Executive Officer, Dinsmore & Shohl, LLP, Elena Iatarola, Special Agent in Charge, Cincinnati Division of the F.B.I., Dave Yost, Ohio Attorney General, Michael Gmoser, Prosecutor, Butler County Ohio, Jeffrey Schlessman, Assistant Prosecutor, Butler County, Ohio, Sheriff Richard K Jones,

Butler County Ohio Sheriff, Sergeant Connie Rockey, Butler County Sheriff, Joseph Caligiuri, Ohio Office of the Disciplinary Counsel, Richard A Dove, Director of the Ohio Board of Professional Conduct, Sheryl Long, City Manager City of Cincinnati, Emily Woerner, City of Cincinnati Solicitor, Teresa A. Theetge, City of Cincinnati, Police Chief, Paula Bogg Muething, Former City of Cincinnati Solicitor, John Cranley, Former Mayor of Cincinnati, Kelly Mulloy Myers, Managing Partner, Randy Freking, Of Counsel, George Reul, Partner, Freking, Myers, Reul, LLC. and Elizabeth Tuck and all defendants of record, to publish mainstream national and local newspapers articles admitting their conspiratorial campaign of abusing their power against petitioner, falsely accused petitioner of fraud, initiated a false arrest and prosecution and engaged in conspiratorial retaliation against petitioner from the period of April 24, 2006, to the present to protect themselves, their agencies and organizations. Including a statement that petitioner was the victim of terror, warrantless electronic surveillance, monitoring and tracking petitioners' location, unlawful entry upon petitioner's dwelling, harassment through the judicial systems, employment discrimination, housing discrimination, retaliation, defamation, libel, slander, fraud, collusion etc., for approximately twenty years, in violation of petitioners First, Fourth, Fifth and Fourteenth rights as guaranteed by the US Constitution. Defendants are to **REPEATEDLY** publish news articles on the front page of reputable mainstream newspapers providing the public with weekly updates about the matter of *Holmes v USA et. al.*, 1:20-CV-00825, until the resolution of the case including all appeals.

S. Issue an order directing Judge Lyons, Butler County, Ohio Area I Court to provide plaintiff with a copy of Dr. Nitching, Forensic Psychologist, written expert report immediately in the matter of *State of Ohio v Rosalind Holmes* Case No. **CRB2300455 Butler County, Ohio Area I Court.**

T. Issue an order directing Janie, Myatt, Director of Social Work, UC Dental to reinstate plaintiff to the practice immediately, defendants of record are to be held jointly and severally liable to cover the expenses related to plaintiff receiving her dental implant and other necessary dental services and to prioritize plaintiffs' treatment.

U. Issue an order to Enterprise Rent A Car directing them to immediately reinstate plaintiff as a customer in good standing.

V. Issue an order directly to Tony Spring, Chief Executive Officer, Tracy Preston, Chief Legal Officer and Danielle Kirgan, Chief Human Resource Officer, Macy's Inc., declaring the February 12, 2008, release and settlement agreement between petitioner and respondents City of Cincinnati immediately void without petitioner having to return any consideration previously agreed upon including but not limited to the return of monetary consideration. (Exhibit 57) In other words, the February 28, 2008, release and settlement agreement shall be immediately void upon order of the Supreme Court. Petitioner will not be required to return any consideration including the 30,000 funds she received. Additionally, petitioner will not be required to abide by any stipulations, and actions, previously agreed to, received or given, including the global release of claims she previously agreed to abide by. Additionally, Petitioner respectfully request the Supreme Court to explain that this petitioner is not to

suffer any negative consequences, actions, by any individual representing Macy's Inc, including but not limited to legal actions as result of voiding the release and settlement agreement.

W. Issue an order directly to Sheryl Long, City Manager's Office, and Emily Woerner, City of Cincinnati Solicitor's Office, declaring the March 25, 2017, release and settlement agreement between petitioner and respondents City of Cincinnati immediately void without petitioner having to return any consideration previously agreed upon including but not limited to the return of monetary consideration. (Exhibit A) In other words, the March 25, 2017, release and settlement agreement shall be immediately void upon order of the Supreme Court. Petitioner will not be required to return any consideration including the 30,000 funds she received. Additionally, petitioner will not be required to abide by any stipulations, and actions, previously agreed to, received or given, including the global release of claims she previously agreed to abide by. Additionally, Petitioner respectfully request the Supreme Court to explain that this petitioner is not to suffer any negative consequences, actions, by any individual representing the City of Cincinnati, including but not limited to legal actions as result of voiding the release and settlement agreement.

X. Issue an order prohibiting Four Bridges and Towne Properties from charging petitioner for any unpaid rent, damages, etc., to the property because they have allowed defendants to unlawfully enter her dwelling. As a result of this order Four Bridges and Towne Properties shall cease any and all collections efforts in the United States of America and shall be prohibited from providing negative housing references to anyone regarding plaintiff. Therefore, they should only provide a neutral reference. Additionally, issue an order stating that any disputes arising out of the landlord tenant relationship between Four Bridges, Towne Properties and petitioner will be handled by the US Supreme Court and that this order shall extend to any future change in owner, investor, purchaser, or landlord.

Y. Issue an order to the Butler County, Ohio Area II Court to permanently seal the forcible entry and detainer action in the matter of *Town Properties Asset v Rosalind Holmes & Joseph Arthur* Case No: CVG2300684, Butler County Ohio, Area II Court.

Z. Issue an order prohibiting Landings at Beckett Ridge and Hills Properties from charging petitioner for any unpaid rent, damages, etc., to the property because they have allowed defendants to unlawfully enter her dwelling. As a result of this order Landings at Beckett Ridge and Hills Properties shall cease any and all collections efforts in the United States of America and shall be prohibited from providing negative housing references to anyone regarding plaintiff. Therefore, they should only provide a neutral reference. Additionally, issue an order stating that any disputes arising out of the landlord tenant relationship between Landings at Beckett Ridge, Hills Properties and petitioner will be handled by the US Supreme Court and that this order shall extend to any future change in owner, investor, purchaser, or landlord.

AA. Issue an order to the Butler County Ohio Area III Court to permanently seal the forcible entry and detainer action in the matter of *Landing at Beckett Ridge v Rosalind Holmes* Case No: CVG1901594, Butler County Ohio Area III Court.

BB. Issue an order to the Ohio's Twelfth District Court of Appeals to permanently seal the appeals related to the forcible entry and detainer action in the matter of *Rosalind Holmes v Landings at Beckett Ridge* Case No: CA-2020-04-0050, Ohio's Twelfth District Court of Appeals and *Rosalind Holmes v Landings at Beckett Ridge* Case No: CA-2021-09-0118, Ohio's Twelfth District Court of Appeals.

CC. Issue an order directing the U.S. District Court to permanently seal or expunge the records in the matter of *Lakefront at West Chester v Rosalind Holmes*, 1:21-cv-00444, U.S. Dist. Court S.D. of Ohio, *Rosalind Holmes v Lakefront at West Chester*, 1:21-cv-00443, U.S. Dist. Court S.D. of Ohio and *Rosalind Holmes v Lakefront at West Chester*, 1:21-cv-00505, U.S. Dist. Court S.D. of Ohio

DD. Issue an order directing the U.S. Sixth Circuit to permanently seal or expunge the records in the matters of *Holmes vs USA et. al.*, Case numbers: 21-3206, 21-3491, 21-3520, 21-3521, 21-3715, *Lakefront vs Holmes* 21-3731, *Holmes v Lakefront* 21-3791, *In Re: Rosalind Holmes* 22-3652, *In Re: Rosalind Holmes* 22-3664.

EE. Issue an order prohibiting Lakefront at West Chester and PLK Communities from charging petitioner for any unpaid rent, damages, etc., to the property because they have allowed defendants to unlawfully enter her dwelling. As a result of this order Lakefront at West Chester and PLK Communities shall cease any and all collections efforts in the United States of America and shall be prohibited from providing negative housing references to anyone regarding plaintiff. Therefore, they should only provide a neutral reference. Additionally, issue an order stating that any disputes arising out of the landlord tenant relationship between Landings at Beckett Ridge, Hills Properties and petitioner will be handled by the US Supreme Court and that this order shall extend to any future change in owner, investor, purchaser, or landlord.

FF. Issue an order to Latitude Apartments and PLK Communities to provide plaintiff with a copy of the alleged January 26, 2024, tape recorded conversation of plaintiff yelling or talking loudly. Additionally, Latitude Apartments and PLK Communities are required to remove any ban that prohibits plaintiff from living in the Latitude Apartments with her friend Adwoa, Akoto. In other words, plaintiff is permitted to visit, and co-inhabit Latitude Apartments with her friend Adwoa, Akoto.

GG. Issue an order to the Butler County Ohio Area III Court to permanently seal the forcible entry and detainer action in the matter of *Lakefront at West Chester v Rosalind Holmes* Case No:

CVG2100528, Butler County Ohio Area III Court and *Lakefront at West Chester v Rosalind Holmes* Case No: CVG2100651, Butler County Ohio Area III Court.

HH. Issue an order to Ohio's Twelfth District Court of Appeals to permanently seal the appeals related to the forcible entry and detainer action in the matter of *Rosalind Holmes v Lakefront at West Chester* Case No: CA-2021-05-0046, Ohio's Twelfth District Court of Appeals and *Rosalind Holmes v Lakefront at West Chester* Case No: CA-2021-09-0108, Ohio's Twelfth District Court of Appeals.

II. Issue an order to the Ohio Supreme Court to permanently seal the jurisdictional appeals related to the forcible entry and detainer action in the matter of *Landings at Beckett Ridge v Rosalind Holmes* Case No: 2022-0662, Ohio Supreme Court and *Landings at Beckett Ridge v Rosalind Holmes* Case No: 2021-1308, Ohio Supreme Court.

JJ. Issue an order to the Ohio Supreme Court to permanently seal the jurisdictional appeals related to the forcible entry and detainer action in the matter of *Lakefront at West Chester v Rosalind Holmes* Case No: 2022-0793, Ohio Supreme Court and *Lakefront at West Chester v Rosalind Holmes* Case No: 2021-1136, Ohio Supreme Court.

KK. Issue an order to the Ohio Supreme Court to permanently seal the jurisdictional appeals related to the forcible entry and detainer action in the matter of *Rosalind Holmes v. The Honorable, Judge C. Caparella- Kraemer* Case No: 2022-0683, Ohio Supreme Court.

LL. Issue and order to Macy's Inc., City of Cincinnati, and Georgia Pacific for immediate reinstatement, retroactive promotions, retroactive backpay, front pay beginning on September 29, 2006, insurance benefits punitive damages, etc. That is defendants Macy's Inc., City of Cincinnati, and Georgia Pacific shall be held jointly and severally liable for the immediate reinstatement of plaintiff, retroactive promotions, retroactive backpay, front pay beginning on September 29, 2006, insurance benefits punitive damages, etc. Defendants shall review all open Accounting and Financial employment opportunities available within their organizations with plaintiff, make any necessary accommodations considering the fact that she may need to begin her employment on a remote basis since she is homeless.

MM. Issue an order to the City of Cincinnati directing them to immediately refund, restore, plaintiffs' pension and benefits retroactive to December 14, 2016. That is defendant City of Cincinnati is to retroactively refund, restore and pay back any money, interest, payments, benefits, and entitlements, to plaintiffs' City of Cincinnati Pension as if she never cashed it out.

NN. An injunction requiring defendants to return to Rosalind Holmes all information in their custody or control obtained from Rosalind Holmes' electronic devices and communications, and, to the extent that information cannot be returned, to expunge or otherwise destroy that information.

- OO. Issue an injunction order to Public Storage at 3461 Tylersville Rd. Phone # 513-808-4989 to allow plaintiff access to her storage units 1319 and 1353 immediately. To immediately cease and desist any and all collection efforts including but not limited to disposing, destroying, selling any of plaintiffs' personal property, and belongings.
- PP. Issue an injunction order to Ally Financial 500 Woodward Ave. Floor 10, Detroit, Michigan, 48226, Phone Number 1- 866-710-4623. To immediately cease and desist any and all collection efforts including but not limited to disposing, destroying, selling any of plaintiffs' automobile, personal property, and belongings.
- QQ. Issue an injunction order to T-Mobile, 4803 Olympia Park Plaza, Louisville, KY 40241 to immediately cease and desist any and all collection efforts including but not limited to decreasing, suspending plaintiffs.
- RR. Issue an injunction order to the State of Ohio Bureau of Motor Vehicles at 1970 West Broad Street Columbus, Ohio 43223 to refrain from suspending and expiration of her driver's license and vehicle registration on her Toyota Rav 4 JSQ 4735 and Toyota Venza FYJ 4937 and to give her reprieve regarding the renewal fees for her Ohio driver's license and vehicle registration.
- TT. Additionally, petitioner respectfully request that Judge Timothy Black's August 26, 2021, judgment does not appear on the internet in search engines.
- UU. Issue an injunction order to Progressive Insurance at 6300 Wilson Mills Road, Mayfield Village, OH 44143, to immediately reinstate plaintiff automobile insurance free of charge and allow plaintiff additional time to pay for her motor vehicle insurance policy number 971593496.
- VV. Any other injunctive relief as deemed just by the US Supreme Court.

Declaratory Relief Requested by Petitioner

- A. A declaration that defendants violated the First, Fourth, Fifth and Fourteenth Amendment rights of plaintiff by depriving Rosalind Holmes of equal protection and due process under the law, by subjecting Rosalind Holmes to a malicious and retaliatory arrest and prosecution, by subjecting Rosalind Holmes to unlawful searches and seizures, by subjecting plaintiff to a campaign of conspiratorial retaliation, including but not limited to repeated unlawful employment terminations, repeated unlawful housing discrimination among others.

Respectfully Submitted,

Rosalind Holmes

Rosalind Holmes
5285 Natorp Blvd Apt. 100
Mason, Ohio 45040
(513) 306-8837
June 24, 2024

APPENDIX A

A. Plaintiff has a strong likelihood of success on the merits of her case.

Plaintiff has shown a strong or substantial likelihood of success on the merits of her thirty-count complaint based upon the following grounds:

Plaintiffs' Bivens claims

Plaintiffs' federal constitutional claims (counts 1-V) are made pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau/Narcotics*, 403 U.S. 388 (1971), and *Davis v. Passman*, 442 U.S. 228 (1979) as to the defendants.

Specifically, in count one and two plaintiff alleges abuse of power, and gross negligence that defendants violated her Fifth amendment rights, through their deliberate, intentional, reckless, and grossly negligent actions of false fraud accusations, false statements, representations, or omissions regarding ongoing investigations, grossly negligent legal representation, failure to train, investigate, correct/discipline and supervise officials, initiation of a warrantless search and seizure of plaintiffs' private communications without probable cause, and targeting plaintiff with discriminatory motives.

In count three, plaintiff alleges a violation of her fifth amendment rights through defendant's actions of discriminatory and grossly negligent investigations; discriminatory and conspiratorial false allegations; discriminatory deprivations of constitutional rights; discriminatory and warrantless searches and seizures, discriminatory failures to train, supervise and correct/discipline officials; retaliation for the exercise of plaintiffs' constitutionally protected activities; discrimination and retaliation in employment against plaintiff were based on impermissible racial discriminatory and retaliatory factors, and specifically on plaintiffs' race and exercise of constitutionally protected activities.

In count four plaintiff alleges a violation of her fourth amendment right through defendant's search of plaintiffs' personal and private communications without probable cause. Finally, count five alleges a violation of plaintiffs' fifth amendment rights through defendant's conspiratorial investigations with failures to train, act and correct; conspiratorial false allegations, conspiratorial deprivations of constitutional rights; conspiratorial grossly negligent legal representation, conspiratorial warrantless searches and seizures; conspiratorial retaliation for the exercise of plaintiffs' constitutionally protected

activities, conspiratorial discrimination and retaliation in employment against plaintiff were based on impermissible racial discriminatory and retaliatory factors, and specifically on account of plaintiffs' race and exercise of constitutionally protected activities.

Indeed, these are exactly the type of flagrant constitutional violations *Bivens* and its progeny are intended to remedy and deter. The specific allegations show a pattern of race discrimination and retaliation that "raise a reasonable expectation that discovery will reveal" circumstantial and specific actual evidence of impermissible discrimination and racial targeting of Rosalind Holmes that so colored decision making that exculpatory evidence was "buried" or ignored by the Defendants. The *Bivens* allegations focus on the specific conduct of the defendant individual government workers and actors in violation of the Constitution. See *Bell At/. Corp. v. Twombly*, 550 U.S at 556, 127 S.Ct. 1955. (2007).

Thus, Plaintiff is not precluded from seeking *Bivens* relief for at least three reasons. First, the Supreme Court in *Ziglar v. Abbasi*, 137 S.Ct. 1843 (2017) reaffirms that citizens may pursue established *Bivens* claims when individual law enforcement agents violate a person's Fourth and Fifth Amendments rights during an investigation, such as the claims asserted by Rosalind Holmes here. Second, this case does not present a new context. And third, there are no special factors counseling hesitation against providing a *Bivens* remedy.

In *Bivens*, the Supreme Court held that individuals may seek a damages remedy for unlawful search and seizure by federal agents in violation of the Fourth Amendment. 403 U.S. 388. And, in *Davis v. Passman*, 442 U.S. 228 (1979), the Court held that individuals may seek damages for unlawful discrimination in violation of the Due Process Clause of the Fifth Amendment. Since *Bivens*, courts have consistently recognized that individuals may pursue a cause of action against federal agents for Fourth Amendment search and seizure, *Baranski v. Fifteen Unknown Agents of the BATF*, 452 F.3d 433 (6th Cir. 2006); *Unus v. Kane*, 565 F.3d 103, 122-23 (4th Cir. 2009); *Leveto v. Lapina*, 258 F.3d 156, 159-60 (3d Cir. 2001); *Yopp v. U.S. Dep't of Justice Drug Enforcement Admin.*, No. 10-101 18, 2010 WL 3272845, at *6 (E.D. Mich. Aug. 19, 2010); *Thunder Island Amusements, Inc. v. Ewald*, 650 F. Supp. 2d 195,203 (N.D.N.Y. 2009); *Mueller v. Gallina*, 311 F. Supp. 2d 606, 607-09 (E.D. Mich. 2004). Fifth Amendment fabrication of evidence, See, e.g., *Webb v. United States*, 189 F.3d 647,667 (6th Cir. 2015); *Limone v. Condon*, 372 F.3d 39, 44-45 (1st Cir. 2004); *Manning v. Miller*, 355 F.3d 1028, 1030-31 & n. 1 (7th Cir. 2004). and Fifth Amendment impermissible discrimination claims See, e.g., *Bistran v. Levi*, 696 F.3d 352, 365 (3d Cir. 2012).

In *Abbasi*, the Supreme Court stressed, "[t]he settled law of *Bivens* in this common and recurrent sphere of law enforcement, and the undoubted reliance upon it as a fixed principle in the law, are powerful reasons to retain it in that sphere." 137 S.Ct. at 1857; see also *Correctional Services Corp. v. Malesko*, 534 U.S. 61, 70 (2001) ("The purpose of *Bivens* is to deter individual federal officers from committing constitutional violations."). *Abbasi*, in short, affirms the "fixed principle" of *Bivens* as a remedy when, as here, a federal agent runs roughshod over a citizen's Fourth and Fifth Amendment rights in a criminal investigation, absent "special factors counselling hesitation in the absence of affirmative action by Congress" 137 S. Ct. at 1857.

This case does not present a "new context" for *Bivens* purposes, which ends the analysis, and the court does not need to proceed to determine whether there are special factors counseling hesitation against a remedy. Nothing about Defendants' misconduct makes the context "new" for purposes of *Bivens*. To the contrary, the facts here underscore why *Bivens* remains an essential safeguard to prevent federal agents from overreaching and violating a citizen's basic constitutional rights. Regardless, there are no special factors counseling hesitation against a remedy.

In *Abbasi*, the Supreme Court concluded that a challenge to "high-level executive policy created in the wake of a major terrorist attack on American soil" did present a new context, because it was "different in a meaningful way from previous *Bivens* cases " 137 S. Ct. at 1860. But the Court could not have been clearer that it was not disturbing the core of *Bivens*: claims against a line agent for an unlawful search and seizure and other Fourth and Fifth Amendment violations. See *id.* at 1856-57; *Koprowski v. Baker*, 622 F.3d 248, (6th Cir. 2016) (the purpose of *Bivens* is to deter individual federal officers from committing constitutional violations); *Malesko*, 534 U.S. at 70, 122 S.Ct. 515 (2019). "It is almost axiomatic that the threat of damages has a deterrent effect, surely particularly so when the individual official faces personal financial liability." *Carlson*, 446 U.S. at 21, 100 S.Ct. 1468 (citation omitted.); see also *Jacobs v. Alam*, 915 F.3d 1026, 1037 (6th Cir. 2019), *Turkmen v. Hasty*, 789 F.3d 218, 265 (2d Cir. 2015) (Raggi, J., dissenting in relevant part) (observing that "the typical *Bivens* scenario" is "errant conduct by a rogue official"), *rev'd in part, vacated in part sub nom. Abbasi*, 137 Sup.Ct. 1843; *Tun-Cos v. Perrotte*, No. 1:17-cv-0943-AJT-TCB, ECF 50 at 12-15 (E.D. Va. April 5, 2018) (rejecting, post-*Abbasi*, that "special factors" required dismissal of plaintiffs' Fourth Amendment unlawful seizure and search and Fifth Amendment equal protection claims against Immigration and Customs Enforcement agents where claims were "not challenging an entity's policy" but were asserting "straightforward violations of their Fourth and Fifth Amendment rights based on the Defendants' conduct" and where agents' "conduct raises the same issues and concerns as in *Bivens*"); *Loumiet v. United States*, No. 12-1130 (CKK), 2017 WL 5900533, at *6 (D.D.C. Nov. 28, 2017) (affirming, post-*Abbasi*, that "the purpose of *Bivens* is to deter misconduct by individual officers" and finding that *Bivens* action was "properly focused on specific activities of individual officers"). *Jacobs v. Alam*, 915 F.3d 1026, 1037 (6th Cir. 2019).

Abbasi listed examples of ways in which the "context" of a case might be new. ("For our purposes, *Ziglar* clarifies the analytical framework for how courts must approach asserted *Bivens* claims. The Court defined the "proper test for determining whether a case presents a new *Bivens* context." *Id.* at 1859. We must ask whether the case is "different in a meaningful way from previous *Bivens* cases decided by [the Supreme] Court." *Id.* at 1859.) None of the examples listed by the Supreme Court apply here. First, the Court observed that the "rank of the officers involved" might make a context new. *Abbasi*, 137 S. Ct. at 1860. Rosalind Holmes' Fourth Amendment *Bivens* claims do not involve any high-ranking officers, rather, those claims concern only FBI special agents, very similar to the defendants in *Bivens* itself.

The *Passman* claims go to the identical issue of this seminal case of impermissible employment discrimination. The allegations of the Complaint are at the very core of *Bivens* and *Passman*. Second,

the Court noted that the "constitutional right at issue" might make the context new. *Id.* But here, the rights here are the same as in *Bivens* (Fourth Amendment violations committed during a criminal investigation, and in *Davis* (Fifth Amendment equal protection violation because of impermissible employment discrimination).

Third, the Court stated that the "generality or specificity of the official action" might make the context new. *Abbasi*, 137 S. Ct. at 1860. Rosalind Holmes is not challenging a policy or other general official action through *Bivens*. Rather, Rosalind Holmes' claims against defendants relate to each person's specific misconduct in violation of the Constitution, i.e., abuse of power, gross negligence, conspiracy, equal protection and due process rights. Fourth and fifth, the Court noted that judges should look at the "statutory or other legal mandate under which the officer was operating" and "the extent of judicial guidance" available to officers regarding "how an officer should respond" to the situation. That factor plainly does not apply here, as defendants are aware that the law prohibits them from engaging in conspiracy, false malicious allegations, warrantless surveillance, grossly negligent misconduct, falsifying or fabricating evidence, and racial and retaliatory discrimination. Sixth, the Court stated that an additional factor was "the risk of disruptive intrusion by the Judiciary into the functioning of other branches." *Id.* At 1860. The Court stated that "[t]he purpose of *Bivens* is to deter the officer." *Id.* (quotation and citation omitted). In contrast, Court determined that it is a new context, where, a *Bivens*' claim involves calling into question the "formulation and implementation of a general policy."

Unlike the claims in *Abbasi*, Rosalind Holmes' *Bivens* claims against defendants do not remotely present any such intrusion. Those claims do not require an inquiry into the workings of the Executive branch. Nor do they challenge the FBI's, policies or broader efforts that may interfere with the functioning of the Executive branch, for example, preventing officials "from devoting the time and effort required for the proper discharge of their duties." Rather, this damages action seeks to hold defendants accountable for their individual actions—actions that included conspiracy, warrantless surveillance, grossly negligent misconduct, false malicious allegations, falsification and/or fabrication of evidence and racial and retaliatory discrimination. Holding defendants accountable is no more intrusive than holding the individual agents accountable in *Bivens*-or than holding federal agents responsible in any of the civil rights actions against individual officers pending in federal courts at any given time.

Finally, the Court observed that a new context could arise from other "special factors." *Abbasi*, 137 S. Ct. at 1860. As the Sixth Circuit recognized in *Quigley v. Tuong Vinh Thai*, 101 F.3d 675(2013), "outrageous conduct will obviously be unconstitutional" (emphasis added) and the case does "not need to be on all fours. Or in the words of the U.S. Supreme Court, "O]utrageous conduct will obviously be unconstitutional" without regard to precedent because "the easiest cases don't even arise." *Safford Unified Sch. Dist. No. 1 v. Redding*, 551 U.S. 364,377, 129 S.Ct. 2633, 174 L.Ed.2d 354 (2009) (brackets and internal quotation marks omitted). And even in cases involving less than outrageous conduct, "officials can still be on notice that their conduct violates established law in novel factual circumstances." *Id.* at 377-78, 129 S.Ct. 2633 (ellipses and internal quotation marks omitted).

[T]he "relevant, dispositive inquiry in determining whether a right is clearly established is whether it would be clear to a reasonable [official] that his conduct was unlawful in the situation he confronted." At 202, 121 S.Ct. 2151. "[W]e need not find a case in which 'the very action in question has previously been held unlawful,' but, 'in the light of pre-existing law, the unlawfulness must be apparent.'" *Comstock*, 273 F.3d at 711 (quoting *Anderson v. Creighton*, 483 U.S. 635, 640, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987))(brackets omitted). To evaluate the contours of the right, "we must look first to decisions of the Supreme Court, then to decisions of this court and other courts within our circuit, and finally to decisions of other circuits." *Baker v. City of Hamilton*, 471 F.3d 601,606 (6th Cir.2006) (internal quotation marks omitted).

I., .. It is reasonable to assume that a jury could find the conduct of the individual Defendants to be outrageous and shocking the conscience. If so and the Court determines that this case presents a new context, it must then determine whether there is any "alternative, existing process" capable of protecting the constitutional interests at stake, and, even in the absence of such alternative process, whether special factors counsel hesitation before authorizing a *Bivens* remedy. *Wilkie v. Robbins*, 551 U.S. 537, 550 (2007). Here, no such alternative process capable of protecting the constitutional interests at stake. Although Rosalind Holmes, also seeks redress under FTCA, the FTCA is not a substitute for *Bivens*. Rather, the Supreme Court has explained, the FTCA and *Bivens* are "parallel" and "complementary" sources of liability, with *Bivens* providing a "more effective" remedy than that available under the FTCA. *Carlson v. Green*, 446 U.S. 14, 19-20 (1980).

In short, "plaintiff's *Bivens* claims are the "run-of-the-mill challenges to standard law enforcement operations that fall well within *Bivens* itself." *Webb v. United States*, 789 F.3d 647, 659-60, 666-72 (6th Cir. 2015) (discussing the merits of *Bivens* actions for malicious prosecution, false arrest, fabrication of evidence, and civil conspiracy); *Robertson v. Lucas*, 153 F.3d 606,618 (6th Cir. 2014) (discussing merits of *Bivens* action for false arrest); *Burley v.Gagacki*, 129 F.3d 610, 621 (6th Cir. 2013) (explaining plaintiff's burden on motion for summary judgment in *Bivens* action for excessive force).; see also *Jacobs v. Alam*, 915 F.3d 1026, 1087 (6th Cir. 2019 (Discussion of the settled acceptance of *Bivens* for the above claims in the Sixth Circuit.)). Given this, and the Supreme Court's express caution that *Abbasi* not to be understood as "cast[ing] doubt on the continued force, or even the necessity, of *Bivens* in the search-and seizure context in which it arose," we hew to this "settled law ... in th[e] common and recurrent sphere of law enforcement" and find plaintiff's garden-variety *Bivens* claims to be viable post *Ziglar and Hernandez*. 137 S.Ct. at 1856-57." *Id.*

Invasion of Privacy - Intrusion upon Seclusion

In *Housh v. Peth* (1956), 165 Ohio St. 35,590.0. 60, 133 N.E.2d 340, and *Sustin v. Fee* (1982), 69 Ohio St.2d 143, 23 O.O.3d 182, 431 N .E.2d 992, the Ohio Supreme Court defined the scope of liability for intrusion into another's seclusion: 11 One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other

for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person. 11 69 Ohio St.2d at 145, 23 O.O.3d at 184,431 N.E.2d at 993-994, quoting Restatement of the Law 2d, Torts

On information and belief, defendants deliberately conducted a warrantless search and seizure of plaintiffs' private communications and subjected plaintiff to a broad invasion of privacy. The information obtained was shared and communicated to countless individuals. In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Intrusion upon Seclusion is an actionable violation of Ohio Law as plaintiff has alleged under the Federal Tort Claims Act Count VI and Count XIX.

Invasion of Privacy - False Light

In *Welling v. Weinfeld* (113 Ohio St.3d 464), the court found that a claim for false light is "a viable, and necessary, action for relief apart from defamation." The court recognized that a false light cause of action is an extension of an individual's right to privacy, but also heeded the First Amendment implications of allowing such a claim. Thus, the court adopted a stringent test requiring any plaintiff who asserts the claim to prove actual malice - that the false statement was publicized either with knowledge that it was false or with reckless disregard as to its truth. The court stated that a plaintiff's privacy "is not invaded when unimportant false statements are made, even when they are made deliberately." Rather a defendant is subject to liability only where "there is such a major misrepresentation of his character, history, activities or beliefs that serious offense may reasonably be expected to be taken."

In this instant case, defendant's deliberate, intentional, and reckless, false, malicious fraud accusations against plaintiff is a major misrepresentation and serious offense. Defendants did not present any evidence that plaintiff committed fraud and the allegations were based on their assumptions, not forensic evidence. Plaintiff was falsely accused of fraud for unlawful reasons and defendants knew that the statements were false when they publicized them. In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. False light is an actionable violation of Ohio Law that plaintiff has alleged under the Federal Tort Claims Act Count VII and Count XX.

Plaintiffs Rosalind Holmes v. Defendants Comey, Holder, and Rogers Federal Constitutional Claim - Return and Expungement of Information unlawfully Searched and Seized

The FBI, DOJ, City of Cincinnati, State of Ohio and NSA, through their agent's subjected plaintiff to unlawful searches and seizures pursuant to:

Warrantless Surveillance

The actions of the FBI, DOJ, City of Cincinnati, State of Ohio and/or NSA in causing the interception of plaintiffs' communications, including her emails, text messages, and/or phone calls, without obtaining

a warrant and without notice to plaintiff violated clearly established constitutional rights under the Fourth Amendment.

The actions of the FBI, DOJ, City of Cincinnati, State of Ohio and/or NSA in searching law enforcement and investigative databases for, examining, retaining, and using plaintiffs,' including her emails, text messages, and/or phone calls, that were obtained without a warrant, and without notice to plaintiff, violated plaintiffs' clearly established constitutional rights under the Fourth Amendment.

Warrantless Surveillance Under Section 702 and Executive Order 12333

Plaintiff was subjected to surveillance under two complementary authorities that the government uses to intercept and exploit Americans' international communications without ever obtaining a warrant.

Warrantless Interception

Under Section 702 of the Foreign Intelligence Surveillance Act, the government conducts warrantless surveillance on U.S. soil of vast quantities of communications entering and leaving the United States-including communications sent and received by Americans like plaintiff.²

Lack of Individualized Judicial Review

Neither Section 702 nor EO 12333 surveillance involve warrants or any form of individualized judicial review. The government does not dispute this. Under Section 702, the FISC has a "narrowly circumscribed" role. In re Proceedings Required by § 702(i) of the FAA, No. 08-01, 2008 WL 9487946, at *2 (FISC Aug. 27, 2008). Unlike under Title III or traditional FISA, no court approves the targets of Section 702 surveillance. Instead, the FISC's role consists principally of reviewing, once a year, the government's "targeting" and "minimization" procedures, which set certain rules that agency analysts must follow when selecting targets and handling intercepted communications. 50 U.S.C. § 1881a(a), (i). Under EO 12333, the absence of judicial involvement is even starker: the surveillance is not subject to any form of judicial review at all.

Warrantless Retention, Querying, and Use

Not only are Americans' communications collected in vast quantities under Section 702 and EO 12333, they are also retained, searched, and used in later investigations-including in domestic criminal investigations far removed from the original foreign-intelligence purpose of the surveillance. The governments "minimization" procedures which supposedly protect the privacy of Americans swept up in the surveillance, are weak by design. As a default rule, they permit the government to keep most

² See Privacy and Civil Liberties Oversight Board, Report on the Surveillance Program Operated Pursuant to Section 702, at 7 (July 2, 2014), <https://penna.cc/WDSR-SGKE> (..PCLOB Report").

intercepted communications, including those of Americans, in vast government databases for as long as five years.³ During that time, agents and analysts routinely search through them—including by using Americans' names or email addresses to investigate particular Americans.⁴ These "backdoor searches" allow the government to target and read the communications of Americans without obtaining a warrant or any individualized judicial authorization.⁵

In short, these warrant less queries are designed to extract and access communications that the government knows are protected by the Fourth Amendment.

Government Efforts to Conceal Warrantless Surveillance of Americans

Even when the government uses information gleaned from warrantless surveillance in the course of a criminal investigation, it regularly conceals that fact from the individuals like plaintiff whom it seeks to prosecute. Although the government is required to provide notice of Section 702 surveillance in criminal proceedings, see 50 U.S.C. § 1806, it has adopted policies and practices that thwart that requirement. Indeed, for five years after the enactment of Section 702, the Department of Justice failed to provide notice of this surveillance to a single criminal defendant, based on a notice policy that it has never publicly disclosed; and it continues to us "parallel construction" and other strategies to avoid providing notice today.⁶

Similarly, when it comes to EO 12333 surveillance, officials have claimed that individuals like plaintiff have "no right to know if 12333 intercepts provided a tip from which investigators derived other evidence."⁷

The Government's Ongoing Retention and Searching of Plaintiffs' Personal Data and Communications Establishes her Standing to seek Injunctive and Declaratory Relief.

³ PCLOB Report 60; U.S. Signals Intelligence Directive SP0018 § 6 (Jan. 25, 2011), <https://perma.cc/SH4G-XJUW> ("USSID 18").

⁴ PCLOB Report 55-60; USSID 18 §§ 4-6.

⁵ See James Ball & Spencer Ackerman NSA Loophole Allows Warrantless Search for US Citizens' Emails and Phone Calls, Guardian, Aug. 9 2013, <http://goo.gl/DDg2zZ>.

⁶ See Charlie Savage, Federal Prosecutors, in a Policy Shift, Cite Warrantless Wiretaps as Evidence N.Y. Times, Oct. 26, 2013, <https://nyti.ms/laKvksP>; Trevor Aaronson, NSA Secretly Helped Convict Defendants in U.S. Courts, Classified Documents Reveal, Intercept, Nov. 30, 2017, <https://bit.ly/2ExuYYJ> (describing how Section 702 was secretly used to surveil criminal defendant).

⁷ See Charlie Savage, Reagan-Era Order on Surveillance Violates Rights, Says Departing Aide, N.Y. Times, Aug. 13, 2014, <http://nyti.ms/1wPw610>.

Plaintiff has plausibly pled that she is suffering from an ongoing injury due to the government's retention and routine searching of her personal communications and data, which it unlawfully obtained. Because the expungement of this information and declaratory relief will redress these bans, plaintiff has standing.

The Government's Ongoing Retention and Searching of Plaintiffs' Personal Data and Communications is an Injury-In-Fact.

Both before and after plaintiff left the City of Cincinnati, defendants unlawfully obtained plaintiffs' personal data and communications, using a panoply of surveillance tools to dig deeply into her private life. First, the government intercepted plaintiffs' communications-including emails, text messages, and phone calls made to her contacts and family members abroad-using its warrantless surveillance tools. Although Congress has forbidden the government from using warrantless surveillance to intentionally target the communications of Americans like plaintiff, the FBI and NSA nonetheless rely on these tools to collect Americans' communications with family, friends, and colleagues abroad. Through these searches, defendants made records of the plaintiffs' telephone conversations, emails, and text messages, as well as copies of the plaintiffs' private data stored on her home computers and her personal cell phones. Although no charges were brought against plaintiff, the unlawfully acquired private data belonging to her remains stored in massive law enforcement and investigative databases. Moreover, these records are not merely sitting there, untouched.

Rather, the government routinely searches (or queries) these databases as part of law enforcement investigations. The government searches these databases using telephone numbers, email address, and other keywords; it even intentionally searches for the communications of specific U.S. persons, like plaintiff.⁸ These database searches are so common in FBI investigations that the government has called them the "FBI's Google." Indeed, every time the FBI opens a new national security investigation it queries the pool of data it has already amassed.⁹ It does the same with "some frequency" in the course of regular criminal investigations. This means that plaintiffs' private communications are not just retained but continue to be searched routinely in the course of wholly unrelated investigations.¹⁰

This retention and searching of the plaintiffs' personal data and communications is an ongoing infringement of plaintiffs' privacy interests-an injury-in-fact for Article III standing purposes¹¹. *Menard*

⁸ See PCLOB Report 59.

⁹ See PCLOB Report 59

¹⁰ (Recent testimony by FBI Director Christopher Wray indicates that, so long as plaintiffs' private information remains in the governments hands, it is especially likely to be subject to further searches, scrutiny, and intrusions ...) See Worldwide Threats: Open Hearing before the S. Select Comm. on Intelligence I 15th Cong. at 1:15:55 (2018), <https://bit.ly/2Gcva0r>

¹¹ See, e.g., *Mayfield v. United States*, 599 F.3d 964, 971 (9th Cir. 2010)(agreeing with the district court that the plaintiff 'continue[s] to suffer a present, on-going injury due to the government's continued retention of derivative material from the FISA seizure");

v. *Saxbe*, 498 F.2d 1017, 1023-24 (D.C. Cir. 1974) (holding that retention of records is a 'cognizable legal injury'). Moreover, plaintiffs' harms go beyond mere retention: they include the further intrusions and injuries stemming from the government's ongoing searches of her illegally obtained information. *ee*, e.g. 50 U.S.C. § 1801(h) (restricting the retention, dissemination and use of private information concerning U.S. persons) *id.* § 1881a(f) (regulating 'queries' under Section 702); *Ferguson v. City of Charleston*, 532 U.S. 67, 76 & n.9 (2001) (stating that drug testing of urine sample and reporting of results to police were elements of Fourth Amendment injury contrary to dissident's view) *Socialist Workers Party v. Attorney General of U.S.*, 666 F. Supp. 621, 623 (S.D.N.Y. 1987) ("The Government contends that there should be no injunctive relief because there is no threat of future unconstitutional use of the legally obtained information But this ignores the fact that any use or dissemination of this material would be tainted with illegality.")

The government's retention and searching of Rosalind's private data and communications also constitutes an injury-in-fact because it interferes with her possessory interests: her ability to control the use of that information. See *Jefferson*, 571 F. Supp. 2d at 704 (explaining that "copying the contents of a person's documents by way of photographs or written notes ... interfere[s] with the person's sole possession of the information contained in those documents," and holding that taking photographs of documents and notes on their contents "each constitute both a search and a seizure of the information contained in those documents"); *United States v. Jacobsen*, 466 U.S. 109, 113 (1984) (a seizure occurs when "there is some meaningful interference with an individual's possessory interests" in property); *Katz v. United States*, 389 U.S. 347, 353 (1967) ("[E]lectronically listening to and recording the petitioner's words ... constituted a 'search and seizure' within the meaning of the Fourth Amendment.").

The bans plaintiffs seek to redress are concrete, immediate, and ongoing, and flow from the government's retention of illegally obtained information. Given defendants' retention and routine searching of Rosalind Holmes' communications and data, plaintiff has more than sufficiently alleged an injury-in-fact sufficient to satisfy Article III.

Plaintiffs' Injuries will be Redressed by the Injunctive and Declaratory Relief.

Plaintiff has also plausibly alleged that the relief she seeks will redress the harms flowing from defendants' retention and searching of her private communications and data. As the Third Circuit recently noted, "(g)iven the range of available remedies, redressability is easily satisfied." *Hassan v. City of New York*, 804 F.3d 277,294 (3d Cir. 2015). Here, plaintiff has requested two forms of relief: (1) injunctive relief requiring defendants "to return to plaintiff all information in their custody or control obtained from plaintiffs' electronic devices, communications, and papers, and, to the extent that information cannot be returned, to expunge or otherwise destroy that information," and (2) a declaration that defendants violated plaintiffs' Fourth Amendment rights by subjecting plaintiff to unlawful searches and seizures. Because both the injunctive and declaratory relief plaintiff seeks will redress their injuries, plaintiff has standing to seek these remedies.

Discrimination: 42 USC 1981

Section 1981(a) of USC Title 42 protects the equal contractual rights of African Americans from impairment under color of state law. To state a claim under Section 1981, a plaintiff must allege: (1) that he or she is a member of a racial minority; (2) an intent to discriminate on the basis of race or retaliation by the defendant; and (3) that the discrimination concerns one or more of the activities enumerated in the statute. Defendants, FBI, City of Cincinnati, State of Ohio Disciplinary Counsel, Freking, Myers, & Reul and Tuck Finn acted under color of state law in general and specifically with respect to plaintiffs' employment relationship with the City of Cincinnati, plaintiffs' complaint of attorney misconduct with the State of Ohio Disciplinary Counsel, plaintiffs' legal representation with Freking, Myers, & Reul and Tuck Finn, plaintiffs' at will employment relationships with multi-national organizations such as Dover Corporation, Deloitte LP, Georgia Pacific, Huff Corporation etc.

Defendants violated this provision by affording non-African American citizens unequal enjoyment of the privileges and benefits of their employment and other contractual relationships with defendant's. Specifically defendant violated plaintiffs' right to be free of discriminatory, and grossly negligent attorney misconduct, retaliatory arrest, retaliatory prosecution and fraud investigations and legal representation, the right to be free of discriminatory, false allegations, actions and grossly negligent investigations, the right to be free of discriminatory, warrantless searches and seizures, the right to be free of discriminatory and retaliatory failures to train, investigate, supervise and correct/discipline, the right to be free of discrimination and retaliation for the exercise of constitutionally protected activities, the right to be free from continual discrimination and retaliation in employment, over such enjoyment afforded to plaintiff. In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Section 1981 discrimination is an actionable violation of Federal Law, as plaintiff has alleged count in XII of her federal complaint.

Defendants acted with impermissible discriminatory motives, specifically, on account of plaintiffs' race and in retaliation for her constitutionally protected activities.

Defendants actions or inactions have violated plaintiffs' First, Fourth, Fifth and Fourteenth Amendment Rights.

Discrimination: 42 USC 1983 Deprivation of Rights

Section 1983 of USC Title 42 protects any citizen of the United States or other person within the jurisdiction from the deprivation of any rights, privileges, or immunities secured by the Constitution and laws. To establish a claim pursuant to § 1983, a plaintiff must demonstrate two elements: " (1) that he was deprived of a right secured by the Constitution or laws of the United States, and (2) that he was subjected or caused to be subjected to this deprivation by a person acting under color of state law. " *Gregory v. Shelby County*, 220 F.3d 433, 441 (6th Cir. 2000).

Defendants jointly and severally acted under color of state law in general and specifically with respect to depriving plaintiff of her rights, privileges, or immunities secured by the Constitution.

By depriving plaintiff of her constitutional e.g., the right to be free of conspiratorial, discriminatory and grossly negligent attorney misconduct investigations and legal representation, the right to be free of discriminatory and conspiratorial false allegations, actions and investigations, the right to be free of conspiratorial, discriminatory and warrantless searches and seizures, the right to be free of discriminatory and retaliatory failures to train, investigate, supervise correct/discipline, the right to be free of discrimination and retaliation for the exercise of constitutionally protected activities, the right to be free from continual discrimination and retaliation in employment.

Defendants knowingly, intentionally, grossly and with reckless indifference deprived plaintiff of her First, Fourth, Fifth and Fourteenth Amendment rights guaranteed under the U.S. Constitution. In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Defendants acted with impermissible discriminatory motives, specifically, on account of plaintiffs' race and in retaliation for her constitutionally protected activities. Section 1983 discrimination is an actionable violation of Federal Law, as plaintiff has alleged in count XIII of her federal complaint.

Count IX Discrimination: 42 USC 1985 Conspiracy to Interfere with Civil Rights

The first two clauses of Section 1985(2) provides for a civil action, if two or more persons... conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified ; two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.

The first clause of section 1985(2) concerns conspiracy to obstruct justice in the federal courts, or to intimidate a party, witness or juror in connection therewith." *Bretz v. Kelman*, 773 F.2d 1026, 1027 n. 3 (9th Cir. 1985). The first clause does not require class based invidious discriminatory animus. To state a claim under § 1985(2)'s second clause, a plaintiff must allege he is a member of a class which suffers from invidious discrimination and the defendant's acts were motivated by animus towards that class. *Bretz*, 773 F.2d at 1028.

Defendants violated Section 1985(2)'s first clause by acting jointly and/or severally, knowingly, intentionally, and with reckless disregard or indifference under color of state law, "conspired to intimidate plaintiff, with the express purpose of injuring plaintiff on account of her freely, fully, and truthful testimony, appearance and participation in the federal case of *Holmes v. City of Cincinnati*, and in her petition for a writ of mandamus and application for injunctive relief filed before the United States Supreme Court among others.

Under Section 1985(2) clause two, defendants acted jointly and severally, deliberately, intentionally, and recklessly under color of state law, "conspired to impede, hinder, defeat and obstruct plaintiff, with the express intent to deny plaintiff the equal protection of the laws, on account of her appearance, testimony and participation in the federal case of *Holmes v. City of Cincinnati* and in her petition for a writ of mandamus and application for injunctive relief filed before the United States Supreme Court among others. Defendants acted with impermissible discriminatory motives, specifically, on account of plaintiffs' race and in retaliation for her constitutionally protected activities.

The first two clauses of Section 1985(3) provide a civil cause of action if two or more persons ... conspire... for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; (Deprivation Clause) or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; "*Ziglar v. Abbasi*, 137 S. Ct. 1843, 1865-66 (2017). (Hinderance Clause)

The first clause is commonly designated the "deprivation" clause; the second as the "prevention" or "hindrance" clause. A plaintiff alleging such a conspiracy must prove the following elements: "(1) a conspiracy involving two or more persons (2) for the purpose of depriving, directly or indirectly, a person or class of persons of the equal protection of the laws; and (3) an act in furtherance of the conspiracy (4) which causes injury to a person or property, or a deprivation of any right or privilege of a citizen of the United States." *Moniz v. Cox*, 512 F. App'x 495, 499-500 (6th Cir. 2013) (citing *Johnson v. Hills & Dales Gen. Hosp.*, 40 F.3d 837,839 (6th Cir. 1994)). An essential element of the claim is that "the conspiracy was motivated by racial, or other class-based, invidiously discriminatory animus." *Id.* (citing *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 267-68 (1993)). The Sixth Circuit has construed section 1985(3) to protect "[a] class possess[ing] the characteristics of a discrete and insular minority, such as race, national origin, or gender." *Vakilian v. Shaw*, 335 F.3d 509,519 (6th Cir. 2003).

Defendants violated the first two clauses of Section 1985(3) by engaging in a conspiratorial warrantless surveillance, discriminatory arrest, prosecution and false allegations of fraud against plaintiff; with the intent to deprive plaintiff of her appearance, participation, and testimony in her federal discrimination in *Holmes v City of Cincinnati*, *Holmes v USA et. al.*, and in her petition for a writ and application filed in the U.S. Supreme Court among others, and to prevent officials of the Ohio Disciplinary Counsel, and Federal Bureau of Investigation from securing plaintiffs' First, Fourth, Fifth and Fourteenth Amendment rights.

Defendants acted with impermissible discriminatory motives, specifically, on account of plaintiffs' race and in retaliation for her constitutionally protected activities of filing a petition and writ in the Supreme Court, reporting conspiratorial government harassment, discrimination and retaliation.

In addition, defendants conspiratorial actions resulted in the violation of plaintiffs' right to be free of discriminatory and grossly negligent attorney misconduct investigations, discriminatory arrest,

prosecution and discriminatory legal representation, the right to be free of discriminatory and warrantless searches and seizures, the right to be free of discriminatory failures to train, supervise and correct, and the right to be free from continual conspiratorial discrimination and retaliation in employment.

Defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Section 1985 conspiracy is an actionable violation of federal law, as plaintiff has alleged count XIV of her federal complaint.

Conspiracy: 42 USC 1986 Action for neglect to prevent

Section 1986 of USC Title 42 protects any citizen from every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do....which such person by reasonable diligence could have prevented....

To assert a claim under § 1986, Plaintiff must plead facts showing defendants had knowledge of an impending violation of § 1985, which proscribes conspiracies to interfere with certain civil rights. *Karim-Panahi v. Los Angeles Police Dept.*, 839 F.2d 621,626 (9th Cir.1988).

A violation of section 1986 thus depends on the existence of a valid claim under 1985. *Sanchez v. City of Santa Ana*, 936 F.2d 1027, 1040 (9th Cir. 1990).

Defendants acted jointly and severally, deliberately, knowingly, intentionally and with reckless disregard with respect to their conspiratorial failures to train, investigate, supervise and correct; conspiratorial warrantless surveillance and false fraud accusations, conspiracy to impede plaintiff, with the express intent to deny plaintiff the equal protection of the laws, on account of her appearance, testimony and participation in the federal case of *Holmes v. City of Cincinnati*; *Holmes v USA et. al.*, and in her petition for a writ and application filed in the U.S. Supreme Court among others, and to prevent officials of the Ohio Disciplinary Counsel, and Federal Bureau of Investigation from securing plaintiffs' First, Fourth, Fifth and Fourteenth Amendment rights.

Defendants obstructed, hindered, impeded and defeated plaintiff with respect to her enjoyment of the rights guaranteed by the Constitution and conspiratorial continual discrimination, retaliation and warrantless surveillance.

Defendants deliberate, intentional, knowingly and reckless actions prove that they authorized, participated, approved, acquiesced, ratified and were complicit to the constitutional violations against plaintiff. Defendants grossly negligent misconduct and deliberate indifference presented an obvious and substantially certain potential for future constitutional violations against plaintiff. Therefore,

defendants knew that future constitutional violations as described in this complaint against plaintiff were imminent.

Defendants knowingly, intentionally, grossly and with reckless indifference knew in advance that these unlawful acts were to be committed and did nothing to prevent such acts and/or failures to act.

In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Section 1986 is an actionable violation of Federal Law, as plaintiff has alleged in count XV of her federal complaint.

Tortious Interference

To prevail on a claim of tortious interference with a contract, plaintiff must show: (1) the existence of a contract; (2) the wrongdoer's knowledge of the contract; (3) the wrongdoer's intentional procurement of the contract's breach; (4) lack of justification for the interference; and (5) resulting damages. *Fred Siegel Co., L.P.A. v. Arter Hadden* (1999), 85 Ohio St.3d 171, paragraph 1, syllabus. "Tortious interference with contract requires an actor to improperly interfere with the performance of a contract between two other persons." *Emergency Preemption, Inc. v. Emergency Preemption Sys., Inc.* (Aug. 14, 1997), Cuyahoga App. No. 71350.

Defendants knew that plaintiff was classified as a civil service employee and subject to a union contract, they knew that plaintiff hired Attorney Elizabeth Tuck (formerly Loring) to represent her before the Equal Employment Opportunity Commission, they knew that plaintiff worked for Dover, Deloitte LP, Georgia Pacific, Huffy Corporation and others as an at will employee and they caused the termination of the contracts due to their conspiratorial and discriminatory actions as described in her federal complaint, against plaintiff. There was no justification for defendant's interference and defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Tortious interference is an actionable violation of Ohio Law that plaintiff has alleged under the Federal Tort Claims Act Count VIII and Count XXII.

Intentional Infliction of Emotional Distress

In a case for intentional infliction of emotional distress, a plaintiff must prove (1) that the defendant intended to cause the plaintiff serious emotional distress, (2) that the defendant's conduct was extreme and outrageous, and (3) that the defendant's conduct was the proximate cause of plaintiffs serious emotional distress. See *Reamsnyder v. Jaskolski* (1984), 10 Ohio St.3d 150, 10 OBR 485,462 N.E.2d 3

Defendants actions in causing the conspiratorial false malicious accusations; in causing the retaliatory/malicious arrest and prosecution; in causing the invasion of privacy of plaintiff; in targeting plaintiff on the basis of her race and constitutionally protected activities; in depriving plaintiff of her

constitutionally guaranteed rights; in a grossly negligent investigation with the failure to adequately train, supervise, correct/discipline and the continual retaliation and discrimination were outrageous and extreme.

Plaintiff can provide testimonial evidence from experts, friends and family members as to the emotional harm and damage caused by defendants. In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint.

Intentional infliction of emotional distress is an actionable violation of Ohio law that plaintiff has alleged under the Federal Tort Claims Act count IX and count XVII.

Civil Conspiracy

In Ohio, a civil conspiracy consists of the following: (1) a malicious combination; (2) two or more persons; (3) injury to person or property; and (4) existence of an unlawful act independent from the actual conspiracy. *Minarik v. Nagy* (1963), 8 Ohio App.2d 194, 26 O.O.2d 359, 193 N.E.2d 280. *Universal Coach, Inc. v. New York City Transit Auth., Inc.*, 629 N.E.2d 28, 33 (Ohio Ct.App. 1993).

Under federal law, "a civil conspiracy is an agreement between two or more persons to injure another by unlawful action.... All that must be shown is that there was a single plan, that the alleged co-conspirator shared in the general conspiratorial objective, and that an overt act was committed in furtherance of the conspiracy that caused injury to the complainant." *Huffer v. Bogen*, 503 F. App'x 455,461 (6th Cir. 2012) (quoting *Hooks v. Hooks*, 771 F.2d 935, 934-44 (6th Cir. 1985)).

In *Adickes v. S.H. Kress and Co.*, 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970), the Supreme Court held that, even though the petitioner had no knowledge of an agreement between the alleged conspirators, "the sequence of events" alleged were sufficient to allow a jury to "infer from the circumstances that the [conspirators] had a "meeting of the minds." *Id.* at 157, 158, 90 S.Ct. at 1608, 1609.

Conspiracy claims, "must be pled with some degree of specificity" and merely describing the acts taken by various individual defendants does not suffice. *Id.* at 461-62.

Plaintiff stated the following facts to prove conspiracy:

Evidence of Defendants Conspiracy

- A. The Cincinnati Division of the F.B.I. investigative jurisdiction includes Columbus, Ohio and Cincinnati, Ohio. The U.S. District Court for the Southern Division of Ohio is located in Cincinnati, Ohio. The Ohio Disciplinary Counsel is located in Columbus, Ohio, which falls within the FBI-Cincy investigative jurisdiction. The U.S. District Court for the Southern Division of Ohio falls under the exclusive

jurisdiction of the federal government. The FBI is the lead agency in America that conducts cybercrime investigations.

- B. Defendants, Ms. Catherine Russo, Mr. Scott Drexel, Mr. Joseph Caligiuri, Kevin Cornelius, Does of the FBI-Cincy, Paula Boggs Muething, Emily Woerner, William Hicks, Terrance Nester, City Officials, Does of the City of Cincinnati, Randy Freking, George Reul, Kelley Mulloy-Myers, Does of Freking, Reul, & Myers LLC., Elizabeth Tuck, David Clark, Thomas Cody, Does of Macy's Inc., Does of Dinsmore & Shohl LLP, Dinsmore & Schohl LLP. and others knew that the fraud accusations against plaintiff were false and knowingly, deliberately, intentionally, with reckless disregard memorialized and publicized the false fraud accusations and demanded an immediate response from plaintiff.
- C. Defendants, Ms. Catherine Russo, Mr. Scott Drexel, Mr. Joseph Caligiuri, Kevin Cornelius, Does of the FBI-Cincy, Paula Boggs Muething, Emily Woerner, William Hicks, Terrance Nester, City Officials, Does of the City of Cincinnati, Randy Freking, George Reul, Kelley Mulloy-Myers, Does of Freking, Reul, & Myers LLC., Elizabeth Tuck, David Clark, Thomas Cody, Does of Macy's Inc., Does of Dinsmore & Shohl LLP, Dinsmore & Schohl LLP. and others actions were outside the scope of disciplinary counsel's authority and taken to benefit the City of Cincinnati, Elizabeth Tuck and the Freking, Myers, & Reul.
- D. Mr. Scott Drexel and Mr. Joseph Caligiuri were responsible for training, supervising, correcting and authorizing Ms. Russo's actions of sending a letter accusing plaintiff of fraud without sufficient evidence.
- E. Mr. Drexel and Mr. Caligiuri failed to take any action to address the wrongful conduct by Ms. Russo; to prevent further violations of plaintiffs' right to make a complaint attorney misconduct and to be free from a bias, discrimination, retaliation and grossly negligent investigation of attorney misconduct which violates the first, fifth, and fourteenth amendment to the U.S. Constitution.
- F. The Ohio Disciplinary Counsel investigates attorney misconduct and the unauthorized practice of law, not federal cybercrimes. Catherine Russo revealed that she was making an assumption that Elizabeth Tuck emails were authentic because she confirmed that they came from the firms computers and verified that forwarded emails allow for a change in content.
- G. Traditionally, cybercrimes related to documentary evidence submitted to the federal court are investigated by the FBI, not the Disciplinary Counsel. Fraudulent emails are wire fraud, which is a federal crime within the FBI's investigative jurisdiction. Forensic evidence and testimony are traditionally required to prove fraudulent emails or wire fraud, not assumptions.
- H. The emails that the Ohio Disciplinary Counsel focused on were not the basis of plaintiffs' complaint filed with the Disciplinary Counsel. (Complaint, ¶ 102) Plaintiffs' complaint submitted to the Disciplinary Counsel included well over 200 pages of documentary evidence. There was no reason or

motive for plaintiff to commit fraud because she provided substantial documentary evidence to prove attorney misrepresentation and misconduct against Attorney Loring.

- I. In addition, Freking, Myers, & Reul never billed plaintiff for the email that Elizabeth Tuck states is authentic. However, Freking and Betz billed for the email that Elizabeth Tuck states is fraudulent. (Exhibit 38)
- J. Elizabeth Tuck never provided any documentary evidence to the EEOC to support plaintiffs' EEOC charges she filed on plaintiffs' behalf. She never admitted that the EEOC charge was a duplication and never advised plaintiff that she was within the six-year time frame to file a discrimination lawsuit under Ohio law.
- K. The Disciplinary Counsel was aware of plaintiffs' report of unlawful surveillance and conspiracy to City Officials and the FBI, both the FBI and City Officials failed to investigate. The FBI investigator told plaintiff that they were conducting a fraud investigation, but plaintiff discovered that no investigation was ever conducted, by the FBI based upon the FBI's response to plaintiffs' Freedom of Information Act request.
- L. Attorney Loring, the Freking, Myers, & Reul and the City of Cincinnati had no basis to file a dismissal of the federal lawsuit or complaint of misconduct. The Ohio Disciplinary Counsel was aware that defendants had a reason and motive to falsely accuse plaintiff of fraud because they wanted to conceal their conspiracy and fraud which began on April 24, 2006, and have the complaint of attorney misconduct and the federal discrimination lawsuit dismissed.
- M. The hearing in the matter of *Holmes v Cincinnati* to decide on equitable tolling would have subjected Elizabeth Tuck, the Partners of the Freking, Myers, & Reul and City officials to reputational harm, embarrassment, and culpability. If the Ohio Disciplinary Counsel would have performed the investigation in a fair and non-biased manner it would have exposed several attorneys to disciplinary proceedings, reputational harm and liability in favor of plaintiff. For instance, the investigation would have uncovered that the conspiratorial campaign and fraud began on April 24, 2006, while plaintiff was employed by Macy's Inc.
- N. To prevent reputational harm, embarrassment, and liability, defendants Ms. Catherine Russo, Mr. Scott Drexel, Mr. Joseph Caligiuri, Kevin Cornelius, Does of the FBI-Cincy, Paula Boggs Muething, Emily Woerner, William Hicks, Terrance Nester, City Officials, Does of the City of Cincinnati, Randy Freking, George Reul, Kelley Mulloy-Myers, Does of Freking, Reul, & Myers LLC., Elizabeth Tuck, David Clark, Thomas Cody, Does of Macy's Inc. and others, agreed to falsely accuse plaintiff of fraud and label her as a criminal suspect to avoid having to investigate her claims of attorney misconduct.

On information and belief, plaintiff has provided sufficient evidence that defendants conspired against her for unlawful reasons. Specifically, to intimidate plaintiff on account of her rights to freely, fully, and

truthful testimony, appearance and participation in her federal court case against the City of Cincinnati; to prevent the Ohio Disciplinary Counsel from conducting an investigation that would have uncovered the conspiracy and fraud that began on April 24, 2006; to conceal the conspiracy and fraud from plaintiff; to escape disciplinary actions by the Disciplinary Counsel; to escape reputational harm, embarrassment, and legal liability to plaintiff; and continue the campaign of conspiratorial fraud, discrimination, retaliation and harassment, etc., against plaintiff on account of her race and constitutionally protected activities. Thereby, impeding, hindering, obstructing, or defeating and depriving plaintiff of rights guaranteed by the U.S. Constitution.

In addition, defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Civil conspiracy is an actionable violation under Federal and Ohio law and plaintiff has alleged conspiracy under counts XXI.

Gross Negligence

Generally, plaintiffs must always prove the existence of the following five elements to find the defendant liable for negligence 1.) Duty of Care 2.) Breach of the Duty 3.) Cause in Fact 4.) Proximate Cause 5.) Damages

Defendants owed plaintiff a duty of care and their deliberate, intentional, and reckless actions of grossly negligent attorney misconduct and fraud investigations and legal representations, and at-will employment with Dover Corporation, Deloitte LP, Georgia Pacific and others. Defendants conspiratorial, false fraud accusations, false statements, representations, or omissions regarding ongoing investigations, failures to investigate, correct/discipline and supervise officials, initiation of a warrantless search and seizure of plaintiffs' private communications without probable cause, and targeting plaintiff with discriminatory motives, and complicity to the continual discrimination and retaliation, after plaintiff left the City of Cincinnati has resulted in grossly negligent misconduct.

Their actions as described above violated the duty of care and were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Gross negligence is an actionable violation under Ohio law and plaintiff has alleged gross negligence under the Federal Tort Claims Act Count X.

Retaliation: 4112 Ohio Revised Code

Sections 4112.02(1) of the Ohio Revised Code prohibits any person from discriminating in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.

Defendants violated this section by performing and/or causing a grossly negligent attorney misconduct and fraud investigation and legal representation, by engaging in a conspiratorial false arrest, engaging in a conspiratorial, retaliatory prosecution, by falsely accusing or causing plaintiff to be accused of fraud, by participating and/or performing warrantless surveillance without probable cause, by failing to train, supervise and correct/discipline; by continually invading plaintiffs' privacy and publicizing false fraud accusations against her, by involving themselves in the personal and private matters of plaintiff of which they have no right, by continually retaliating against plaintiff in employment.

Their actions as described above were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Retaliation is an actionable violation under Ohio law and plaintiff has alleged retaliation in count XVI of her federal complaint.

Defamation, Libel, Slander

Defamation is a false publication causing injury to a person's reputation, or exposing the person to public hatred, contempt, ridicule, shame or disgrace or affecting him adversely in his trade or business. Defamation can be in the form of either slander or libel. Slander generally refers to spoken defamatory words while libel refers to written or printed defamatory words. The essential elements of a defamation action, whether slander or libel, are that the defendant made a false statement of fact, that the false statement was defamatory, that the false defamatory statement was published, that the plaintiff was injured and that the defendant acted with the required degree of fault." *Hiddens v. Liebold*, Montgomery App. No. 06-CA-4 I, 2007-Ohio-6688,

Defendants damaged plaintiffs' reputation and/or exposed her to public ridicule by law enforcement and the Ohio Disciplinary Counsel in a manner which adversely affects her opportunity for professional employment advancement by false malicious fraud allegations.

Defendants intentionally, deliberately, knowingly with reckless indifference and with malice made or caused the publication of false and defamatory statements concerning plaintiff.

Defendant's actions were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described in her federal complaint. Defamation, libel, slander is an actionable violation under Ohio law and plaintiff has alleged defamation in count XVIII of her federal complaint.

Breach of Contract Implied Duty of Good Faith, Fraud, Retaliation Macy's Inc., City of Cincinnati, and Freking Myers & Reul, LLC.

A cause of action for breach of contract requires the claimant to establish the existence of a contract, the failure without legal excuse of the other party to perform when performance is due, and damages or loss resulting from the breach." *Lucarell v. Nationwide Mut. Ins. Co.*, 97 N.E.3d 458,469 (Ohio 2018)

In this case, Plaintiff entered into contract with Macy's Inc. (Exhibit 57) and the City, which was executed on February 12, 2008 and on April 25, 2017. (Exhibit A) Macy's Inc. and the City of Cincinnati's officials breached the contract by failing to disclose their continual conspiracy, discrimination, harassment, warrantless surveillance etc. involving the F.B.I. and many others against plaintiff. This fraudulent concealment constitutes a violation of performance without legal excuse and Macy's Inc. and the City entered into the contract in bad faith. Likewise, plaintiff entered into a contract with Freking, Myers, Reul and Elizabeth Tuck. They breached the contract by failing to disclose their conspiracy, discrimination, harassment, warrantless surveillance etc., against plaintiff. Their fraudulent concealment constitutes a violation of performance without legal excuse.

The City, Macy's Inc., Freking, Myers Reul and Elizabeth Tuck never intended to abide by the contract and continued to conspire and retaliate against plaintiff after executing.

Defendants had a duty to disclose their conspiracy with the FBI, Disciplinary Counsel, Elizabeth Tuck, Freking, Myers, Reul and others. Plaintiff was not aware of the conspiracy when she signed the contract and has suffered significant damages as a direct result of the breach.

Defendants had knowledge and/or acted in reckless disregard as to plaintiffs' constitutional rights. Their actions as described above were a direct and proximate cause and a substantial factor in plaintiffs' injuries as described above in her federal complaint.

APPENDIX B

Reason this Case Require Transfer to a Judge Outside of the Circuit

On November 20, 2020, plaintiff filed *Holmes v. USA et. al.*, 1:20-CV-00825, US District Court S.D. of Ohio. This supported, nonfrivolous complaint includes defendant, Joseph Caliguiri, Disciplinary Counsel, Ohio Supreme Court, among many others. Consequently, the governance, policies and procedures of the Ohio Disciplinary Counsel, Ohio Board of Professional Conduct and the Ohio Supreme Court are being called into question. Joseph Caliguiri serves at the direction and under the discretion of the Ohio Board of Professional Conduct and the Ohio Supreme Court. **Taking everything into consideration, this is the equivalent of suing the Chief Judge of the Sixth Circuit and calling into question the policies and procedures of the Sixth Circuit, the Sixth Circuit Judicial Council and the US Supreme Court. This is why plaintiff believes this case should not be heard by a judge in the US District Court S.D. and N.D. of Ohio and the Sixth Circuit because of the obvious and significant conflict of interest.** This case should be transferred to a judge in another circuit or the judicial conference who will be capable of rendering impartial decisions in accordance with binding legal precedent of the Sixth Circuit and the US Supreme Court. Moreover, an outside the Sixth Circuit Federal Court Monitor should be assigned to this case to ensure compliance with the decisions of the Court and to investigate and resolve complaints.

Additionally, plaintiff has filed a supported, nonfrivolous complaint against some or many of the Court's (US Dist. SD & ND, Sixth Circuit) colleagues including the law firm of Dinsmore & Shohl LLP, Freking, Myers, Reul LLC, Joseph Caliguiri, Ohio Disciplinary Counsel, Emily Woerner, Solicitor, at the City of Cincinnati, Paula Boggs-Muething, former City of Cincinnati Solicitor, John Cranley, former Mayor of Cincinnati, and many others. This case poses a significant conflict of interest because many of the defendants are the Court's (US Dist. SD & ND, Sixth Circuit) colleagues that practice or have practiced before this Court in the past or have the ability to influence or sway the decisions of the Judges involved in the matter.

Additionally, some or many of the defendants involved in this matter may socialize, dine, have children who attend the same schools, may be your neighbors, relatives, close friends, and colleagues. The judges involved in this matter may want to or have an interest in protecting the defendant's reputations, firms, organizations, etc., and are incapable of being an impartial trier of fact that will issue decisions according to the merits and binding legal precedent of the Sixth Circuit and the U.S. Supreme Court.

As the Court is well aware of the difficulties and the chances of plaintiff obtaining a lawyer to represent her in this matter are slim because she has filed a complaint against Joseph Caliguiri, Disciplinary Counsel, Ohio Supreme Court. Many lawyers are reluctant to challenge the Disciplinary Counsel unless it involves defending their law licenses. Any lawyer who represents or assists plaintiff in this matter will face extreme scrutiny and retaliation from their colleagues and defendants. It's important that the Court understands plaintiff's fight is against the defendants including the judiciary, the FBI, and the Department of Justice who protects well connected lawyers and judges. The disparity in power, and influence between plaintiff and defendants is significant, which is the

very reason this case should not heard by a District Judge or Circuit Judge located in Ohio or anywhere in the Sixth Circuit.

Relevant Statute and Rules Governing Intercircuit Transfer

According to 28 U.S. Code § 295, “no designation and assignment of a circuit or district judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which the judge is to be designated and assigned. No designation and assignment of a judge of any other court of the United States in active service shall be made without the consent of the chief judge of such court.”

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designation and assignments in accordance with the provisions of this chapter and may revoke those previously made by him.

Breyer Committee Report

In relevant part, the 2006 Breyer Committee Report *A Report to the Chief Justice states:*

Transfers should not be a regular occurrence, but some complaints might be better handled by judges outside the circuit. We can see reasons for and against doing so. Complaints that a circuit might wish to transfer to another circuit include:

- a supported, nonfrivolous complaint against all the active judges of the court of appeals or against the chief judge alone, if all other active judges have recused themselves—in either case, no appellate judge would be available to perform the chief judge’s duties under the Act (we say “a supported, nonfrivolous” complaint because, as commentary in the Illustrative Rules recognizes, many multiple-judge complaints are meritless; for those, it is proper for judges to invoke a rule of necessity and dismiss the complaint⁴⁷);
- a complaint, especially a high-visibility complaint, whose local disposition might create a threat to public confidence in the process—the view that judges will go easy on colleagues with whom they dine or socialize;
- a complaint filed in a circuit beset by internal tension tied to the alleged conduct that prompted the complaint; and
- a complaint that challenges the conduct of a judge but also calls into question the policies or governance of the entire court of appeals.

Factors counseling against transfer include:

- outside judges' relative ignorance of local circumstances and personalities might make them less able to gauge what corrective action would be effective and appropriate;
- judges in other circuits may be in a poor position to persuade a judge whom they do not know well to take the action they believe is necessary and will be less able than judges of the home circuit to monitor a resolution they have imposed (the Act's concept of local judges dealing with their colleagues apparently motivated the Judicial Conference's 1997 disapproval of a bill to require that *all* complaints be referred to another circuit⁴⁸);
- judges from another circuit may not produce the tougher outcomes that transfer proponents anticipate because such judges may be disinclined to go through the emotionally draining work of imposing tough sanctions on judges not of their own circuit; and
- transfers may increase time and expense if there is the need to ship files, arrange witnesses, and handle other matters from a distance.

**Additional material
from this filing is
available in the
Clerk's Office.**