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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DOE, an individual,

Movant,

v.

CV 18 80062 MISC.
Case No. 80062

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY,
OFFICE OF INSPECTOR GENERAL,**

**DECLARATION OF DOE IN
SUPPORT OF MOTION TO QUASH
SUBPOENA OR, IN THE
ALTERNATIVE, FOR A PROTECTIVE
ORDER**

Respondent.

Date: TBD
Time: TBD
Ctrm: TBD
Before: TBD

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1 I, **REDACTED** [name redacted], declare as follows:

2 1. I am the creator and uploader of five videos describing my observations of
3 the misconduct and mismanagement of the United States of America Department of the
4 Treasury ("DOT"), including the content formerly publicly located at
5 <<https://www.youtube.com/watch?v=AKVIU4pN20Q>> and
6 <<https://youtu.be/INAKKiWH4wY>> (collectively, the "Videos"), which were hosted by
7 Google LLC. Unless otherwise stated, I have personal knowledge of the matters stated
8 herein, and if called upon to testify, could and would competently testify thereto.

9 2. I have appeared anonymously in this action to file a motion to quash the
10 United States of America Department of the Treasury, Office of Inspector General
11 ("OIG")'s subpoena duces tecum to Google LLC (the "Subpoena").

12 3. I am currently an employee of DOT.

13 4. Over the course of my employment, I have observed firsthand, and learned
14 about from others, multiple incidents of unfair and discriminatory employment practices,
15 unethical behavior, fraud, waste, abuse, mismanagement, and retaliation within DOT's
16 Office of Financial Research ("OFR").

17 5. Specifically, I have observed: 1) the pre-selection and unfair
18 disadvantaging of job applicants; 2) veterans preference discrimination; 3) fraud in the
19 calculation of compensation; 4) age discrimination; 5) the overt exclusion of minorities
20 from senior positions and the confinement of said minorities to largely
21 administrative/secretarial roles; 6) retaliation against complainants; 7) the failure to
22 engage targeted minorities as required under the Dodd-Frank Act; 8) the affirmative
23 practice of refusing to create written records to avoid FOIA obligations; 9) competitive
24 promotion discrimination; and 10) violations of the Americans with Disabilities Act.

25 6. Based on my observations of OFR misconduct, I anonymously submitted
26 multiple complaints to OIG.

27 7. I also reported OFR's misconduct to several other oversight agencies,
28 including the Equal Employment Opportunity Commission ("EEOC") and the Office of

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1 Special Counsel ("OSC"). However, after submitting these complaints, I was told
 2 separately by three high-level DOT officials that other senior DOT officials were aware
 3 of, and condoned, some of the cited misconduct. Moreover, these three officials
 4 explained that they and other officials had been pressured to perpetrate the misconduct
 5 or take no corrective action. Finally, these three DOT officials described an atmosphere
 6 of fear, pressure, and intimidation within DOT, which had prevented them and other
 7 responsible officials from taking action in order to protect their own positions. Based on
 8 these discussions and observations, I believe that DOT's internal complaint channels
 9 are politicized, that complaining parties will be subject to retaliation, and that their
 10 complaints will go unaddressed.

11 8. Given my ongoing concerns, I sought to expose OFR misconduct through
 12 other channels. Specifically, I sought to inform members of Congress of my concerns. To
 13 that end, between May 2016 and October 2017, I created five Videos and uploaded them
 14 to YouTube. The Videos primarily consisted of text statements mixed with snippets of
 15 stock video clips and cinematic background music. The text in the Videos described
 16 OFR's misconduct, including its working conditions, ongoing wrongdoing, broad statistics,
 17 and specific incidents of misconduct observed by me and recounted to me by other
 18 affected employees.

19 9. As examples, the Videos stated in text (except as otherwise noted):

- 20 • "I work for the U.S. Treasury Office of Financial Research in Washington DC"
- 21 • "... where African Americans are paid 25% less than peers ...
- 22 • "... for doing the same job."
- 23 • "I applied for a promotion ...
- 24 • "... but my manager threw out my resume."
- 25 • "Out of nearly 300 employees ...
- 26 • "... only 2 African Americans have EVER been promoted."
- 27 • "More than half of the OFR's African American workforce has left since 2013."
- 28 • "The 2008 housing collapse disproportionately impacted communities of color."



- 1 • "Up to 47% of their wealth and homes were lost."
- 2 • "Many were victims of predatory lending from financial institutions. "
- 3 • "Congresswoman Maxine Waters authored Dodd-Frank Section 342 to drive more
- 4 diversity into the Federal Financial Services Agencies to heighten sensitivities
- 5 towards communities of color."
- 6 • [Audio Recording of Rep. Maxine Waters]: "Thank you very much Mr. Speaker and
- 7 members. I am pleased and proud to stand here today in support of this most
- 8 significant piece of legislation that is before this house. Perhaps most importantly,
- 9 the establishment of the Offices of Minority and Women Inclusion at each of the
- 10 federal financial services agencies. These offices would provide for diversity in the
- 11 employment, management, and business activities of these agencies. The data for
- 12 the need for these offices speaks for itself. Diversity is lacking in the financial
- 13 services industry within the GAO reporting from 1993 to 2004 the level of minority
- 14 participation in the financial services professions only increased marginally from
- 15 11% to 15.5%. We took care of that in this bill, and now we have the opportunity to
- 16 not only give oversight to diversity but to help these agencies understand how to
- 17 do outreach, how to appeal to different communities so that we can get the kind of
- 18 employees that will create the diversity that will pay attention to all of the needs of
- 19 the people of this country."
- 20 • "Dodd-Frank Section 342-(f) DIVERSITY IN AGENCY WORKFORCE. Each
- 21 agency shall take affirmative steps to seek diversity in the workforce of the agency
- 22 at all levels of the agency in a manner consistent with applicable law. Such steps
- 23 shall include recruiting at historically black colleges and universities, Hispanic-
- 24 serving institutions, women's colleges, and colleges that typically serve majority
- 25 minority populations. "
- 26 • "There's been no oversight of the OFR's activities since the enactment of the law
- 27 6 years ago."
- 28 • "In its report to Congress, the OFR redefines 'diversity' as the professional and

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- 1 educational backgrounds of its workforce.”
- 2 • “From 2012-15, not a single report to Congress mentions the targeted ethnic
- 3 communities specified in the law.”
- 4 • “Those entrusted by statute to oversee diversity and its internal implementation
- 5 have failed us.”
- 6 • “Update After 6 months of patiently waiting there’s been no change at the OFR.”
- 7 • “Not one manager has been held accountable.”
- 8 • “Not one wrong has been righted.”
- 9 • “It’s back to business as usual.”
- 10 • “Time’s up.”
- 11 • “Now it’s our turn.”
- 12 • “The Truth shall set you free.”
- 13 • “Stay tuned.”
- 14 • “One year ago the OFR received 3 separate Freedom of Information Act
- 15 requests.”
- 16 • “The FOIAs requested the hiring, employment, and pay practice data for the OFR.”
- 17 • “The data shows patterns of discrimination and unfair employment practices.”
- 18 • “Not one FOIA request was responded to.”
- 19 • “What happened to the FOIA requests?”
- 20 • “The Law allows a maximum of 20 days to respond.”
- 21 • “What are they hiding?”

22 10. My objective in creating and uploading the Videos was to create awareness
 23 of my concerns about OFR and to encourage Congress to investigate my allegations.
 24 The Videos repeated many of the complaints that I and other complainants had
 25 previously submitted to OIG. After uploading the Videos to YouTube, I anonymously
 26 contacted more than fifteen key members of Congress with links to the Videos, soliciting
 27 their intervention.

28 11. Finally, it appeared that my efforts were having an effect—the previous

1 OFR director resigned, and the new Treasury administration appeared to be taking steps
 2 to address my complaints. Given this advancement, in or around October or November
 3 2017, I “unpublished” the Videos from YouTube.¹

4 12. Despite these developments, at an all-staff meeting around November
 5 2017, Craig Phillips, the new Counselor to the Secretary of the Treasury, spoke about
 6 the Videos, calling them “sick” and “disgusting.” Mr. Phillips then threatened the 200 staff
 7 members at the meeting, stating “if you’re not happy here, you should leave.” Mr. Phillips’
 8 threat was corroborated by a February 2018 Wall Street Journal article, *Washington’s*
 9 *\$500 Million Financial-Storm Forecaster is Foundering*, which relied on sources from the
 10 meeting. Mr. Phillips made this threat as the backdrop to announced layoffs in the same
 11 meeting, indicating DOT’s apparent readiness to end my or other complainants’
 12 employment. In December 2017, the Government Accountability Office (“GAO”)
 13 corroborated my allegations of mismanagement and an environment contributing to low
 14 employee morale. Attached hereto as **Exhibit A** is a true and correct copy of the GAO
 15 report, entitled *OFFICE OF FINANCIAL RESEARCH—Observations on GAO Access to*
 16 *Information on Programs and Activities*, which is available on the GAO’s website.

17 13. Attached hereto as **Exhibit B** is a true and correct copy of an article from
 18 the Wall Street Journal, published on February 19, 2018 and entitled, *Washington’s \$500*
 19 *Million Financial-Storm Forecaster is Foundering*, which is available on the Wall Street
 20 Journal’s website.

21 14. Shortly after the publication of the February 2018 Wall Street Journal
 22 Article, DOT officials again raised concerns about the Videos during a routine staff
 23 meeting. Specifically, a DOT official complained that the Videos were threatening to
 24 employees and analogized the Videos to mass shootings and terrorism in that the Videos
 25 posed an imminent danger to employees. That DOT official then bluntly stated that DOT
 26 wanted to find out who had published the Videos, and that DOT, through OIG, had

27 _____
 28 ¹ Google uses the term “unpublish” to refer to the process of making a video private and
 inaccessible to the public.



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1 issued the Subpoena to identify me. Based on these statements, I understood that DOT's
2 effort to subpoena my identity was not to further any bona fide OIG investigation, given
3 that there were no published Videos, but rather to intimidate me, stifle my complaints,
4 uncover the Wall Street Journal's anonymous sources, and/or take retaliatory action.


5 15. On March 21, 2018, Google notified me of OIG's Subpoena and advised
6 me that Google would respond to the Subpoena and expose my identity if I did not file
7 objections with a court of competent jurisdiction within seven (7) days. I contacted an
8 attorney and promptly filed the instant motion.

9 16. Importantly, I was only an observer of OFR's misconduct. I was not
10 personally involved in any of the alleged OFR misconduct nor was I a source to any
11 media outlet. While I may possess relevant information that I am willing to share to assist
12 OIG in any legitimate investigation, I have genuine concerns that the disclosure of my
13 identity will result in retaliation, including the loss of my employment. As such, I want to
14 ensure that my communications and identity are protected in any response to the
15 Subpoena.

16
17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct and that this Declaration was executed on March
19 26, 2018.

REDACTED

20
21
22 *I attest that I have on file a copy of the original signed version of this Declaration. I
23 have redacted identifying information herein to avoid prejudice to the right of the
24 Declarant to anonymity.*

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26
27 
28 Jeffrey M. Rosenfeld,
Attorney for Movant Doe