

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

CBW BANK,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION, *et al.*,

Defendants.

Case No.: 24-CV-2535

**NOTICE OF CHANGE IN POSITION**

Defendants respectfully submit this Notice to inform the Court that the Acting Solicitor General has decided that the multiple layers of removal restrictions for administrative law judges in 5 U.S.C. § 7521 do not comport with the separation of powers and Article II and that the United States will no longer defend them in litigation. Accordingly, defendants will not continue to press their merits defense of Section 7521 in this action. *See* ECF No. 12 at 16-17.

Defendants nonetheless maintain that this Court should grant their motion to dismiss Plaintiff's Article II claim and deny Plaintiff's motion for a preliminary injunction. Defendants continue to argue that Plaintiff's claim fails at the threshold because Plaintiff has not shown that absent the removal protections, the "ALJ would have been removed or the proceedings would be different." *Id.* at 16 (citing *Leachco v. CPSC*, 103 F.4th 748 (10th Cir. 2024)); *see also Collins v. Yellen*, 594 U.S. 220, 259 (2021). Defendants further continue to argue that Plaintiff has not shown entitlement to injunctive relief under the remaining preliminary injunction factors. *See id.* at 17-20.

Respectfully submitted,

FEDERAL DEPOSIT INSURANCE CORPORATION  
Andrew Dober  
Senior Counsel

/s/ Erik Bond

Erik Bond N.Y. Bar Reg. 4316030

District of Kansas Bar No. 79224

Counsel

Dominique Park, WSBA Bar No. 38925

District of Kansas Bar No. 79196

Senior Attorney

3501 Fairfax Drive

Arlington, VA 22226-3500

Tel.: (703) 562-6461

Fax: (703) 562-2477

Email: [erbond@fdic.gov](mailto:erbond@fdic.gov)

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