

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOSEPH KIRCHNER,

Plaintiff,

v.

MIKE JOHNSON, in his individual and official capacity as Speaker of the United States House of Representatives;
DONALD J. TRUMP, in his individual capacity as former and current President of the United States;
PAM BONDI, in her individual and official capacity as Attorney General of the United States;
BRENDAN CARR, in his individual and official capacity as Chairman of the Federal Communications Commission;
THE UNITED STATES HOUSE OF REPRESENTATIVES;
ANTHROPIC PBC;
OPENAI, INC.;
APPLE INC.;
COMCAST CABLE COMMUNICATIONS, LLC;
METR (MODEL EVALUATION & THREAT RESEARCH);
and DOES 1-20, unknown co-conspirators,
Defendants.

Case No. 1:25-cv-02735-ACR

**MOTION FOR SERVICE BY
U.S. MARSHALS UPON
DEFENDANT TRUMP AND
FOR FINDING OF
EFFECTUATED
INDIVIDUAL-CAPACITY
SERVICE UPON
DEFENDANTS JOHNSON,
BONDI, AND CARR**

I. INTRODUCTION

1. Plaintiff Joseph Kirchner, proceeding pro se, respectfully moves this Court for two forms of relief addressing individual-capacity service upon the federal-official defendants:

(a) An order pursuant to Federal Rule of Civil Procedure 4(c)(3) directing the United States Marshals Service ("USMS") to serve the summons and the operative Third Amended Complaint upon Defendant Donald J. Trump in his individual capacity; and

(b) A finding that Plaintiff has effected individual-capacity service upon Defendants Mike Johnson, Pam Bondi, and Brendan Carr by certified mail with signed United States Postal

Service return receipts (PS Form 3811), delivered March 16, 2026, in compliance with Federal Rule of Civil Procedure 4(e)(1) and the D.C. Superior Court Rules of Civil Procedure.

2. The relief is bifurcated because the record establishes materially different service status for the four federal-official defendants. Defendants Johnson, Bondi, and Carr were each served by certified mail addressed by name at his or her official address, with signed PS Form 3811 return receipts in Plaintiff's possession reflecting delivery and acknowledgment on March 16, 2026. *See* Supplemental Notice of Service Effectuation (ECF No. 50, filed April 27, 2026); *id.* Exhibit 1. Defendant Trump's certified mailing of the same date, by contrast, was eventually received at the White House mail facility on April 22, 2026, bearing only a rubber stamp reading "RECEIVED APR 22 2026 MSOB Mailroom EOPIOA"; the corresponding return receipt's signature line (Line A) and printed-name line (Line B) are blank. *See* ECF No. 50 ¶ 21; *id.* Exhibit 1.

3. Plaintiff served the United States on March 3, 2026, in compliance with Federal Rule of Civil Procedure 4(i)(1). *See* ECF No. 39 ¶¶ 5–8.

4. The Notice of Appearance filed by Assistant United States Attorney Tara Derbisz on May 15, 2026 (ECF No. 60) appears for the federal defendants in their official capacities only and expressly disclaims authority to represent any of them in their individual capacities. ECF No. 60 at 2 n.2.

5. The relief sought operates within this Court's existing scheduling order. By Minute Order entered May 18, 2026, the Court granted Defendants' Motion for Extension of Time (ECF No. 59), extending the federal defendants' response deadline to June 17, 2026, and indicating that the Court "will discuss a timeline for responsive pleadings at the May 28, 2026, status hearing." Min. Order (May 18, 2026).

II. FACTUAL BACKGROUND

A. Service Upon the United States is Complete

6. As detailed in ECF No. 39 ¶¶ 5–8 and incorporated herein by reference, Plaintiff served the United States in compliance with Federal Rule of Civil Procedure 4(i)(1) on March 3, 2026, by certified mail to the U.S. Attorney's Office for the District of Columbia (Tracking No. 9589 0710 5270 2952 1967 60) and the Attorney General of the United States (Tracking No. 9589 0710 5270 2952 1967 08).

B. Certified Mail with Signed Return Receipts to Johnson, Bondi, and Carr

7. On March 10, 2026, Plaintiff sent the summons and the then-operative complaint by United States Postal Service Certified Mail, Return Receipt Requested, addressed by name to each individual-capacity federal-official defendant other than President Trump:

- **Mike Johnson** (Tracking No. 9589 0710 5270 3072 2192 47);
- **Pam Bondi** (Tracking No. 9589 0710 5270 3072 2192 61); and
- **Brendan Carr** (Tracking No. 9589 0710 5270 3072 2192 78).

8. USPS tracking confirms that each of these certified mailings was delivered on March 16, 2026, with signed PS Form 3811 return receipts in Plaintiff's possession and of record as part of Exhibit 1 to Plaintiff's Supplemental Notice of Service Effectuation. ECF No. 50, Exhibit 1. The PS Form 3811 return receipt corresponding to the certified mailing to Defendant Bondi bears a Department of Justice mailroom intake stamp dated March 10, 2026, which reflects the date of mailing rather than the date of USPS delivery; USPS tracking independently confirms delivery to the addressee on March 16, 2026.

C. The Mailroom Receipt for Defendant Trump Lacks a Signed Acknowledgment

9. Plaintiff's third certified mailing to Defendant Trump at "The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500" (USPS Tracking No. 9589 0710 5270 1986 7708 61), mailed March 10, 2026 and previously described at ECF No. 39 ¶¶ 16–17 as undelivered, was eventually received at the White House mail facility on April 22, 2026. The corresponding PS Form 3811 return receipt bears only a rubber stamp reading "RECEIVED APR 22 2026 MSOB Mailroom EOPIOA"; Line A (Signature) and Line B (Received by (Printed Name)) are blank. ECF No. 50 ¶ 21; *id.* Exhibit 1.

D. ECF No. 60 Disclaims Individual-Capacity Representation

10. On May 15, 2026, Assistant U.S. Attorney Tara Derbisz entered an appearance on behalf of Federal Defendants Johnson, Trump, Blanche (substituted for Bondi under Rule 25(d) for official-capacity purposes only), Carr, and the United States House of Representatives. ECF No. 60 at 1–2. The Notice expressly limits the scope of the appearance:

Undersigned counsel does not currently have authority to represent any of the named Federal Defendants in their individual capacities. The process to obtain such authority requires a substantial investment of time and resources, both by the named individuals and the government, and that process may prove unnecessary if the suit is resolved *ab initio*. In any event, as of this filing it has not been completed. Accordingly, at this time, undersigned counsel enters her appearance on behalf of the Federal Defendants in their official capacities only.

ECF No. 60 at 2 n.2 (emphasis added).

E. Rule 25(d) Substitution Does Not Apply to Individual-Capacity Claims

11. ECF No. 60 notes that Acting Attorney General Todd Blanche is substituted for Pam Bondi "[p]ursuant to Fed. R. Civ. P. 25(d)." ECF No. 60 at 1 n.1. Rule 25(d) substitution applies to public officers sued in their **official capacity** only. *See* Fed. R. Civ. P. 25(d); *Hafer v.*

Melo, 502 U.S. 21, 27 (1991) (official-capacity and individual-capacity suits are distinct; substitution does not transfer individual-capacity claims). Plaintiff's individual-capacity claims against Pam Bondi therefore remain against Bondi personally, and the certified-mail service described in Section II.B was effected upon Bondi by name.

III. LEGAL ARGUMENT

A. Certified Mail Service Upon Johnson, Bondi, and Carr is Complete Under Rule 4(e)(1) and D.C. Superior Court Rules

12. Federal Rule of Civil Procedure 4(i)(3) provides that, to serve a United States officer or employee sued in an individual capacity, a party "must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g)." Plaintiff has served the United States. *See supra* ¶ 6.

13. Federal Rule of Civil Procedure 4(e)(1) authorizes service upon an individual by "following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made." This Court is located in the District of Columbia.

14. The Superior Court of the District of Columbia Rules of Civil Procedure Rule 4 permits service by registered or certified mail, return receipt requested, to the person to be served. *See* D.C. SCR-Civil 4(c)(3); D.C. Code § 13-431 (recognizing certified-mail service). Proof of service by certified mail is made by attaching to the original summons the return receipt acknowledged by the person to be served. *See* D.C. SCR-Civil 4(l)(2).

15. Plaintiff's March 10, 2026 certified mailings to Defendants Johnson, Bondi, and Carr — each addressed to the named individual at his or her official address, delivered March 16, 2026, and acknowledged by signed PS Form 3811 return receipts — satisfy each element of the D.C.

certified-mail service rule: (a) the summons and the operative complaint were mailed; (b) registered or certified mail was used; (c) return receipts were requested; (d) the mailings were addressed by name to the persons to be served; and (e) signed return receipts were returned to Plaintiff. *See* ECF No. 50, Exhibit 1. Service upon Johnson, Bondi, and Carr in their individual capacities is therefore complete under Federal Rule of Civil Procedure 4(e)(1) as of March 16, 2026.

B. USMS Service Upon Defendant Trump is Authorized by Rule 4(c)(3)

16. D.C. SCR-Civil 4(l)(2) requires that the return receipt be "acknowledged by the person to be served." The unsigned mailroom stamp on the return receipt for Plaintiff's March 10, 2026 mailing to Defendant Trump, *see supra* ¶ 9, does not satisfy that acknowledgment requirement. Without a signed receipt, Plaintiff cannot represent to the Court that individual-capacity service upon Defendant Trump has been effected under Federal Rule of Civil Procedure 4(e)(1) and the D.C. certified-mail rule.

17. Federal Rule of Civil Procedure 4(c)(3) provides:

At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.

The discretionary authority under Rule 4(c)(3) is routinely exercised in favor of pro se plaintiffs when private service is impracticable.

18. Defendant Trump is the sitting President of the United States. Under 18 U.S.C. § 3056, the Secret Service is statutorily directed to protect the President at all times. Private process servers cannot lawfully approach the President for personal service. Three good-faith certified-mail attempts to the White House (February 26, March 9, and March 10, 2026), documented at ECF No. 39 ¶¶ 9–18, did not produce signed return receipts; only the third mailing was

eventually received, and then only as an unsigned mailroom stamp four months after mailing. USMS, by contrast, has statutory authority to enter federal facilities and coordinate with the United States Secret Service. *See* 28 U.S.C. §§ 561–569. USMS regularly serves process upon sitting federal officials when directed by the Court.

19. The Department's express disclaimer of individual-capacity authority at ECF No. 60 footnote 2 forecloses any DOJ-mediated alternative for individual-capacity service. Before ECF No. 60, Plaintiff might reasonably have argued — and did argue in ECF No. 39 — that service upon the Department of Justice provides actual notice sufficient to satisfy Rule 4(i)(2) for the official-capacity claims. The Department's disclaimer forecloses any analogous argument for individual-capacity service: there is no DOJ counsel to whom service of individual-capacity claims could be directed because, by the Department's own representation, no such counsel exists.

20. The constitutional baseline for service of process is set by *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) ("notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action"). The personal-jurisdiction baseline is set by *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (defendant "is not obliged to engage in litigation unless notified of the action, and brought under a court's authority, by formal process"). USMS service upon Defendant Trump satisfies both standards. The Marshal's personal service at the White House, or such other address as the Marshal determines, is **formal process** delivering **reasonable notice**.

21. The constitutional purpose of individual-capacity suits against federal officials — established by *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and the parallel statutory purpose under 42 U.S.C. § 1983 (per *Hafer v. Melo*, 502 U.S. at 25) — is to hold

government officials personally accountable for constitutional violations committed under color of authority. If a sitting President's protected-access status combined with the Department's disclaimer of individual-capacity defense renders individual-capacity service practically impossible, then the individual-capacity remedy becomes illusory for the very class of defendants the remedy is designed to reach. Rule 4(c)(3) is the Federal Rules' answer to that structural problem. The same Rule 4(c)(3) analysis applies with equal force to Defendants Johnson, Bondi, and Carr in the event the Court does not adopt the finding requested in paragraph 23(b) below: each of those defendants is, by position or status, surrounded by federal protective infrastructure — the United States Capitol Police as to Speaker Johnson, retained protective considerations as to former Attorney General Bondi, and controlled-access headquarters as to FCC Chairman Carr — that would render private process service equally impracticable, and ECF No. 60's disclaimer of individual-capacity authority applies equally to those defendants.

C. The Relief Sought Operates Within the Court Scheduling Order

22. The procedural relief sought in this Motion is not a contested cure-period extension under Rule 4(m); it is a procedural mechanism complementary to the schedule the Court has already established. A sixty-day USMS service window operates within the response timetable set by the May 18, 2026 Minute Order (response deadline June 17, 2026) and is subject to any further modification at the May 28, 2026 status hearing. Plaintiff does not seek delay; he seeks to bring this action into proper procedural posture so that the merits may be reached on a complete record against all named defendants in their respective capacities.

IV. RELIEF REQUESTED

23. Plaintiff respectfully requests that the Court enter an Order:

(a) **Directing** the United States Marshals Service to serve the summons and the Third Amended Complaint (ECF No. 51) upon Defendant **Donald J. Trump** in his individual capacity at The White House, 1600 Pennsylvania Avenue NW, Washington, D.C. 20500, with coordination through the United States Secret Service;

(b) **Finding** that Plaintiff has effected individual-capacity service upon Defendants **Mike Johnson, Pam Bondi, and Brendan Carr** under Federal Rule of Civil Procedure 4(e)(1) and the D.C. Superior Court Rules of Civil Procedure, by certified mail with signed PS Form 3811 return receipts delivered March 16, 2026, *see* ECF No. 50 and Exhibit 1 thereto;

(c) **In the alternative**, in the event that the Court does not so find as to any of Defendants Johnson, Bondi, or Carr in subparagraph (b) above, **directing** the United States Marshals Service pursuant to Federal Rule of Civil Procedure 4(c)(3) to serve the summons and the Third Amended Complaint upon any such defendant in his or her individual capacity at his or her last-known residential or official address; and

(d) **Setting** a service deadline for any service directed by the United States Marshals Service under this Order of not less than sixty (60) days from entry of this Order, with the Court retaining authority to adjust the Rule 4(m) ninety-day window as necessary to permit USMS to complete service.

V. CERTIFICATE OF CONFERENCE

24. Pursuant to Local Civil Rule 7(m), the undersigned certifies that the Department of Justice has appeared in this matter on behalf of the federal defendants in their **official capacities only** (ECF No. 60). No counsel has entered an appearance on behalf of any defendant in any

individual capacity, and the Department has expressly disclaimed authority to do so. *Id.* at 2

n.2. There is therefore no opposing counsel of record with whom to confer regarding the individual-capacity service relief sought by this Motion.

Respectfully submitted,

/s/ Joseph Kirchner

JOSEPH KIRCHNER

4440 Parklawn Avenue, #203

Edina, MN 55435

(612) 552-2122

legal@lawsofexistence.com

Plaintiff, Pro Se

Dated: May 19, 2026

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSEPH KIRCHNER,

Plaintiff,

v.

MIKE JOHNSON, in his individual and official capacity as Speaker of the United States House of Representatives;
DONALD J. TRUMP, in his individual capacity as former and current President of the United States;
PAM BONDI, in her individual and official capacity as Attorney General of the United States;
BRENDAN CARR, in his individual and official capacity as Chairman of the Federal Communications Commission;
THE UNITED STATES HOUSE OF REPRESENTATIVES;
ANTHROPIC PBC;
OPENAI, INC.;
APPLE INC.;
COMCAST CABLE COMMUNICATIONS, LLC;
METR (MODEL EVALUATION & THREAT RESEARCH);
and DOES 1-20, unknown co-conspirators,
Defendants.

Case No. 1:25-cv-02735-ACR
[PROPOSED] ORDER
REGARDING INDIVIDUAL-
CAPACITY SERVICE UPON
FEDERAL DEFENDANTS

FINDINGS

1. This matter comes before the Court on Plaintiff Joseph Kirchner's *Motion for Service by U.S. Marshals Upon Defendant Trump and for Finding of Effectuated Individual-Capacity Service Upon Defendants Johnson, Bondi, and Carr*. The Court, having reviewed the Motion, the record herein, and the parties' submissions, finds as follows:

2. Plaintiff has served the United States in compliance with Federal Rule of Civil Procedure 4(i)(1). ECF No. 39 ¶¶ 5–8.

3. On March 10, 2026, Plaintiff mailed by United States Postal Service Certified Mail, Return Receipt Requested, the summons and complaint to Defendants Mike Johnson, Pam

Bondi, and Brendan Carr, each addressed by name at his or her official address. USPS tracking confirms delivery of each mailing on March 16, 2026, and Plaintiff has produced the signed PS Form 3811 return receipts corresponding to each delivery. ECF No. 50, Exhibit 1.

4. Federal Rule of Civil Procedure 4(e)(1) authorizes service upon an individual by following state law for serving a summons in the state where the district court is located, and the Superior Court of the District of Columbia Rules of Civil Procedure provide for service by certified mail, return receipt requested, to the person to be served. *See* D.C. SCR-Civil 4(c)(3); *id.* 4(l)(2); D.C. Code § 13-431.

5. Plaintiff's third certified mailing to Defendant Donald J. Trump at the White House (USPS Tracking No. 9589 0710 5270 1986 7708 61), mailed March 10, 2026, was eventually received at the White House mail facility on April 22, 2026, bearing only a rubber stamp reading "RECEIVED APR 22 2026 MSOB Mailroom EOPIOA." Line A (Signature) and Line B (Received by (Printed Name)) of the corresponding PS Form 3811 return receipt are blank. ECF No. 50 ¶ 21.

6. Assistant United States Attorney Tara Derbisz appeared on behalf of the Federal Defendants in their official capacities only on May 15, 2026 (ECF No. 60), and expressly disclaimed authority to represent any of the named Federal Defendants in their individual capacities. ECF No. 60 at 2 n.2.

7. By Minute Order entered May 18, 2026, this Court granted Defendants' Motion for Extension of Time (ECF No. 59), extending the federal defendants' response deadline to June 17, 2026, with the timeline for responsive pleadings to be further discussed at the May 28, 2026 status hearing.

CONCLUSIONS

8. Upon the foregoing findings, the Court concludes that:

(a) Exercise of the Court's discretion under Federal Rule of Civil Procedure 4(c)(3) to direct service by the United States Marshals Service is the appropriate mechanism to effect individual-capacity service upon Defendant Donald J. Trump, consistent with the Due Process notice baseline established by *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950); and

(b) Plaintiff has effected individual-capacity service upon Defendants Mike Johnson, Pam Bondi, and Brendan Carr in compliance with Federal Rule of Civil Procedure 4(e)(1) and the D.C. Superior Court Rules of Civil Procedure as of March 16, 2026.

ORDER

9. **IT IS HEREBY ORDERED** that Plaintiff's Motion is **GRANTED**; and it is further

10. **ORDERED** that the United States Marshals Service shall serve the summons and the Third Amended Complaint (ECF No. 51) upon Defendant **DONALD J. TRUMP** in his individual capacity at The White House, 1600 Pennsylvania Avenue NW, Washington, D.C. 20500, with the United States Marshals Service to coordinate service through the United States Secret Service; and it is further

11. **ORDERED** and **FOUND** that individual-capacity service upon Defendants **MIKE JOHNSON, PAM BONDI**, and **BRENDAN CARR** is **DEEMED EFFECTUATED** as of March 16, 2026, by certified mail with signed PS Form 3811 return receipts under Federal Rule of Civil Procedure 4(e)(1) and the D.C. Superior Court Rules of Civil Procedure; and it is further

12. **IN THE ALTERNATIVE**, in the event that the finding in paragraph 11 above is not adopted as to any of Defendants **MIKE JOHNSON, PAM BONDI**, or **BRENDAN CARR**, the

United States Marshals Service is hereby directed to serve the summons and the Third Amended Complaint (ECF No. 51) upon any such defendant in his or her individual capacity at the following address, or such other address as the United States Marshals Service may locate:

(a) **MIKE JOHNSON** — Office of the Speaker, H-232, The Capitol, Washington, D.C. 20515;

(b) **PAM BONDI** — at her last-known residential or office address; and

(c) **BRENDAN CARR** — Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554; and it is further

13. ORDERED that the United States Marshals Service shall complete service under paragraphs 10 and (where applicable) 12 above within sixty (60) days of entry of this Order; and it is further

14. ORDERED that the time for Plaintiff to effect individual-capacity service under Federal Rule of Civil Procedure 4(m) upon Defendant Trump, and upon any other defendant served by the United States Marshals Service under paragraph 12 above, is extended through the date sixty (60) days after entry of this Order; and it is further

15. ORDERED that the United States Marshals Service shall file proof of service with the Court upon completion of service upon each defendant served pursuant to paragraphs 10 and 12 above.

SO ORDERED.

Dated: _____

HON. ANA C. REYES
United States District Judge

PERSONS TO BE NOTIFIED OF ENTRY:

Joseph Kirchner
4440 Parklawn Avenue, #203
Edina, MN 55435
legal@lawsofexistence.com
Plaintiff, Pro Se

Tara Derbisz
Assistant United States Attorney
601 D Street, NW
Washington, DC 20530
Tara.Derbisz@usdoj.gov
Counsel for Federal Defendants (Official Capacity Only)

United States Marshals Service for the District of Columbia
333 Constitution Avenue NW
Room 1400
Washington, D.C. 20001