

# THOMAS WRIGHT P.A.

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## Original Via Certified Mail

May 5, 2022

Florida Department of Financial Services  
Division of Risk Management  
200 East Gaines Street, Tallahassee FL 32399- 0338  
Email: Marc.Stemle@myfloridacfo.com

### **Re: Claim of Timothy “Chaz” Stevens v. Florida Department of Management Services**

Florida Department of Financial Services:

This letter shall serve as the required notice under section 768.28(6), Fla. Stat., that Mr. Timothy “Chaz” Stevens, D/O/B: 08/31/1964, of Deerfield Beach, Florida, intends to file a claim for damages based upon the violation of his first amendment rights of freedom of speech guaranteed by the United States Constitution; more specifically, damages as a result of the actions of Florida Department of Management Services and its refusal to allow Mr. Stevens to reserve the rotunda at the State Capital Building between 5/9/22 – 5/16/22 for the display of an image regarding Governor Ron DeSantis which is protected political speech. Pursuant to § 768.28(6)(c), Fla. Stat., there are no adjudicated penalties, fines, fees owed by Mr. Stevens owed to any court or tribunal at this time.

Following a request to place the display in the rotunda, and despite numerous other displays and applications being approved over many years, all of which the Florida Department of Management Services is and was aware of, on April 29, 2022, Ashley Collins, the Property Logistics Administrator for the Florida Department of Management Services alleged that the display did not comport with Rule 60H-6.007(1), F.A.C. and denied our client’s request to reserve the rotunda. It is our client’s position that the display does, in fact, conform with the rules and was properly submitted pursuant to the established rules, and that the refusal to allow the use of the rotunda violates our client’s first

amendment rights under the U.S. Constitution. As such, it is his intention via this correspondence to give notice that he intends to file a legal action against the Florida Department of Management Services pursuant to 42 US Code § 1983 and/or provisions of the Florida Constitution.

No earlier than six months from this date, this office will initiate litigation for the damages suffered by Mr. Stevens because of the above event. Through this letter, the Florida Department of Management Services is hereby given notice that this office will be seeking all public records relating to this matter. For purposes of this request, the term "records" shall have the statutory definition set forth in section 119.011(11), Fla. Stat. Even if you contend that certain records in the possession of the City are not public records subject to inspection under § 119.07, Fla. Stat., the Department has a duty not to dispose, alter or otherwise destroy such records pursuant to § 119.07(1)(h) and (i).

Additionally, this claim letter is a condition precedent to litigation that will be filed upon expiration of the six-month statutory period and should be construed as notice that we will file discovery requests seeking certain records upon expiration of the claim. Through discovery requests, we expect to obtain numerous documents and recordings, including but not limited to electronic files and communications which may be stored on computers and other storage media.

Accordingly, this office gives notice to the Florida Department of Management Services that it must preserve and not destroy, conceal, or alter any paper or electronic files and other data generated by or stored on its computers and storage media (e.g., hard disks, removeable media, back-up storage), or any other electronic data such including but not limited to voice mail and/or dispatch recordings. Failure to comply with this notice can result in sanctions being imposed for spoliation of evidence or potential evidence. The Florida Department of Management Services must preserve and make available the data requested on the original storage media, or on exact copies of that media (sometimes referred to as images or evidentiary copies). Electronic documents and the storage media on which they reside often contain relevant, discoverable information beyond that which may be found in printed documents or copies. Therefore, even where a copy exists, we seek all documents in their electronic form, along with information about those documents contained on the media. We also require paper print outs of only those documents that contain unique information after they were printed out such as

paper documents which may include handwriting, signatures, drawings, annotations, and redactions, along with any paper documents for which no corresponding electronic file exists.

Our discovery requests may demand certain data on the hard disks, floppy disks and back-up media used in computers, some of which is not readily available to ordinary computer users such as "deleted" files and fragments. Although users may "erase" or "delete" files, a "deleted file" can be intact on the disk not unlike any active file you would normally see in a directory. Courts have made it clear that all information available on electronic storage media is discoverable, whether it is readily readable or deleted but otherwise recoverable using specialized methods. See **Martino v. Wal-Mart Stores, Inc.**, 835 So.2d 1251, 1257 (Fla. 4th DCA 2003), approved, 908 So.2d 342 (Fla. 2005); see also **Gayer v. Fine Line Canst. & Elec., Inc.**, 970 So.2d 424, 426 (Fla. 4th DCA 2007).

Accordingly, the Florida Department of Management Services is similarly required to preserve and not to destroy any passwords, decryption procedures, including software to decrypt the files, network access codes, I.D. names, manuals, tutorials, decompression or reconstruction software, and any and all other information and things necessary to access, view and reconstruct the electronic data we may request.

To assure that the Florida Department of Management Services' obligation to preserve documents and things will be met, you are directed to forward a copy of this correspondence to all persons and entities with custodial responsibility for the items referenced in this letter.

A handwritten signature in black ink, reading "Thomas H. Wright III, Esq." with a stylized flourish at the end.

Thomas H. Wright III, Esq.