

No. _____

**In the
Supreme Court of the United States**

THE WALL GUY, INC.;
JEFFREY FRYE; JR CONTRACTORS,
Petitioners,

v.

**FEDERAL DEPOSIT INSURANCE
CORPORATION,**
as receiver for The First State Bank,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Did the 4th Circuit Court of Appeals err in failing to address Appellant's [Wall Guy's] appeal on the merits, when Wall Guy had unequivocally complied with Rule 3 and 4 of the FRAP, had previously prevailed in a state court jury trial and multiple judgments in state and Federal Court, especially in light of the 2021 Supreme Court Amendments and Advisory Opinions, and more specifically the mandatory language in FRAP 3(c)(7)?
2. Did the 4th Circuit Court of Appeals err in failing to award the bond/surety that protected Wall Guy's, pending appeal, when the underlying Bank failed and the FDIC Receiver violated the specific terms of the bond/surety by selling the property secured by trust deeds and a mortgage, which constituted a governmental taking without compensation?
3. Did the 4th Circuit Court of Appeals err in failing to grant the Wall Guy's Petition for *en banc* review, because of the errors in questions 1 and 2 above, and the other justifications set forth therein, including reinstating the state court jury verdict and bond /surety violations?

PARTIES TO THE PROCEEDING

Petitioners are The Wall Guy, Inc.; Jeffrey Frye; Jr
Contractors

Respondent is Federal Deposit Insurance
Corporation, as receiver for The First State Bank

STATEMENT OF RELATED PROCEEDINGS

The Wall Guy, Inc., Jeffrey Frye, and The Wall Guy, Inc., d/b/a JR Contractors v. The First State Bank,
Civil Action No. 16-C-027
(Circuit Court of Cabell County, West Virginia)
(Jan. 23, 2018)

The First State Bank v. Jeffrey Frye, The Wallguy, Inc. and The Wall Guy, Inc. D/B/A Jr Contractors,
Civil Action No.: 16-C-341
(Circuit Court of Cabell County, West Virginia)
(May 27, 2016)

The Wall Guy, Inc., Jeffrey Frye, And Jr Contractors v. The First State Bank,
No. 19-0310
(Supreme Court of Appeals of West Virginia)
(2020)

The Wall Guy, Inc.; Jeffrey Frye; Jr Contractors v. Federal Deposit Insurance Corporation, as receiver for The First State Bank,
3:20-cv-00304 (S.D.W. Va. 2022)

The Wall Guy, Inc.; Jeffrey Frye; Jr Contractors v. Federal Deposit Insurance Corporation, as receiver for The First State Bank,
3:20-cv-00305 (S.D.W. Va. 2022)

The Wall Guy, Inc.; Jeffrey Frye; Jr Contractors v. Federal Deposit Insurance Corporation, as receiver for The First State Bank,
No. 21-1387(L); 23-1380, 21-1414 (4th Cir. 2024)

CORPORATE DISCLOSURE STATEMENT

None of the Appellants (Wall Guy, JR Contractors, or Jeff Frye) or any parties have any parent company that is a publicly held company that owns 10% or more of the corporation's stock.

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PETITION FOR WRIT OF CERTIORARI

The Wall Guy respectfully petitions for a writ of certiorari to review the Fourt Circuit Court of Appeals opinion, which declined jurisdiction, dated March 18th, 2024, 1a-30a, and from the Judgment therefrom date March 18th, 2024 31a-32a, and the subsequent denial of Petition for Rehearing and Rehearing *en banc* from the Fourth Circuit Court Appeals, which was entered on May 14th, 2024, 60a-61a.

JURISDICTION

The jurisdiction of this Honorable Court is invoked under 28 U.S.C. 1254(1) and the Court's inherent authority over state court actions as well.

STATUTES AND RULES INVOLVED

28 U.S.C. § 1291.

28 U.S.C. § 1331, because 12 U.S.C.
§ 1819(b)(2)(A)

28 U.S.C. § 1257

FRAP 3 and 4

ADDITIONAL NOTIFICATIONS

In abundance of caution, the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N. W., Washington, DC 20530-0001, was notified, as well as the West Virginia Attorney General's Office (Patrick Morrisey) at 1900 Kanawha Blvd E Apt 26, Charleston, WV 25305.

STATEMENT OF THE CASE

The Wall Guy has had everything taken from him, including his house, business, real property, and vehicles, with a value in excess of \$870,000.00,

through two breaches of contracts and subsequent improper foreclosures by a local bank, literally invoking the equivalent of the civil death penalty on the Wall Guy. This allowed such severe overcollection and breaches of contracts, based upon criminal misconduct by the loan officer (See 3:13-cr-00245), that even Bankruptcy Court could not protect the Wall Guy. However, through the civil process, the liability with the local bank for the breaches was determined, mitigating some of the fraud and misconduct of the local bank, and awarding a jury verdict of 1.5 million dollars to the Wall Guy. The Wall Guy's improper treatment by the local bank was corrected through a successful jury verdict, judgments, and a bond /surety that protected Wall Guy. Even though the jury awarded the Wall Guy 1.5 million, the state court improperly remitted the judgment in the case to \$523,024.00.

The remittitur was an improper decision in violation of clear West Virginia case law that this Honorable Court would be able to correct by the granting of the writ of certiorari, and would have already been corrected by the West Virginia Supreme Court, if not for the local bank's failure and subsequent removal by the FDIC. Because the local bank failed, the FDIC removed the case to Federal Court, literally just prior to the West Virginia Supreme Court rendering a decision (all briefing was completed at the Supreme Court level and the parties were simply awaiting the decision in early 2020). A bond/surety was put into place by the state court, which protected the Wall Guy's interest pending appeal to the West Virginia Supreme Court on April 23, 2019. Said bond/surety, worth 2.6 million, was put into place partly due to concerns of possible bank

failure prior to completion of the appeals process. This is a critical finding and ruling by the state court. Prior to completion of the state court appeal, the local bank failed. The FDIC, acting as Receiver, took over for the failed local bank and transferred the case to the Southern District Court of West Virginia. The FDIC failed to transfer many of the state court documents that were favorable to the Wall Guy and had to be ordered by the district court to fulfill their duty under the US code and provide said records through the transfer to the district court. Even after said Order, the FDIC failed to transfer the most critical documents. Because the district court did not have the proper information as Ordered, Wall Guy was initially only awarded a judgment for \$523,024.00 by the district court, in March of 2021, in an interlocutory Order, rather than the bond/surety amount of 2.6 million dollars plus interest, the trial verdict amount of 1.5 million dollars, and the over-collected local bank surplus of nearly half a million dollars. This unjustly enriched the FDIC at Wall Guy's expense and also unjustly enriched the FDIC as well with money received from insurance policies on Wall Guy's own business real property, which was one of the properties in West Virginia, also included in the original pledge agreement, which was later converted to the bond / surety herein. Therefore, the Wall Guy never received any of what was owed. The FDIC filed notice of appeal from this interlocutory order from March of 2021.

This in turn forced the Wall Guy to notice appeal as well, in order to protect his interest awarded, along with his additional claims. Following notice of appeal, and after nearly a two year delay, the district court finally ruled on the remaining pending Rule 59

motions in February of 2023 and not only eradicated Wall Guy's judgment, but improvidently awarded judgment to the FDIC, essentially a JNOV, without the FDIC (or local bank) ever having filed a counterclaim at any point in this matter. This is in direct contravention of the jury's findings of liability and the jury's verdict. To add insult to injury, the Fourth Circuit, in a ruling that defies "logic", turned a blind eye, and on a whim, "swept this case under the rug", declining jurisdiction, in direct violation of this court's express mandates and applicable Federal Rules. The Fourth Circuit's opinion cannot be supported under FRAP 3 or 4, especially in light of the 2021 Amendments to said Rules, including the Advisory Committee notes. More specifically, FRAP 3(c)(7)'s mandatory language, which requires the appeal to be heard on the merits, applies and should require the granting of the writ of certiorari. The March 18th, 2024 opinion of the Fourth Circuit violated and specifically defied / ignored / disregarded this Court's express decisions, this Court's express Rules of Appellate Procedure, multitudes of other Appellate Court decisions, and finally violates the due process rights of the Wall Guy. If the Fourth Circuit's opinion stands, in an area where other decisions involving the 2021 amendments is scarce, and to the extent the few that exist are conflicting, it will allow many just civil and criminal appeals to go unheard on the merits, just as it has herein at this juncture. A cursory review of the documents filed by Wall Guy, conclusively proves the Wall Guy was entitled to jurisdiction to have the appeal heard on the merits. The notice of appeal could not be more clearly or firmly established requiring review on the merits.

A review by any Justice of this Honorable Court of the documents would leave the Justice with the inescapable conclusion that appeal was requested under FRAP 3 and 4, and further under FRAP 3(c)(7), specifically which requires mandatory review on the merits. Review on the merits was required and mandated by FRAP 3 and 4. In fact, the Fourth Circuit entered Orders directing a monthly briefing schedule, which continued for many months, which was timely completed by Wall Guy at all stages, and at the specific direction and Order of the Fourth Circuit in regards to jurisdiction. The same was also briefed by the FDIC. The Fourth Circuit should have heard said appeal on the merits following the completion of the briefing process, following completed oral argument, and pursuant to the Petition for Rehearing *en banc* as well. The Fourth Circuit should have reversed the district court Final Order, as well as all interlocutory orders in their entirety.

Finally, and most troubling, the bond / surety, put into place in the matter, should have been awarded to Wall Guy, because the same was violated by the FDIC, instead of being protected and awarded pursuant to the recorded specific terms by the district court to Wall Guy in the entirety. The Wall Guy's 5th Amendment Rights, the Wall Guy's Due Process Rights, required the Fourth Circuit to review and remand the same for correction, as the same involved recorded deeds of trusts in West Virginia and a mortgage Ohio. Further, upon the Order of the district court, the Federal Home Loan Bank Line of Credit stand-by letter, noted as HLB832222350002, still remains in place to this day. The stand-by Credit remains as a reminder that the Wall Guy has multiple

valuable claims to this day that remain unpaid. This again was not reviewed by the Fourth Circuit on the merits. In fact, upon questioning at the oral argument the panel asked how much Wall Guy had received so far? It was documented that Wall Guy had not received a penny! Further, at oral argument, the panel asked what happens to the bond /surety at this time? Wall Guy is undeniably entitled to 2.6 million, plus interest, in cash from the FDIC receiver for its prior violations of the bond / surety. The Wall Guy is entitled to the 1.5 million dollar jury verdict. Additionally, the Wall Guy is entitled to the nearly half a million in over-collection by the local bank, a sum total of all the above would total 5 million plus, when interest is included therein. The claim amounts above plus interest should be lawfully protected, insured, and finally awarded to the Wall Guy. The FDIC has often stated, “that if Wall Guy is entitled to the same on the merits, that any judgment ultimately awarded would be paid in cash.”

Once again, the Fourth Circuit’s failure to review the case on the merits, allows this manifest injustice to be swept under the rug. The net result of the Fourth Circuit simply declining to exercise jurisdiction, when the same was mandatory, has left the Wall Guy with no actual decision on the merits; and therefore, the inability to collect any judgments, bond /surety awards, and all other awards, that Wall Guy would be justly entitled. The Wall Guy respectfully requests the writ of certiorari be granted and that though this process the following questions be answered as follows:

1. Did the Fourth Circuit Court of Appeals err in failing to address Appellant’s [Wall Guy’s] appeal on the merits, when Wall Guy had unequivocally

complied with Rule 3 and 4 of the FRAP, had previously prevailed in a state court jury trial, multiple judgments in both state and Federal Court, especially in light of the 2021 Supreme Court Amendments and Advisory Opinions, specifically the mandatory shall language in FRAP 3(c)(7)? Yes, see argument below as the same violates the mandatory language this Court placed within said Rules in its 2021 Amendments, which codify and clearly enunciate this Court's prior opinions protecting the right to appeal. Further, a review will certainly leave the Honorable Justice with the undeniable conviction that notice of appeal was given, lawfully invoked, and that review on the merits is not only justified, but required under this Courts FRAP, 2021 Amendments, related Advisory Committee Notes, and finally under Wall Guy's Due Process Rights.

2. Did the Fourth Circuit Court of Appeals err in failing to award the bond/surety that protected Wall Guy, pending appeal, when the underlying Bank failed and the FDIC Receiver violated the specific terms of the bond/surety, by selling the property secured by trust deed and a separate mortgage, which constituted a governmental taking without compensation? Yes, by selling property in West Virginia and Ohio which violated the bond /surety, and the Wall Guy invoking paragraph 10 of the recorded deeds of trust and Ohio Mortgage. The same required payment of the entire bond / surety, 2.6 million plus interest, directly to the Wall Guy within 30 days of the transgression(s) by the FDIC and the offending local bank. The FDIC has violated Wall Guy's 5th Amendment Rights.

3. Did the Fourth Circuit Court of Appeals err in failing to grant the Wall Guy's Petition for *en banc* review, because of the errors in questions 1 and 2 above, and the other justifications set forth therein, including reinstating the state court jury verdict? Yes, the failure to follow the mandatory language and hear the appeal on the merits, especially in light of the same being fully briefed, violates the very fabric and tenants of the law set forth by this Honorable Court for multiple decades, and more specifically enunciated in this Honorable Courts 2021 Amendments which codify the same. Failure to review the case on the merits, allowed the failed local bank, and the FDIC receiver, to escape all liability, which was previously determined by the state court jury against the local bank, multiple judgments in the state court against the local bank, bond / surety, put in place by said local bank and the state court, a judgment against the FDIC in district court, which was designed and fashioned to protect the Wall Guy's interest in the jury verdict and judgments from the bank's failure. Further, the district court unexplainably allowed the FDIC to be awarded additional judgment against the Wall Guy, who has already lost everything, in a JNOV wherein no counterclaim was filed by the underlying local bank or the FDIC. The district court's draconian punishment of reversing the trial victor was allowed to escape review on the merits by the Fourth Circuit's blatant disregard for this Court's Rules and Mandates. The Wall Guy has always been and remains an entitled claimant. The Wall Guy's properties were taken by the government, without just compensation in

violation of Wall Guy's Constitutional Rights. The Fifth Amendment of the United States Constitution mandates that if the government takes private property for public use, the government must provide "just compensation." Here, the FDIC took the Wall Guy's bond/surety, which was protected by recorded deeds of trust in West Virginia and a mortgage in Ohio, as well as a Federal Home Loan Line of Credit. This, along with the over-collected funds and payments made for years by Wall Guy to the local bank, all of which unjustly enriched the FDIC, when the FDIC took over as Receiver for the local bank. In light of these issues, the writ of certiorari should be granted, along with all of the other grounds contained herein.

PROCEDURAL HISTORY AND TIMELINE

This civil case involves breaches of contract, a jury verdict for 1.5 million, judgments, and pledge/agreement which was lawfully and properly converted to bond/surety of 2.6 million dollars plus interest, by state court order, which became an undisputably valid claim against the FDIC, who stood in the shoes of the local Bank by a plethora of decisions, but failed to protect and insure as required by applicable law, including allowing the FDIC to eradicate the bond /surety herein designed to protect Wall Guy. It is interesting to note that every court, including the state, district court, and the Fourth Circuit, all acknowledged the bond/surety and/or the Federal Home Loan Line of Credit at various times, and the bond/surety remains intact in a limited form, at this time, like a dangling carrot kept far from the reach of Wall Guy, who was justly entitled to the same and more.

Timeline:

2012: Bank/SBA loans created, but under-funded, which was specifically FDIC reviewed at said time.

2016: Wall Guy filed suit for under-funding/not-crediting/over-repossession (his personal home, business property, 5 semi-trucks, heavy construction equipment (dozers / excavators) and all assets taken by the local bank). The majority of assets owned were previously free and clear. The local bank improperly and unjustly took over \$874,000 worth of assets from Wall Guy, in a case wherein a light most favorable to the local bank, the total debt was \$385,000.00 (not including the payments made over the years but never credited to Wall Guy. Because of this over-collection amount, which also fails to include certain payments made by Wall Guy, the local bank over-collected over half a million dollars, and the FDIC was unjustly enriched when it became Receiver of the same.

2017: Fraud¹ was alleged in the amended complaint, but not reviewed in state court or at any point!

8/2018: 1.5 MILLION DOLLAR JURY VERDICT AWARDED BY JURY TO WALL GUY on 2 STIPULATED CONTRACTS BREACHED BY THE BANK.

2019: Judgment remitted improperly by state court and in violation of Wall Guy appealed to WVSCA.

¹ Fraud was located from belatedly provided discovery from the local bank and criminal fraud case of Jackie Cantley, the local bank loan officer. Wall Guy's initials appear in indictment as victim) (see 3:13-cr-00245)

4/23/19: 2.6 MILLION PLEDGE AGREEMENT CONVERTED TO BOND/SURETY, protected against potential insolvency of the bank.

4/2020: Bank failed and became insolvent; FDIC removed case to Federal Court. **Bond/Surety documentation was not filed by the FDIC, as legally required as US Code, and even following a direct Order by the district court.**

5/2020: Wall Guy's Claims were administratively timely filed to the FDIC, denoting bond/surety directly to the FDIC.

THE DISTRICT COURT ENTERED A FEDERAL STAY, TO ALLOW THE ADMINISTRATIVE CLAIMS PROCESS BY THE FDIC, BUT CLAIM WAS LATER DISALLOWED²

² FDIC shall "(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination." 12 U.S.C. § 1821(d)(8)(B)(iii). One would ordinarily expect an administrative agency that rejects claims ... would explain more than that the claim "is not proved to the satisfaction of the Receiver." *SILICON VALLEY BANK (CAYMAN ISLANDS BRANCH)* No. 24-10076, United States Bankruptcy Court, S.D. New York February 22, 2024. Denial letter uses identical language to Wall Guy denial letter. FDIC did not timely advise the district court as ordered within 7 days of denial. FDIC violated the Bond/Surety, falsely denying the same, until deed was ultimately produced, showing property was sold 6/16/20, when FDIC was caught red-handed

6/16/2020: DURING FEDERAL STAY, THE FDIC VIOLATED THE BOND/SURETY, IN DIRECT CONTRAVENTION OF THE FEDERAL STAY, AND THE RECORDED DEED OF TRUST.

WALL GUY ENACTED PARAGRAH 10 OF DEEDS/SURETY/BOND, REQUIRING PAYMENT WITHIN 30 DAYS OF 2.6 MILLION PLUS INTEREST BY THE FDIC.

2/25/2021: FDIC was ordered to provide 2700 pages of omitted records, but still omitted the critical 4/23/2019 transcript, just days prior to a district court interlocutory order

3/5/2021: Order entered by the district court approving remittitur, if accepted.

After being ordered to select between judgment or new trial, without the option of appeal, Wall Guy accepted remittitur, under protest! This “Sophie’s choice” lacked the same insight as the state court, which at least offered the option of appeal as well.

3/15/21: JUDGMENT ENTERED FOR WALL GUY

March/April 2021: FDIC files Rule 59 motions and appeals, which forced Wall Guy to also file notice of appeal, because he was not paid the judgment amount and/or the amount due under Bond / Surety.

4/11/2021: WALL GUY TIMELY FILES NOTICE OF APPEAL, DENOTING APPEAL OF 3/15/2023 JUDGMENT ORDER, APPEALING ALL OTHER ORDERS FROM PENDING RULE 59 MOTIONS, ETC.

by documentation filed 10/22, after long delays in lower court.

4/15/2021: JURISDICTIONAL NOTICE ENTERED which suspended jurisdiction (only staying the same for appeal pending resolution of the pending Rule 59 motions).

3/21/2022: FOURTH CIRCUIT ORDERS STATUS REPORTS DUE TO DELAY IN RULINGS. This was during a nearly two-year district court delay in rulings. This delay allowed the FDIC to continue to violate the bond/surety.

NOTE: (2021 Advisory Committee addresses this same issue) “A related problem arises when a case is decided by a series of orders, sometimes separated by a year or more ... to remove this trap, a new provision [was] added to FRAP 3(c).

7/2021: While motions were pending from violation of bond/surety, FDIC was caught violating the bond/surety red-handed again!

10/2022: BOND/SURETY motions re-filed, documents submitted proving the FDIC had twice violated bond/surety, including the recorded deed and mortgage in both West Virginia and Ohio.

11/17/2022: Wall Guy ordered/forced to take substitute collateral. Paragraph 10 of trust deeds was undisputably violated; and further, the entire bond/surety was required to be paid, prior to the entry of this district court Order.

The Wall Guy never received any in-person, virtual, phone hearing, or any review of the claims process, nor any hearing on the violation of bond /surety through the district court!

2/7/2023: DISTRICT COURT ERRONEOUSLY RESOLVED RULE 59 MOTIONS TO REVERSE JUDGMENT FROM WALL GUY TO FDIC IN

ESSENTIALLY A JNOV, ERRADICTING THE PREVIOUSLY AWARDED JUDGMENT AND UNJUSTLY ENRICHING FDIC³

2/15/2023: FINAL APPEALABLE JUDGMENT ORDER WAS ENTERED

2/28/2023: WALL GUY TIMELY NOTICES THE FOURTH CIRCUIT AND FDIC WITH STATUS, noting the 2/7/2023 and 2/15/2023 orders resolving pending motions. **“THIS MATTER APPEARS RIPE FOR CROSS-APPEAL.”** (as previously ordered by the Fourth Circuit).

NOTE: This document complied with all requirements FRAP 3(c) (names parties/court and denoting appeal of final order. FRAP 4(a)(4)(B)(iii)

³ The district court struggled with the logic involved in reversing the prior ruling, which previously had resulted in Judgment for Wall Guy, by noting FDIC acknowledged \$5,125.00 (which was from an improper fee charged on an SBA note, that the FDIC now acknowledges does not exist, but ironically is documented as the 230k SBA note throughout all stages of proceedings, and ironically was charged to Wall Guy months before the 230k note originated ultimately in December of 2012. The same was fully owed to Wall Guy, acknowledged at all stages, including the admission at jury trial by the local bank, denoting breached bond/surety, lack of any payment on jury verdict, judgments, and the companion case over-collection of 500k collateral, which unjustly enriched the FDIC. At oral argument the panel inquired as to how much compensation the Wall Guy had received to date, with the answer being not a penny to the astonished panel members.

(no additional fee is required to file an amended notice). “ ... [i]t is important that the right to appeal not be lost by mistakes of mere form. In a number of cited cases, it has been held that so long as the function of notice is met by the filing of a paper indicating an attention to appeal the substance of the rule has been complied with. (Advisory Committee) “The notice of appeal is supposed to be a simple document that provides notice that a party is appealing and invokes the jurisdiction of the court of appeals. Therefore, it must state who is appealing and what is being appealed and to what court the appeal is being taken. It is the role of the briefs, not the notice of appeal to focus the issues on appeal.” (2021 Advisory Committee)

3/1/2023: The next day, the Fourth Circuit’s Clerk, having properly recognized the status notice, as an Amended Notice of Appeal, and pursuant to FRAP 12, directed the docketing statement be filed.

3/6/2023: DOCKETING STATEMENT WAS FILED (this again served as a “FUNCTIONAL EQUIVALENT” of a notice of appeal), complied with the FRAP, and timely noticed appeal of the Final Judgment Order from **2/2023**. Jurisdiction was preserved for all Orders under the ‘MERGER RULE.’

3/28/2023: BRIEFING ORDER ENTERED

4/7/2023: UNOPPOSED MOTION BY THE FDIC TO DESIGNATE WALL GUY AS APPELLANT, WHICH SPECIFICALLY STATED, “[WALL GUY] ... CONSENTS TO THE GRANTING OF THE MOTION, PROVIDED THAT A NEW SCHEDULING ORDER ISSUES THAT GRANTS [WALL GUY] ADDITIONAL TIME TO FILE THEIR OPENING BRIEF AND APPENDIX.” WALL GUYS NOTICE

OF APPEAL WAS ACKNOWLEDGED (TIMELY) IN SAID MOTION. THE FOURTH CIRCUIT ORDERED THE SAME, which estops the Fourth Circuit and the FDIC from challenging or denying notice of appeal by Wall Guy. It is undisputed that this Order was entered directing a new scheduling order for briefs; and therefore, changing and requiring Wall Guy to undertake the costly preparation of the Appendix and other briefs. In addition, there was still time remaining to file an additional or another Notice of intent to Appeal within the 60 day time period deadline. However, the Order denoted that notice of appeal was made by both Wall Guy and FDIC. Wall Guy had time and would have again re-filed or re-noticed the same had the Court indicated any concern with notice, or had the unopposed motion filed by the FDIC not specifically acknowledged perfected notice of appeal, as well as the Court's adoption of the same. These documents clearly note that notice of appeal existed. Further, these documents enunciate the notice of appeal was perfected, and a briefing schedule was due, which was later entirely completed, before the erroneous conclusions and findings made in the later entered May 18th, 2024 opinion of the Fourth Circuit, which unexplainably and without any logical reason manufactured that notice of appeal did not exist, all the while acknowledging the same in the opinion at 23a. The Fourth Circuit undeniably determined, that Wall Guy could have only been noticing the final order by the explicit language contained in the docketing statement, timely filed within the notice period, and firmly and fully complying with FRAP 3 and 4.

FDIC then files notice of conditional cross-appeal (showing no prejudice of appeal of all orders). (See “Merger Rule”)

2023: BRIEFS FILED, WALL GUYS BRIEF DOCUMENTED JURISDICTION, FDIC CHALLENGES SOME OF JURISDICTION, BUT ACKNOWLEDGED JURISDICTION TO 3/2021 ORDER, AND FILES REPLY BRIEF, DISPLAYING NO PREJUDICE.

2024: PARTIES FILE SUPPLEMENTAL BRIEFS ON JURISDICTION, FURTHER ARGUED ORALLY IN JANUARY OF 2024. At oral argument the panel asked how much Wall Guy had received for compensation to a resounding answer ... “not a penny”. The panel also questioned what happens to the bond/surety now?

REASONS FOR GRANTING THE PETITION

Counsel for the Wall Guy has practiced law in the state court of West Virginia for over 29 years and has never witnessed the complete and utter devastation of a successful jury verdict, judgments, and other positive outcomes, that were completely eradicated, as well as followed by the complete lack of judicial recourse to address the same, combined with the lack of ability to appeal, even when extensive and costly resources were expended. Resources and costs were expended in extensive Fourth Circuit Appellate briefing, oral argument, petition for rehearing / and rehearing *en banc*, which were not addressed on the merits, in direct contravention of the express mandates of this Court. It would be the greatest honor of my career to address these issues with this Honorable Court, because said questions presented potentially impact every litigant in every case,

regarding whether a lower court could simply deny appeal, and also impact any person with bank assets or loans.

This is a case of monumental importance before this Honorable Court. The questions presented herein raise questions for this Court on appeal rights, state law, Federal Law, and interpretation of the Federal Rules of Appellate Procedure. If this Court fails to grant the writ of certiorari, it could impact every type of case, including both criminal and civil, whether the same results in criminal death penalty, or the equivalent of a civil death penalty, which is the current stance of this case, unless this Court intervenes and grants a writ of certiorari. Further, the same could impact every person with a bank account or a loan. The opinion and judgment originally rendered by the Fourth Circuit on March 18th, 2024 1a-30a, would allow Appellate Court's to differentiate along political lines, on the type of case, and it is at odds with other cases within the same Circuit, as well as other sister Circuits. In fact, a recent case in the same Circuit points out the lack of case law guidance on the new 2021 amendments, recently in the end of July, 2024. *See Jenkins v. Calvin Woodard*, 22-6197 (4th Cir. July 22, 2024). Finally, the Fourth Circuits opinion from March 18th, 2024 1a-30a is in direct contravention of this Honorable Court's Rules, mandates, and prior opinions.

The Questions presented encapsulate the following questions in general:

1. Can the Appellate Courts simply decline jurisdiction in violation the mandatory language of Rules of Appellate Procedure 3(c)(7)? If so, then

any Court of Appeal could simply decline jurisdiction for any civil or criminal litigant. Failing to grant the writ of certiorari is a clear indicator from this Court that the right to appeal any civil or criminal case is discretionary, which appears contrary to years of jurisprudence and the new 2021 Amendments to the FRAP.

2. Can state court jury trials, subsequent state judgments, district court judgments based upon state court judgments, simply be ignored by the FDIC? The answer should be an unequivocal no, especially in light of this Court's reversal of the *Chevron Doctrine* in *Loper Bright Enterprises v. Raimondo*, 143 S. Ct. 2429, 22-451 (June 20, 2024). Allowing the FDIC to simply determine who is entitled claimant of a failed bank, without any judicial oversight, must be corrected by allowing the writ of certiorari. Allowing the FDIC rather than the Court's to review the claims process in any matter is simply allowing the fox to guard the henhouse.
3. Can the bond/surety protecting a civil litigant be eradicated by the FDIC by selling the property subject to state trust deeds and mortgages, while judgments from state and Federal Courts are pending? The answer should be again an unequivocal no, especially in light of this Court's reversal of the *Chevron Doctrine* in *Loper Bright Enterprises v. Raimondo*, 143 S. Ct. 2429, 22-451 (June 20, 2024). Allowing the FDIC to simply determine who is entitled claimant of a failed bank, without any judicial oversight, must be corrected by allowing the writ of certiorari. Finally allowing the FDIC to sell protected bond /surety exceeds their governmental authority, and

will essentially give them the power to never insure or protect a bank customer of a failed bank.

4. Is equal protection of litigants violated by the pending split between the Circuit Courts, and even within the same Fourth Circuit Court of Appeals herein? At present the answer is yes. For instance, see the variance as some appeals are heard on the merits and some are not. If jurisdiction can be declined on a whim, does the same not violate the direct mandates of this Honorable Court, as is the case herein. See *Tyson v Gay, Lieutenant*, 22-6760. 22-7299, 23-6159 (4th Cir. April 16, 2024)(unpublished), *Wall Guy, Inc. v. Fed. Deposit Ins. Corp.*, 95 F.4th 862 (4th Cir. 2024), and *Jenkins v. Calvin Woodard*, 22-6197 (4th Cir. July 22, 2024). Clearly, this area of the law begs for clarity from this Court. Otherwise, there will be no equal protection for litigants who attempt to notice appeal to the Appellate Circuit Courts, especially with the ability of the Circuit Courts to simply decline jurisdiction on a whim. Further, in some cases hearing the case on the merits and in other cases simply declining hearing on the merits, creates a dangerous lack of equal protection. This will allow the Courts to discriminate on race, color, creed, political alliance, or for any other reason. The Appellate Court's could do whatever they wish on a whim, without any rationale justification and in violation of any litigant's Due Process Rights.

**THE FOURTH CIRCUIT'S MARCH 18TH, 2024
OPINION IS IN DIRECT CONTRAVENTION
OF 5 SUPREME COURT DECISIONS**

Decisions violated:

Foman v. Davis, 371 U.S. 178, 181 (1962).

Torres v. Oakland Scavenger Co., 487 U.S. 312, 317 (1988)

Firsttier Mortgage Company v. Investors Mortgage Insurance Company, 498 U.S. 269, 111 S. Ct. 648, 112 L. Ed. 2d 743 (1991)

Smith v. Barry, 502 U.S. at 248, 248, 112 S. Ct. 678, 116 L. Ed. 2d 678 (1992);

Becker v. Montgomery, 532 U.S. 757, 767 (2001).

"It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities. The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.: *Foman v. Davis*, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962). Ironically, there is no misstep by counsel. The requirements of FRAP were timely complied with by multiple documents filed.

"So long as such a document is filed within the time allowed by Rule 4 for a notice of appeal and satisfies Rule 3(c)'s requirements as to the content of such a notice, it may be treated as the 'functional equivalent' of the formal notice demanded by Rule 3." *Smith v. Barry*, 502 U.S. 244, 112 S. Ct. 678, 116 L. Ed. 2d 678 (1992), *See also Torres v. Oakland*

Scavenger Co., 487 U.S. 312 (1988). It is undisputed that the requirements were met, all documents timely complied with FRAP 3(c). “[I]mperfections in noticing an appeal should not be fatal where no genuine doubt exists about who is appealing, from what judgment, and to which appellate court.” *Becker v. Montgomery*, 532 U.S. 757, 767 (2001). Pursuant to *Becker*, Appeal Notice and Jurisdiction are undeniable.

**CERTAIN OTHER CIRCUIT COURTS HAVE
ROUTINELY FOLLOWED SCOTUS
OPINIONS, ADMENDMENTS TO FRAP, AND
ADVISORY COMMITTEE NOTES, FINDING
APPELLATE JURISDICTION**

Other Circuit Courts have followed the SCOTUS mandates of “liberal construction” of the notice of appeal, the FRAP, and Amendments/Guidelines:

Hawkins v. City of Farmington, 189 F.3d 695 (8th Cir. 1999)

Trotter v. Regents of Univ. of New Mexico, 219 F.3d 1179, 1184 (10th Cir. 2000) (noting that docketing statement filed within deadline for notice of appeal may operate as notice of appeal)

West v. United States, 853 F.3d 520, 523 (9th Cir. 2017) FRAP 3 was amended to specify that “[a]n appeal may not be dismissed ... for failure to properly designate the judgment if the notice of the appeal was filed after entry of the judgment and designates an order that merged into that judgment.”

Waid v Snyder (in re Flynt Water Cases), 63 F.4th 486 (6th Cir. 2023) (“pursuant to rule 3(c)(7), we ‘should not dismiss the appeal of a party whose intent to

appeal is made ‘objectively clear’ by the notice of appeal,’

Trahanas v. Nw Univ., 64 F.4th 842 (7th Cir. 2023) citing FRAP 3(c)(7). *See. e.g., Cooper v Retrieval-Masters Creditors Bureau. Inc.*, 42 F.4th 688, 694 (7th Cir. 2022).

Partners & Friends Holding Corp. v. Cottonwood Mins., L.L.C., No. 23-10192, 2023 WL 8649880 (5th Cir. Dec. 14, 2023) (per curiam)

Cruzado v. Alves, 89 F.4th 64 (1st Cir., Dec. 22, 2023)

“A filing constitutes the functional equivalent of a notice of appeal “so it gives the pertinent information [required by rule 3] and evinces an intention of appeal. “see also *Campti v. Matesanz*, 333 F.3d 317 (1st Cir. 2003). We further explained that “[w]hether a particular type of document is the functional equivalent of a notice of appeal may depend on its content and surrounding circumstances rather than on any general rule.” *Id* Then, after having articulated these principles we, concluded that the filing at hand both evidenced an intention to appeal and gave the pertinent information. *Id*

B12 Consulting, LLC v UST Global, Inc, No 22-5621 (9th Cir., March 1, 2024)(unpublished), denotes jurisdiction and is similar.

Recent amendments to FRAP 3, clarify that we have jurisdiction to review the final judgment. *See* FRAP 3, Advisory Committee Notes, 2021 Amendments [“2021 Advisory Committee Notes”]; *see generally Gonpo v. Sonam's Stonewalls & Art, LLC*, 41 F.4th 1, 9–12 (1st Cir. 2022)

Unmentioned by the Fourth Circuit opinion (although briefed by Wall Guy and argued at oral

argument), *Gonpo*, which included nearly identical issues and found jurisdiction, was argued in Wall Guy's supplemental brief. While the Fourth Circuit mentions *Partners*, also argued in briefing, by including the same in a mere footnote that transcends two pages, noting only similarity; but failing to quote, "[T]he notice of appeal requirement may be satisfied by any statement, made either to the district court or to the Court of Appeals, that clearly evinces the party's intent to appeal...." See 2021 Advisory Committee Notes: (new Rule 3(c)(5) seeks "[t]o reduce the unintended loss of appellate rights in this situation"). See *Norsworthy v. Houston Independent School District*, 70 F.4th 332 (2023) (citing *Gonpo*). "We conclude we have jurisdiction to review the final judgment. "Under the new rule, a notice of appeal 'encompasses the final judgment' if it designates 'an order described in Rule 4(a)(4)(A)." *Id.* Appellate rights should not be lost/declined. Notice of appeal is abundantly clear. Wall Guy and the Clerk are protected by [FRAP] 3(d).

Wall Guys's Notice of Appeal is confirmed by the totality of the documents that were filed in the Clerk of the Fourth Circuit:

1. The original document filed titled "notice of appeal" was timely filed stating, "[Wall Guy] appeals [the] order from the March 15th, 2021 and all orders and ruling submitted therein, including but not limited to, the Memorandum Opinion Order entered on March 5th, 2021, and/or any rulings on pending Rule 59(e) post-judgment motions etc. (intrinsically denoting appeal from all rulings initiated and served on FDIC). Jurisdiction was argued at all times by Wall Guy, from this Notice Appeal this original

Order/Judgment, see FRAP 4(a)2, See “cumulative final doctrine” cited below.

2. A status report on 2/28/2023, as directed by this Court, stating, “the court rendered an Order on 2/15/2023 resolving all pending motions. The matter appears ripe for cross-appeal.” Noting appeal to the Fourth Circuit and invoking jurisdiction (complying with FRAP 3(c), which caused the Clerk to direct a ‘docketing statement of the appeal’ on 3/1/2023, pursuant to FRAP 12, which rule states “Upon receiving the copy of the notice of appeal”)

3. On 3/6/23 the docketing statement was filed that would serve as another “functional equivalent” of a notice of appeal, independently complying with FRAP, and was timely filed within 60 day time requirement.

4. The unopposed motion, on 4/7/2023, by FDIC, which stated “FDIC filed its notice of appeal before the [Wall Guy] filed their notice of appeal”, undisputably denoting appeal jurisdiction was invoked. Wall Guy’s agreement within unopposed motion: “that briefing schedule would be amended, to allow Wall Guy being designated as Appellant, to file the opening brief and Appendix”, clearly denotes notice of appeal had been invoked and was undeniably preserved. During the 60 day time frame, that notice of appeal could have been filed, the above motion was granted by this Court, on the same day of the motion. The above estops the Fourth Circuit from declining jurisdiction and the FDIC from claiming lack of notice to appeal or prejudice. **“[Courts] typically enforce [FRAP] 3’s notice-of-appeal requirement with some leniency, including for counseled parties.”**

See Jackson v. Lightsey, 775 F.3d 170, 176 n.2 (4th Cir. 2014).

**THE STATUS ORDER, DOCKETING
STATEMENT, AND UNOPPOSED MOTION,
ALL SERVED AS FUNCTIONAL
EQUIVALENTS OF NOTICE OF APPEAL,
AND JURISDICTION OF ALL ORDERS
WERE INVOKED BY THE ABOVE, AS WELL
AS THE ORIGINAL NOTICE FILING**

"[FRAP]4(a)(2) provides that a 'notice of appeal filed after the announcement of a decision or order but before the entry of the judgment or order shall be treated as filed after such entry and on the day thereof.'..." *Firsttier Mortgage Company v. Investors Mortgage Insurance Company*, 498 U.S. 269, 111 S. Ct. 648, 112 L. Ed. 2d 743 (1991). "In our view, Rule 4(a)(2) permits a notice of appeal from a nonfinal decision to operate as a notice of appeal from the final judgment only when a district court announces a decision that would be appealable if immediately followed by the entry of judgment. In these instances, a litigant's confusion is understandable, and permitting the notice of appeal to become effective when judgment is entered does not catch the appellee by surprise. Little would be accomplished by prohibiting the court of appeals from reaching the merits of such an appeal. *Id.* Judgment Order was entered following Memorandum Order, which both served as the core/base of the final order entered nearly 2 years later. Original notice of appeal was filed at that point anyway, and always has been argued by Wall Guy.

The lower court struggled with whether the Judgment was Final; however, upon filing the

original notice of appeal, appealing all rulings, this Court responded: “April 15, 2021 JURISDICTIONAL NOTICE – AWAITING ... thereby **suspending** proceedings on appeal.... The parties are directed to immediately **inform this office** in writing of the district court’s ruling on the motion and **whether they intend to appeal the ruling.**” Wall Guy followed this order to the letter.

In response to said Jurisdictional Notice, Wall Guy followed the same, and in so doing, filed the status report and docketing statement, which both complied with FRAP and:

1. SCOTUS cases.
2. Related Circuit Court opinions, 2021 Advisory Committee notes.
3. Undeniably re-enunciated Wall Guy’s notice of appeal of all district court’s rulings, timely filed following Final Judgment.

The notice of appeal is undisputable, jurisdiction is invoked, compliance with the requirements of FRAP 3(c) occurred, and each served as the functional equivalent of notice of appeal on at least 3 different occasions, within the time frame following the Final Appealable Order. All were timely filed, as required by *Brady*, and docketing statement met FRAP 3(c) by the following:

- A. Naming Wall Guy and FDIC, served on FDIC and Fourth Circuit Clerk, and noting appeal to the Fourth Circuit Court of Appeals
- B. It designated the judgment and orders appealed by:

- i. The box yes was check indicating this was an appeal from a final order (dated 3/6/2023 and timely filed).
- ii. The final judgment as a post-trial motion was specifically mentioned with the dates included.
- iii. Unmistakable language, in the issues section and the docketing statement itself, refer to the Final Order, see below:
 - (a) “Finally, the Court erred by entering a final order which found judgment in favor of FDIC, essentially granting a JNOV, and reducing Plaintiff’s award to zero and/or a negative amount.”
 - (b) “Failing to award 2.6 million dollars and/or the value of the Bond/Surety, which was breached by ... FDIC ... in blatant disregard for [Appellant’s] Constitutional Rights and protections.”
 - (c) “Failing to award judgment for the remittitur amount of \$523,024.00”
 - (d) “Failing to direct judgment in favor of the Plaintiffs for the jury verdict award of 1.5 million dollars ... which violates Plaintiffs ... Constitutional Rights?”
- iv. “If appeal is not from final judgment, why is order appealable?” Wall Guy has indicated appeal from final judgment, by leaving the answer blank.
- v. “The case is a civil **appeal** and clearly a case of first impression, and it is highly

unique in both facts and procedural history.”

The above undeniably and unequivocally notices appeal per *Becker*.

The Fourth Circuit stated, in their decision, “entering a final order which found judgment in favor of FDIC, essentially granting a JNOV, and reducing Plaintiff[s] award to zero and or a negative amount. That would seem to suggest that [Wall Guy] did intend to appeal the 2023 Orders, which are the only orders that could be described in that way.” See May 18th opinion, *Wall Guy, Inc. v. Fed. Deposit Ins. Corp.*, 95 F.4th 862 (4th Cir. 2024) (1a-30a) of said document citing “ *United States v. Garcia*, 65 F.3d 17, 19 (4th Cir. 1995) ...” Finding the same, how can the Fourth Circuit ignore the applicable FRAP? How can they ignore the directives and mandates of this Court. Pursuant to FRAP 3(c)(7), “An appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice, or for failure to properly designate the judgment if the notice of appeal was filed after entry of the judgment and designates an order that merged into that judgment.” Literally, there was no defect with the notice anyway, it is a clear notice of appeal informing the FDIC and the Fourth Circuit.

Multiple documents served as a timely filed notice of appeal and designate the Final Order. Under FRAP 3(c)(4), “The notice of appeal encompasses all orders that, for purposes of appeal, merge into the

designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal. Under the merger rule, a “notice of appeal designating the final judgment necessarily confers jurisdiction over earlier interlocutory orders that merge into the final judgment.” *AdvantEdge Business Grp. v. Thomas E. Mestmaker & Assocs., Inc.*, 552 F.3d 1233, 1236-37 (10th Cir. 2009); see also, e.g., *John’s Insulation, Inc. v. L. Addison & Assocs., Inc.*, 156 F.3d 101, 105 (1st Cir. 1998). The Fourth Circuit recently found, “The general merger rule can be stated simply: an appeal from a final judgment permits review of all rulings that led up to the judgment” see *Tyson v Gay, Lieutenant*, 22-6760. 22-7299, 23-6159 (4th Cir. April 16 2024)(unpublished). All Orders were within the Fourth Circuit’s jurisdiction and appeal by Wall Guy was independently saved by the “cumulative finality doctrine”. This argument was raised by Wall Guy from the first brief. Review is further required by the apparent variance within the same Circuit and with variance other sister Circuits. It is fundamentally unfair to find jurisdiction in one case and decline it in another. This violates equal protection on its face. Jurisdiction, required by FRAP 3 and 4, was invoked. Wall Guys’s filings invoked and preserved the Fourth Circuit’s jurisdiction. Once invoked, review on the merits is mandatory. Further, counsel has timely filed for a writ of certiorari, so that review of the case can finally be accomplished, especially because the matter has been fully briefed previously, although not reviewed by the Fourt Circuit.

CONCLUSION

The petition for a writ of certiorari should be granted, for the plethora of reasons stated above, and including but not limited to the reasons below:

1. The direct violation of FRAP 3 and 4 (specifically 3(c)(7)) by the Fourth Circuit.
2. Due to the undisputed fact that the government has taken property without just compensation in violation of Wall Guy's Fifth Amendment rights (property that was secured by deeds of trusts in West Virginia and Ohio) and sold after the bank failed. The FDIC has unclean hands on this issue as well, by denying the same for over a year until ultimately caught selling two properties subject to the liens; and further, denying the same at various stages throughout, when the same was proven by irrefutable recordings. Further the bond / surety for the same was not properly filed by the FDIC with the district court and the same was required to be transferred with the case, when the case was transferred to district court as required by US Code, and further not filed, after being ordered by the district court. Counsel for the Wall Guy was forced to supplement the record with the same, and inform the district court that it was left out, apparently intentionally, far too late in the process, and the same supplementation displayed the bond / surety was violated *per se* by the FDIC selling two properties subject to a recorded trust deed and a mortgage, which was supposed to protect Wall Guy from bank failure and serve as bond / surety in this matter.

Further, the sale of properties and violation of the bond / surety was always nearly immediately brought to the attention of the district court through filings, but ignored improperly and in violation of Wall Guy's Constitutional Rights.

3. Because the Wall Guy's 7th Amendment rights were violated, including eradicating a state jury verdict and subsequent judgments.
4. Because the failure to grant the writ of certiorari will allow various Courts of Appeal to simply decline jurisdiction, even following completed formal briefing and following oral argument. This creates a violation of various litigant's equal protection rights. Further, this will allow the turning of a blind eye to litigation on a whim, and thus failing to hear just cases on the merits.
5. Because of the current variance of results with litigants, not only within the Fourth Circuit itself, the vacuum of opinions in this area of the law, the variance between other sister Circuits at other times, and as well as the lack of clarity on this issue, the writ of certiorari must be granted to protect all litigants, whether civil or criminal, regardless of political or other lines of potential division. The granting of the writ of certiorari would protect all litigants that have an asset with any bank. The potential failure of banks, whether small or large, is a major concern for citizens, and the same could impact virtually every person. If the Fourth Circuit's opinion remains in place unchecked, then any person with asset in a bank, could be left

uninsured and unprotected by the FDIC, if the bank fails.

6. Granting of the writ of certiorari would allow the case to be properly scrutinized following this Honorable Courts recent holding which overturned *Chevron Doctrine*, namely *Loper Bright Enterprises v. Raimondo* 143 S. Ct. 2429, 22-451 (June 20, 2024), and will correct many manifest injustices which have occurred, like the case herein. The FDIC will now be more properly monitored by the Courts. The new interpretation of the law will allow the district court to properly review Wall Guy's claim as well as the violations of bond / surety. The FDIC would not be able to fail to protect or insure a valid claimant, especially the ones with bond /surety in place prior to the FDIC beginning a role as Receiver. If the FDIC fails to accurately determine a valid claim in the Administrative Process, then the FDIC should not be its own reviewer. The district court must be the reviewer of the claim(s) as prescribed by Congress. Otherwise, you are allowing the fox (FDIC) to guard the henhouse (all claims). Without the granting of the writ of certiorari, even with the Court's clear improvements to this area of law, in light of *Loper* above, failing to grant the writ will leave many valid claimants without insurance or protection if a bank fails.
7. Failure to grant the writ of certiorari will allow one of the largest manifest injustices to prevail, silenced by only the whim of the Fourth Circuit, and sweeping the manifest injustice under the rug. The writ of certiorari should be

granted, because this Court is the last bastion protecting our citizens and citizen's fundamental rights, and the lack of granting the writ could injure nearly every single one of them, essentially allowing jury verdicts, judgments, and other relief to simply be eradicated by state, district courts, and other courts, without remedy. The Supreme Court should say with a thunderous voice from the mountaintop, that the right to appeal on the merits should not be abridged once invoked under FRAP 3 and 4! Further, this Court should declare that this Court could have not been more clear of the above by its mandates, and from the Court's prior holdings, Rules, and 2021 Amendments to the FRAP. This Court's Mandatory Rules form a chain that protect all citizens, and the breaking of that chain by the Fourth Circuit or any other Circuit should not be permitted. Review on the merits herein was not optional, it was mandatory, and the review of the same from this Court is required to protect manifest injustice.

Finally, and in conclusion, Wall Guy prays that his writ of certiorari be granted by this Honorable Court. This will not only impact the Wall Guy, but every other litigant(s) who will be harmed if the opinion and judgment of the Fourth Circuit Court of Appeals becomes the prevailing law of the land on this issue.

/s/ Steven T. Cook

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