

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
PIKEVILLE

3M COMPANY,)	
)	
Plaintiff,)	No. 7:25-cv-37-REW-EBA
)	
v.)	
)	ORDER
GLENN M. HAMMOND, <i>et al.</i> ,)	
)	
Defendants.		

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The Court conducted a full hearing on DE 18. 3M made its argument and tendered supportive exhibits into the record. Mr. Hammond had a full opportunity to argue, as did the other hearing participants. Though Mr. Hammond purports to have secured counsel, no lawyer appeared for him at the hearing and he identified at the outset as pro se.

At the end of the hearing, after a deliberative break, the Court **GRANTED** DE 18, finding a proper basis for issuance of a preservation and surrender order under any of the tests presented. *See John B. v. Goetz*, 531 F.3d 448, 459 (6th Cir. 2008) (“[P]reservation orders generally must be premised on a demonstration that a real danger of evidence destruction exists, a lack of any other available remedy, and a showing that the preservation order is an appropriate exercise of the court’s discretion[.]”) (citing *The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Document Production*, Second Edition 11, 33); *Pueblo of Laguna v. United States*, 60 Fed. Cl. 133, 138 (2004) (“[O]ne seeking a preservation order [must] demonstrate that it is necessary and not unduly burdensome.”); *Capricorn Power Co. v. Siemens Westinghouse Power Corp.*, 220 F.R.D. 429, 433–34 (W.D. Pa. 2004) (describing the preservation order standard as a balancing test featuring three factors: “1) the level of concern the court has for the continuing

existence and maintenance of the integrity of the evidence in question in the absence of an order directing preservation of the evidence; 2) any irreparable harm likely to result to the party seeking the preservation of evidence absent an order directing preservation; and 3) the capability of an individual, entity, or party to maintain the evidence sought to be preserved, not only as to the evidence's original form, condition or contents, but also the physical, spatial and financial burdens created by ordering evidence preservation").

The key requisites under each test are a true risk of lost proof, significant prejudice in the event of loss, and a fair assaying of the burden of custody/breadth of warranted relief. The Court acts here in its discretion and under the principles of Rules 26, 16, and 37 to preserve evidence of relevance and importance in the underlying litigation. 3M convinced the Court that there is significant reason to fear the removal and secreting of pertinent litigation files by Attorney Hammond. The basis includes a prior court finding of limitations-related material falsity against Hammond in a 3M case and related allegations of file removal or acts to sanitize files, made against Hammond by then co-counsel. *See* Hrg. Ex. 1; DE 18, Ex. 1. Further, and critically, a former Hammond employee specifically alleged, in a sworn affidavit, that Hammond's practices regularly included falsity in documentation and recordation, falsity with respect to claim timeliness, and intimidation of employees as to such practices. *See* Hrg. Ex. 2. More specifically and pertinently, that affiant swore to seeing boxes of 3M-related files that Hammond, by employees, had directed be secretly stored in off-site storage, in a way designed to prevent third-party discovery or cognizance of such materials. *See id.* at ¶ 16 (reporting "dozens of large banker boxes containing 3M case files"). Additionally, 3M showed recognition, in some Kentucky courts, of Hammond's regular failure to follow court rules and procedures. *See* Hrg. Ex. 3. The Court itself has seen order and rule compliance deficits from Hammond in cases, 3M-related and otherwise, on its docket

over the course of time. The likelihood of regular order being effective, to include party compliance with typical duties and court directives, is a factor in the analysis.

There is significant risk of evidence destruction—real danger—based on the current record. The Court does not view the rules of evidence as fully applicable in this preliminary matter, as they would not be applicable in the parallel injunction or warrant context. Rather, the Court assesses the evidence before it for reliability, and the proof here convinces the Court that trusting the normal discovery process, even with plain rules and particular orders, will not suffice. The presumptive good faith that normally bounds civil discovery here yields to concrete proof of the risk of destroyed or hidden evidence.

The balance of the analysis, which assessed inarguable prejudice and the propriety of an intrusive remedy against other legitimate interests of Hammond, is as stated on the formal record.

The Court thus **GRANTS** DE 18 on these terms:

1. Until this Order is fully effectuated (meaning, until the Custodian appointed has custody of the original items addressed and at issue) Hammond may not directly or indirectly, by himself or by any employee or agent, enter the Units. The Units are Units #11 and #14 of the U-Save Storage facility identified in DE 18 and hearing Exhibit 4. 3M may affix a separate lock to each Unit pending effectuation.
2. The Court appoints Todd Kennedy, a Pikeville attorney at Thompson & Kennedy PLLC, to act as Custodian. All reasonable fees and expenses of the Custodian, in fulfilling this court-appointed role, shall be borne by 3M.
3. Mr. Kennedy shall, as Custodian, promptly take custody of all documents and records of any type contained in the Units. He shall also take custody of any dust masks or respirators in the Units. He shall not take physical personal property that would not fairly qualify as

a document or record (to include, e.g., equipment, furniture, sporting goods, decorations, clothing, or other such extraneous items).

4. Mr. Hammond shall cooperate in opening the Units and shall cooperate in Order effectuation. He may cooperate by temporarily surrendering his Unit keys to the Custodian. He may personally monitor the Custodian, without interfering, as the Custodian takes custody of Unit content. 3M, the Custodian, and Hammond shall cooperate in prompt order effectuation. Mr. Hammond indicated he would be present and available in Pikeville during the afternoon of July 25th.
5. 3M may monitor the Unit entry and property surrender but may not read the content of any individual document or record, from the Units, during that process.
6. Any party and/or the Custodian may make a general video recording of the process, though again, 3M may not do so in a way that would in any way reveal or permit cognizance of specific document content.
7. The United States Marshals Service shall monitor the effectuation of the Order only insofar as the USMS shall maintain order. The USMS shall cut any lock on the Unit(s) if, and only if, Mr. Hammond fails to cooperate in the opening of the Unit(s). By this Order, he is required to cooperate, and if he refuses, the USMS shall effectuate the Order as indicated.
8. The Custodian shall hold all materials seized securely and confidentially, all subject to Court order. The Custodian shall promptly prepare an inventory of the content seized in a manner that fairly allows general identification and indexing of the records and documents held without divulging any specific content of a record. Thus, e.g., “file materials regarding, John Smith v. X” would be appropriate, but a description of particulars within the file materials would not be appropriate at this time. The Custodian shall file the

inventory *ex parte* with the Court and shall provide Hammond a copy. The Court will review the inventory and anticipates authorizing release of the inventory to the other parties after review for the degree of disclosure.

9. Other than the Custodian and any staff under his direction and control, no party or person (except Hammond, as addressed separately) may access any seized record without an order of the Court. The Custodian (to include any staff of the Custodian) may not disclose any seized record, or the content of any seized record, except as authorized by the Court.
10. As to Hammond, he may request copies of any and all records seized. If he requests distinct files, the Custodian shall promptly and reasonably supply a copy of such files. Hammond may elect to request a digitized version of the entire seized content, which the Custodian may then create and provide on a reasonable schedule. All digitization and/or copying will, as with the other costs of custody, be at 3M's reasonable expense.
11. Once the inventory is filed and reviewed, the Court will, on motion, consider such other logistics and mechanics as a party may raise by motion.

This the 25th day of July, 2025.



Signed By:

Robert E. Wier *REW*

United States District Judge