In the United States Court Of Appeals
for the Fifth Circuit

26-10025

Brian P. Carr,
Rujipas Lawichai,
Rueangrong Carr,
Tanapon Lawichai, and
Buakhao Von Kramer,

Plaintiffs - Appellants

versus

United States of America; United States Department of Justice; United States Postal Service; United States Postal Service; Office of the Inspector General; United States Postal Service Board of Governors; United States Department of State; United States Department of State Office of the Inspector General; Council of the Inspectors General on Integrity and Efficiency; United States Citizenship & Immigration Services; United States Department of Homeland Security Office of the Inspector General; Social Security Administration; Tami C. Parker; George M. Padis; Internal Revenue Service; and Treasury Inspector General for Tax Administration

Defendants - Appellees

On Appeal from the United States District Court
for the Northern District of Texas, Civil No. 3-23-cv-02875-S

Appellants' Joint Opening Brief
(Preliminary Placeholder Filing)

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Table of Contents: Basic Abbreviations Used

The following abbreviations are utilized throughout this document to ensure concise, clear arguments and explanations:

Abbreviation: Full Name or Phrase

5CCLR: Rules and Internal Operating Procedures of the Fifth Circuit

AUSA: Assistant United States Attorney

CFRS: Code of Federal Regulations Section

CM/ECF or ECF: Case Management/Electronic Case Files system

DoJ: Department of Justice

FCR: Findings, Conclusions, and Recommendations

FRAP: Federal Rules of Appellate Procedure

FRCP: Federal Rules of Civil Procedure

IG: Inspector General

LR: TXND Local Rule

LPR: Lawful Permanent Resident

MTD: Motion to Dismiss

MSJ: Motion for Summary Judgment

MTR: Motion to Reconsider

NOA: Notice of Appeal

OIG: Office of the Inspector General

PACER: Public Access to Court Electronic Records

PII: Personal Identifying Information

ROA: Electronic Record on Appeal

TIGTA: Treasury Inspector General for Tax Administration

TXND: United States District Court for the Northern District of Texas

USATXN: U.S. Attorney's Office for the Northern District of Texas

USCA5 or 5CC: United States Court of Appeals for the Fifth Circuit

USC: United States Code

USCS: United States Code Section (e.g., 18 USCS 1001)

USCIS: United States Citizenship and Immigration Services

Abbreviation: Full Name or Phrase

USPS: United States Postal Service

Table of Contents: Hyperlink Usage

Understanding Hyperlinks Provided With Case / ROA Citations

To enhance readability and provide easy access to the cited material, our citations embed hyperlinks using the following conventions:

ECFdktN	Links to a copy of TXND ECF document for case 3:23-cv-02875-S where dktN represents the document number. Example: ECF10-5 links to a copy of TXND ECF case 3:23-cv-02875-S document 10-5.
5CCdktN	Links to a copy of USCA5 ECF Case No. 26-10025 where dktN represents the document number. Example: 5CC35-5 links to a copy of USCA5 ECF document 35-5, an exhibit attached to motion 5CC35-1.
ROAdktNpgNNN	A dual-link citation for documents from the Record on Appeal for Case No. 26-10025. The first portion (ROAdktN) links to the document from the TXND ECF, while the end page number (NNN) links to the document which starts at the specific page number from the USCA5 ROA file. Example: In ROA10-5pg177, ROA10-5 has a link to ECF10-5, the document 10-5 from the TXND ECF. 177 has a different link to the same document extracted from page 177 of the ROA (but none of the preceding or following documents).

Privacy Exceptions: To comply with federal privacy mandates, no hyperlinks are provided for properly sealed documents. Sealed records are referenced using the text format above, but there is no link which prevents public access to the sealed document.

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Statement Regarding Oral Argument

Pursuant to 5CCLR 28.2.3, I respectfully submit that oral argument is not necessary in this appeal. The various issues presented for review are purely legal and statutory, involving the clear application of cited statutes and controlling Supreme Court precedent. The facts and legal arguments are fully and adequately presented in the brief, and the decision process would not be significantly aided by oral argument.

I. Preliminary Statement and Reservation of Right to Supplement

This Preliminary Brief is submitted in compliance with panel Order 5CC85-1 which added 8 parties to the caption but did not correct the ROA issues. 5CC85-1 allowed only 14 days to update the previous rushed brief 5CC71 (only six days to prepare the brief) with:

> GRANTED as to nits but DENIED as to new arguments

The preliminary statement for the rushed placeholder Brief 5CC71 complained:

> there are three pending corrections to the ROA, see pending 5CC45-1, 5CC32. Of particular importance is that the TXND clerk has provided us with two different ROAs with different pagination starting with ECF20 which is sealed in the original ROA and unsealed and included in the second (and possibly unauthorized) ROA. When there are no adequate references to the ROA, the TXND ECF documents will be referenced.
>
> To preserve my constitutional right to due process and a fair hearing, I explicitly reserve the right to amend, rewrite, and supplement this brief to provide corrected page numbers, expand upon outstanding immigration and sanctions issues preserved in my Notice of Appeal, and fully align the text once this Court enters final orders resolving the underlying ROA and caption defects.

The highly abbreviated ROA and immigration arguments in 5CC71 will be expanded on herein within the limitations of space and time. We reiterate the complaints listed above from 5CC71.

II. Statement of Jurisdiction and Standard of Review

The District Court possessed subject-matter jurisdiction over the underlying civil action under 28 USCS 1331, as the claims arose under the Constitution and the laws of the United States.

This Court possesses appellate jurisdiction under 28 USCS 1291 to review the final decisions of the District Court. I filed a timely NOA on 12 Jan 2026 (5CC1) challenging the following final orders rendered by the District Court:

1. The Order ECF62 on 21 Mar 2025 accepting FCR ECF61 of 27 Feb 2025
2. The Final Judgment ECF63 on 21 Mar 2025 dismissing the civil action
3. The Order ECF95 on 15 Dec 2025 accepting the second FCR ECF91 of 10 Nov 2025 and denying all timely post-judgment motions for relief.

Appellate Jurisdiction to Resolve Preserved Issues on the Merits

Under 28 USCS 2106, this Court possesses broad statutory authority to "affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review," and may remand the cause or "require such further proceedings to be had as may be just under the circumstances."

When reviewing a district court's dismissal under FRCP 12(b)(1) or FRCP 12(b)(6), this Court conducts a de novo review of the legal issues presented. Where the underlying record is fully developed and the legal issues have been briefed, an appellate court is not restricted to merely remanding the matter to the district court. Instead, in the interest of judicial economy and to prevent further unnecessary delay, this Court has the discretion to resolve preserved legal questions directly on appeal without necessitating further preliminary proceedings below (*Budhathoki v. Nielsen*, 898 F.3d 504, 507 (5th Cir. 2018)).

Accordingly, while Appellants seek reversal of the district court's improper dismissal orders and a remand for full adjudication on the merits, this Court retains full jurisdiction to reach and resolve any preserved statutory, constitutional, or

procedural issues directly on the present record where appropriate.

III. Statement of the Issues Presented for Review

We argue that TXND committed reversible error in Order ECF95 by adopting FCR ECF61 and FCR ECF91 and denying all open motions which dismissed all our claims.

Of particular interest is the question of whether TXND can dismiss every claim in the most recent complaint, proposed complaint ECF84-1, without actually addressing any element of any claim. There are numerous statements in TXND decisions and orders which are false and misleading and purport to address the actual complaint but do not. There is also the legal questions as to the denial of the motions to recuse when it is readily apparent that the judges in this matter were biased as well as the misconduct complaints ECF96-1 and ECF96-2 which were attached to and referred to in the NOA ECF96.

Some of the more important separate legal questions where the TXND reversibly erred are:

1. Whether the district court reversibly erred for USPS with rulings (or omissions of rulings) on:

    a) Whether sovereign immunity or statutory refund provisions apply to USPS under 39 USCS 401 as described in Dolan v. U.S. Postal Serv., 546 U.S. 481 (2006),

    b) Whether sovereign immunity applies to USPS when the agency has already approved the disbursement and the actual issue is whether we ever received a credit to our credit card as stated in exhibit ROA18-8pg548 ,

c) When a federal agency is operating under the new 'fee for service' funding model, can the courts order the agency to provide the service in the statute specified fashion once the fee is paid even if that entails attempting to provide the service again after a failed attempt, and

d) Is a court ordered 'credit for future service' (as requested from USPS) any different from a court ordered requirement to provide the service in the statute specified fashion as described above?

2. Whether the district court reversibly erred in removing my wife Mrs. Carr and her sister Mrs. Von Kramer from this matter with:

a) misinterpreting FRCP 11(a) to improperly strike and remove my wife and her sister as co-plaintiffs,

b) misconstruing every complaint / request for relief signed by my wife, her sons, and her sister in: ECF3, ECF29, ECF64, ECF65, ECF66, ECF67-4, ECF71-1 and ECF71-10 which clearly specify they are appearing pro se and only seek my representation / assistance to the degree permitted by the court. These are the eight documents which were merged into ECF84-1, and

c) misconstruing TXND LR 11.1(d) to logically conclude that it is not possible for a pro se party to electronically submit a document with multiple signatures as a pro se party can not represent the consent of another for their electronic signature (they are not an attorney). This is contradicted by TXND LR 1.1(c)(2) which defines the term attorney to include a pro se party in a civil suit and LR 11.1(d) clearly specifies that an attorney can represent the consent of another.

3. Whether the district court erred by failing to adjudicate the active joinder requests and claims of Mrs. Carr's sons.

4. Whether the Department of State is protected by sovereign immunity or the doctrine of consular non-reviewability regarding non-immigrant visa denials for my wife and her sister. More specifically from misconduct complaint

ECF96-1 can Department of State (DoS) Bureau of Consular Affairs (BCA) deny a non immigrant visa to the wife of U.S. citizen[1]:

a) without considering the evidence presented as required in INA 214(b) which is 8 USC § 1184,

b) without permitting the citizen spouse to attend the interview,

c) without permitting the U.S. citizen or applicant representation,

d) without permitting the U.S. citizen or applicant access to the other evidence which DoS BCA uses to make a determination,

e) [when] providing the tribunal as little as two minutes on average to interview and process each application (which guarantees that the decision won't be based on evidence but instead superficial criteria such as quality of dress and speech which is not part of INA 214(b))[2]

f) based on criteria outside the underlying statute, INA 214(b), and

g) falsifying the decision records (video and written) with contradictory justifications?

These appear to be a proper questions for appeal, but the answer would be the court did not address the questions but instead lied and misled in its decisions to conceal the question.

There are also the questions:

a) Were we damaged when my wife was later left stranded in Thailand and had to apply again for a second non immigrant visa in order to return home and

1 This challenge to DoCNR was suggested in Kleindienst v. Mandel, 408 U.S. 753 (1972) concerning non immigrant visas and was considered more recently in Department of State v. Munoz (S. Ct. 2024) with respect to immigrant visas.

2 This failure of DoS was mentioned tangentially in Department of State v. Munoz (S. Ct. 2024) citing DoS OIG investigations and reports.

b) Does sovereign immunity preclude a credit for future services when DoS operates on a fee for service basis and failed to provide the statute mandated adjudication of her first visa application with an improper denial,

c) Is one half of the second visa application fee ($90) credit for future services an appropriate and reasonable remedy for the damages we sustained

5. Whether USCIS failed in its clear statutory mandates leaving my wife stranded in Thailand with:

a) Did USCIS fail to promptly adjudicate my wife's I-751 application within 90 days as required in INA 216.4(b)(3) which is 8 USCS 1186b(d)(3) which is embodied in 8 CFRS 216.4(b)(1) which states:

> The [USCIS] director must either waive the requirement for an interview and adjudicate the petition or arrange for an interview within 90 days of the date on which the petition was properly filed.

and instead provide my wife with a temporary extension letter which expired on 13 Nov 2023 (see ECF18-6 and ECF24-1) instead of the mandated ten year 'green card',

b) Did USCIS fail to abide by its mandates in INA Section 264 (d) which is 8 USCS 1304(d) to ensure that LPRs (i.e. my wife) are provided with valid evidence of their status to provide freedom to work and travel internationally and thereby left my wife stranded in Thailand,

c) Were we damaged when my wife had to apply again for a second non immigrant visa in order to return home and

d) Does sovereign immunity preclude a credit for future services when USCIS operates on a fee for service basis and failed to provide the statute mandated documentation of her lawful status and ability to travel freely,

e) Is one half of the second visa application fee ($90) credit for future

services an appropriate and reasonable remedy for the damages we sustained

6. Whether USCIS improperly denied naturalization and citizenship rights to my wife based on erroneous / falsified administrative records.

7. Whether the IRS violated statutory notice mandates and due process by demanding and collecting contested tax penalties under threat of seizure.

8. Whether USPS OIG, DoS OIG, DHS OIG, CIGIE, TIGTA, and DoJ violated statutory mandates by failing to investigate and report documented federal crimes.

9. Whether the district court abused its discretion by denying motions for sanctions without providing written legal analysis or factual findings and where there were affirmed statements with supporting documentation which demonstrated false statements in papers filed with the court as well as, separately, government emails.

10. Whether the district court abused its discretion by denying recusal under 28 USCS 455.

11. Whether the USCIS denied due process by systemic delays in mailing preventing timely notice of hearings and then refusing to reschedule as well as falsifying records in order to manufacture a denial for ‘failure to appear’.

12. Whether federal agencies committed systemic violations of the Freedom of Information Act (5 USCS 552) by withholding agency records and interview recordings.

13. Whether statutory privacy mandates under FRCP 5.2 override discretionary common-law public access balancing tests regarding unredacted PII?

14. Can USCA5 Clerk errors and mistakes deprive parties of their due process rights to a fair hearing through procedural sanctions for actions beyond the parties control?

IV. Statement of the Case

This appeal arises from a civil action brought to remedy a series of failures by federal agencies, including USPS, DoS, USCIS, and the IRS as well as various OIG and DoJ who ignored or actively concealed violations of lawful statues and including criminal statutes.

The defendants filed a MTD, arguing that federal sovereign immunity and other contested defects completely barred the action. On 27 Feb 2025, the Magistrate issued an FCR (ECF61) recommending total dismissal. The District Court adopted this report in full on 21 Mar 2025 (ECF62) and entered Final Judgment (ECF63). I filed a series of post-judgment motions seeking to correct these legal misapplications, which the District Court summarily denied on 15 Dec 2025 (ECF95). This timely appeal followed.

V. Summary of the Arguments

1. Sovereign Immunity Does Not Apply to USPS

The District Court committed reversible error by granting the MTD based on a total misapplication of federal sovereign immunity. The Postal Reorganization Act allows the Postmaster General to create special services and fees where remuneration is permitted under 39 USCS 401(1), which allows for narrow circumstances where immunity is waived. While the Federal Tort Claims Act (28 USC Chapter 171) preserves immunity for standard clerical negligence or "loss, miscarriage, or transmission of letters," the United States Supreme Court explicitly ruled in Dolan v. U.S. Postal Serv., 546 U.S. 481 (2006) that this exception does not extend to special services created under the umbrella of 39 USCS 381 (1946 ed.) such as guaranteed delivery services where USPS has already waived sovereign immunity.

Furthermore, because USPS had already administratively approved the refund and declared the dispute paid, my claim is not an action challenging a delayed delivery, but rather an equitable enforcement action to recover an adjudicated sum certain due. The lower court completely ignored these settled statutory facts, resulting in a denial of due process.

2. The Removal of Mrs. Carr and Mrs. Von Kramer Was Improper

The District Court reversibly erred by adopting the FCR ECF61 that sua sponte removed my wife and her sister as active Pro Se plaintiffs. The lower court based this severe procedural sanction on a fundamental misinterpretation of FRCP 11(a) and state spousal-representation rules, transforming a signature baseline into an absolute bar against unrepresented co-plaintiffs filing joint, consolidated pleadings.

I raised explicit, detailed objections to this improper removal in our Rule 60 Motion ECF73 and our Reply ECF75, and the briefs supporting our Motion for Leave to Submit a Second Amended Complaint ECF76. The record conclusively establishes that all three parties appeared strictly Pro Se, and subsequently cured any perceived signature defects by submitting physical wet-ink signatures on the docket ECF64, ECF66.

By ignoring these timely corrections and completely misapplying controlling case law, the lower court stripped my family members of their natural rights to self-representation without a fair hearing.

3. Ignoring Requests to Join by Mrs. Carr's Sons Was Improper

.The District Court committed a reversible error by failing to address the explicit

requests of my wife's sons, Rujipas Lawichai (*Tin*) and Tanapon Lawichai (*Earth*), to join this action as additional co-plaintiffs. I formally presented their requests to the lower court in our Motion for Leave to Submit a Second Amended Complaint ECF76.

These new plaintiffs are suffering direct, real-world injuries stemming from the defendants' prolonged delays. Specifically, because USCIS unlawfully withheld my wife's citizenship certification for over two years, her sons were similarly delayed in an immigration visa queue and they are seeking relief in their queue position for immigration visas in their category (unmarried adult children).
The Magistrate Judge completely ignored these distinct, non-frivolous familial claims and recommended a blanket dismissal of the action without evaluating the joinder under FRCP 15(a)(2) or FRCP 20. This total failure to consider or adjudicate the status of processing family members constitutes a structural denial of due process and a plain error of law.

4. DoS Not Protected by Sovereign Immunity

DoCNR Challenge Well Founded

The District Court reversibly erred by applying a blanket doctrine of sovereign immunity and the Doctrine of Consular Non-Reviewability (DoCNR) to dismiss our claims against DoS. I formally established before the TXND court in ECF73 and ECF75 that 5 USCS 702 provides an explicit statutory waiver for non-monetary relief arising from unlawful agency actions. Our claims do not challenge active visa denials or seek to compel visa issuance, rendering the Supreme Court decision in *Department of State v. Munoz* 602 U.S. 899 (2024) inapplicable.

Instead, as detailed in our moving briefs in ECF76 and the proposed Second Amended Complaint ECF84-1, we seek specific performance under 28 USCS 1361 to remedy systemic due process failures. Specifically, consular officers regularly deny visa applications without considering the evidence presented by the applicants, even extensive evidentiary packets. Instead they applied criteria completely decoupled from statutory requirements under 8 USCS 1201. Because the visa application processing services (under the fee for services model) were denied without a fair hearing, we seek a decree mandating that DoS evaluate presented evidence in a lawful manner and provide a fair hearing, along with a credit for future services to offset repeated application fees for services never provided in accordance with statutes.

5. USCIS Improperly Left Mrs. Carr Stranded in Thailand

The District Court reversibly erred by dismissing our claims against USCIS based on a total failure to evaluate specific statutory violations that left my wife stranded abroad. As detailed in our Motions ECF73 and Verified Reply ECF75, USCIS violated clear administrative mandates under 8 USCS 1186a and 8 CFRS 216.4(b)(1) by failing to adjudicate her Form I-751 petition to remove conditions on residency within ninety days of filing. This delayed processing forced my wife to rely on a confusing, multi-page extension letter that caused severe distress and logistical uncertainty.

Furthermore, USCIS completely abdicated its non-discretionary duties by failing to provide my wife with valid continuous documentation to work and travel freely after her temporary extension letter expired. This operational failure directly

resulted in my wife being trapped in Thailand, completely separated from her husband due to the agency's documentation abandonment. The lower court's blanket dismissal on sovereign immunity grounds completely ignored these explicit statutory violations, which we fully preserved for review throughout our moving briefs in ECF76 and our proposed Second Amended Complaint ECF84-1.

6. USCIS Improperly Denied Citizenship to Mrs. Carr

The District Court reversibly erred by dismissing our claims against USCIS regarding the handling of my wife's Form N-400 naturalization application. I established before the trial court in ECF73 and ECF75 that USCIS approved her citizenship eligibility on 31 Jan 2023 as shown in ROA10-5pg177, following a completed joint interview ECF84-1. Instead of administering the oath of citizenship, the agency falsified internal records to state the interview was canceled, scheduled an impossible second interview while she was known to be traveling abroad, and denied the application for "failure to appear." The lower court's dismissal based on sovereign immunity ignored these procedural actions, which violated the statutory processing timeline mandated under 8 USCS 1447.

7. IRS Violations of Due Process and Statutory Mandates

The District Court reversibly erred by dismissing our claims against the IRS based on the lack of consideration in FCR ECF91 which simply states that ECF84-1:

> would not cure the problems that led to dismissal.

with not a word concerning the IRS.

I established in ECF84-1 that the agency violated explicit procedural and statutory protections during its collections process for the 2023 tax year. Specifically, the IRS issued an immediate CP504 property seizure notice ECF67-16 while our

administrative appeal was actively pending and completely disregarded the 30-day notice period mandated under 26 USCS 6331.

Furthermore, once the agency recognized its penalty calculations were incorrect, it dropped the ongoing appeal without providing a formal computation or addressing residual costs. These actions violated our Fifth Amendment right to a fair hearing. We seek specific performance under 28 USCS 1361 to compel the regularization of the IRS appeals process, the provision of clear estimation tools for annualized income, and credits for future taxes for minor costs arising from IRS failures, as set forth in ECF84-1.

8. IGs and DoJ Have Joint Mandate Against Criminal Violations

IGs Must Report Federal Crimes, DoJ Must Prevent Future Crimes

The lower court's adoption of FCR ECF61 recommending dismissal based on a lack of subject-matter jurisdiction constitutes a plain error of law. Under 5 USCS 404 (IG Act of 1978), federal IGs possess a non-discretionary statutory obligation to report to the Attorney General whenever they have reasonable grounds to believe federal criminal law has been violated. In our moving papers ECF84-1, I documented a pervasive practice where the IGs of USPS, USCIS / DHS, DoS, and TIGTA deliberately act as gatekeepers to insulate systemic falsified documents (federal crimes) from DoJ review.

The primary example of this administrative gatekeeping is documented in the USPS IG 2017 Audit Report (DR-AR-18-001, ROA18-7pg542), which uncovered over 1.9 million improper "Stop the Clock" scans where packages were fraudulently recorded as delivered while still at the post office, falsifying public delivery records. This intentional manipulation of electronic data constitutes a

clear, systemic violation of 18 USCS 1001.

Yet, the USPS IG explicitly stated on the record that it did not refer these matters to DoJ because the conduct does "not meet the threshold for prosecution" ROA10-1pg170 ECF84-1pg17. The statutory authority to decline prosecution rests solely with DoJ, not with the investigating IG. By routing these criminal reports back to the very local managers whose bonuses depend directly on false profitability and efficiency benchmarks, the IGs systematically conceal and encourage structural fraud and falsification of government records.

9. Abuse of Discretion, Unsupported / Analyzed Denial of Sanctions

TXND Court insulated the Defendants' misconduct from judicial review by issuing a blanket denials completely devoid of factual analysis or legal scaffolding where there were affirmed statements with supporting documentation which demonstrated false statements in papers filed with the court as well as, separately, government emails.

10. Abuse of Discretion in Denying Recusal

The TXND Court denied recusal with:

> the mere fact of any ruling adverse to Plaintiff is simply insufficient to establish bias

without any consideration of the specific adverse rulings and their number and lack of foundation.

11. USCIS Manufactures ‘Failure To Appear’ Through Malfeasance

USCIS denied due process by systemic delays in mailing preventing timely notice of hearings and then refusing to reschedule as well as falsifying records in order to manufacture a denial for ‘failure to appear’.

12. USPS, DoS, USCIS, USPS OIG and IRS Deny FOIA Requests

Federal agencies committed systemic violations of the Freedom of Information Act (5 USCS 552(a)(4)(B)) by withholding agency records and interview recordings.

13. TXND Allows Public Access to PII Deferring an Incomplete Balancing

TXND held that statutory privacy mandates in FRCP 5.2 were overridden by discretionary common-law public access balancing tests regarding unredacted PII.

14. USCA5 Clerk Errors and Mistakes Cause Procedural Sanctions

USCA5 Clerks have made numerous errors and mistakes which resulted in a procedural quagmire for us which directly impinged on our due process rights to a fair hearing through needless delays but also restricted our right to prepare a proper brief through lack of caption resolution, a single accurate ROA as well as denying length and time relief which was well justified but never properly considered.

VI. Arguments

1. Sovereign Immunity Does Not Apply to USPS

A. Ignored Controlling Statutory Refund Authority

The lower court's adoption of FCR ECF61 rests on a fundamental legal error of treating my claim as if it were a tort suit for generic postal delivery problems.

Congress has explicitly provided that the Postal Service has the power "to sue and be sued in its official name" under 39 USCS 401(1).

Further, while the court quoted from Dolan, and the restriction of the FTCA, 28 USC Chapter 171 (not providing for general losses from late delivery of mail or damaged mail by USPS), Dolan went on to state:

> losses of the type for which immunity is retained under section 2680(b) are

> at least to some degree avoidable or compensable through postal registration and insurance.'...
>
> (allowing indemnity claims for loss or damage of "insured, collect on delivery (COD), registered with postal insurance, or Express Mail"); 39 CFRS 111.1 (2005) (incorporating by reference the Domestic Mail Manual). The same was true when Congress enacted the FTCA in 1946. See 39 USC section 245 (1940 ed. and Supp. V) (setting rates and conditions for mail insurance); 39 USC section 381 (1946 ed.) ("For the greater security of valuable mail matter the Postmaster General may establish a uniform system of registration, and as a part of such system he may provide rules under which the senders or owners of any registered matter shall be indemnified for loss, rifling, or damage thereof in the mails ..."). As Kosak explains, one purpose of the FTCA exceptions was to avoid "extending the coverage of the Act to suits for which adequate remedies were already available," 465 US 858 - an objective consistent with retaining immunity as to claims of mail damage or delay covered by postal registration and insurance.

Here the Supreme Court is saying that the FTCA did not extend to USPS delivery problems (delays or damage) beyond that which was already in place citing 39 USCS 381 (1946 ed.) where Congress authorized the Postmaster General to create special services like Guaranteed Delivery where the customer paid extra for limited indemnification such as refund of purchase price in the case Guaranteed Delivery. The Supreme Court explained that those special services would continue unchanged.

In summary, if a customer has a problem with late delivery or damaged mail they can not seek payments for their damages under the FTCA (as always) but if they paid extra for special services (like Guaranteed Delivery) they can get a refund as promised when they purchased the service (in this case a refund of $26.53)

This statutory language establishes that the Postal Service operates much like a private commercial enterprise and is generally subject to ordinary legal processes.

B. Pre-Approved Administrative Realities Under 39 USCS 401

The crucial point that the District Court failed to address is that my claims do not ask the court to sit as an initial reviewer of a postal mishap. As demonstrated by the record at ECF18-8, the administrative process is already complete: the Postal Service reviewed the transaction, admitted its failure, and formally approved the monetary refund. By withholding payment after declaring the dispute paid, the agency is violating its own governing statutes.

Because the cash was never delivered, I am seeking an alternative, equitable commercial remedy: a credit for future postal services. This remedy falls directly within the broad powers of an appellate court under 28 USCS 2106 to modify or vacate orders to achieve justice. The District Court's total failure to analyze these distinct statutory boundaries and factual admissions requires reversal.

2. The Removal of Mrs. Carr and Mrs. Von Kramer Was Improper

A. TXND Reversibly Erred by Misinterpreting FRCP 11(a)

Rule Used To Strike Plaintiffs

The lower court's structural dismissal of the family counts rests entirely on a severe misapplication of FRCP 11(a). In FCR ECF61, the court altered the controlling text of Rule 11(a)—which mandates that every pleading be signed by "at least one" attorney or by a party personally if unrepresented—to declare instead that *every* single Pro Se party must independently execute a single electronic document file. As detailed in our Rule 60 Motions ECF73 (pg12-13) and further elaborated in

ECF75 (pg6), this mechanical interpretation creates an operational impossibility within the CM/ECF framework. Because shared ECF accounts are strictly prohibited, a consolidated electronic document can physically only be uploaded through the portal of a single individual.

I properly submitted the Amended Complaint ECF29 through my authorized electronic-filing account. Under FRCP Rule 5(d)(3)(C), a filing made through a person's electronic account, paired with their name on a signature block, legally constitutes that person's valid signature. I accompanied this file with an explicit Certification of Electronic Signatures, affirming under penalty of perjury that I had received explicit permission from my wife and her sister to affix their electronic signatures after translating the contents into Thai. This format perfectly tracked the procedural baseline of LR 11.1(d).

Even if the court perceived a lingering technical defect in the electronic format, FRCP 11(a) explicitly commands that a court "must strike an unsigned paper unless the omission is promptly corrected after being called to the... party's attention". The lower court never provided our family with notice or an opportunity to amend. Instead, it bypassed the rule's exclusive remedy—striking the standalone paper—and deployed the unauthorized sanction of permanently expelling two live plaintiffs from the docket, an error we vigorously challenged before the trial court in ECF84-1 (pg60) ECF73 (pg16) and ECF75 (pg6).

B. Pleadings Explicitly Preserved Pro Se Status of All Plaintiffs

The Magistrate Judge manufactured a fictional barrier to entry by asserting that I was acting as an unlicensed attorney attempting to represent the separate legal

interests of my family members. This assertion directly contradicts the plain, qualified language of our pleadings. Paragraph 12 of both the original complaint and the amended complaint explicitly records that "Mrs. Carr is... a Plaintiff appearing Pro Se in this matter". Paragraph 13 identically affirms that "Mrs. Von Kramer is... a Plaintiff appearing Pro Se in this matter".

As argued in ECF73 (pg17) and ECF75 (pg11), the inclusion of the conditional qualifier stating that I would handle clerical tasks and provide coordination "to the degree that it is legally permissible" was explicitly dependent on the court's ultimate permission. It did not override or cancel their unequivocal statements of Pro Se status. Multiple unrepresented individuals who suffer integrated, shared injuries arising from a unified nucleus of administrative overreach have every legal right to pool resources and join together in a single, consolidated complaint, a foundational principle we incorporated into the proposed Second Amended Complaint ECF84-1 and the accompanying index of briefs ECF76.

C. Plaintiffs Promptly and Timely Cured All Perceived Signature Defects

The lower court's refusal to accept our cured physical signatures constitutes a fatal denial of due process. As soon as the court's structural objections were made clear in FCR ECF61, my wife and her sister took immediate, extraordinary measures to satisfy the court's preference for physical ink signatures. My wife completed her formal request to remain in the suit, affixing her original wet signature directly to page 58 of a printed copy of the operative Amended Complaint. This document was formally filed as ECF64.

Coordinating these identical signatures for my sister-in-law, Buakhao, required

traversing immense structural hurdles. She resides in Thailand, possesses extremely limited English literacy, and was forced to navigate complex international mail channels at significant personal expense ($50 / 1,700 Thai Baht), as documented in ECF73 (pg11). Despite these barriers, she successfully executed and returned a wet-ink copy of the complaint's signature page, which was filed on the district docket as ECF66.

Because the underlying lawsuit was initiated collectively with physical signatures on the face of the original complaint ROA3pg28, these subsequent post-judgment submissions completely cured any imaginary defects under FRCP 11(a). This deep record of prompt, explicit corrections was fully brought to the district court's attention in ECF73 (pg11-12) and ECF75 (pg14). By ignoring these filings and declaring in its final order ECF95 that no valid objections or modifications were warranted, the district court committed a plain, reversible error of fact and law.

D. Case Law Protects Spousal Representation, Familial Assistance Court Ignored Prevailing Consent

To justify its sweeping dismissal, the lower court relied on a selective, distorted quotation from *Monroe v. Smith,* 2011 WL 2670094. FCR ECF61 cited *Monroe* for the proposition that a non-attorney husband cannot represent his wife's interests in federal court. However, as we explicitly demonstrated to the trial court in ECF73 (pg18-19) and ECF75 (pg11), the actual record in *Monroe* involved a husband and wife who were physically separated in different state prison facilities and where the wife was given multiple opportunities to join the complaint but declined to do so (according to prison officials). The *Monroe* court explicitly grounded its removal decision on the absolute *absence* of the wife's consent to her husband’s

representation.

The legal union of marriage is a foundational institution that confers reciprocal, constitutional due process rights of mutual assistance and joint advocacy when both spouses explicitly consent. In this civil action, my wife and her sister have consistently, explicitly, and under penalty of perjury requested and authorized my clerical coordination and joint representation (ECF64, ECF66). By transforming a protective doctrine meant to shield non-consenting parties into an aggressive weapon to sever valid family claims, the lower court violated our fundamental due process rights—an overreach thoroughly documented in ECF73, ECF75, and the supporting briefs in ECF76.

3. Court Erred by Failing to Adjudicate Active Joinder Requests of Sons

The lower court's order of dismissal is fatally flawed because it completely omitted any legal analysis or formal ruling regarding the joinder requests of Rujipas Lawichai and Tanapon Lawichai. I formally moved for leave to amend the operative complaint to add these two new family plaintiffs in ECF76.

This motion included their signed authorizations and declarations detailing their direct personal stakes in the litigation. FRCP Rule 15(a)(2) states:

> a party may amend its pleading only with ... the court's leave. The court should freely give leave when justice so requires.

Further, FRCP Rule 20(a)(1) explicitly permits the permissive joinder of plaintiffs if they assert any right to relief jointly or severally arising out of the same transaction, occurrence, or series of transactions.

The violations of lawful statutes and rules as well as constitutional individual rights by USCIS resulted in a more than two year delay in my wife's citizenship. While the court can not directly restore my wife's right to vote for those two years, the delay also prevented her sons from applying for family member immigration visas. There is a queue for such visas and the court can compensate both my wife and her sons by adjusting their queue position.

By failing to provide any reasoned justification for denying their entry into the suit, the lower court violated fundamental requirements of due process in the form of a decision by the adjudicator.

A. Direct, Non-Speculative Injuries From Unlawful Delay of Citizenship

The Magistrate Judge's blanket recommendation to dismiss the entire action on sovereign immunity grounds completely insulated the distinct, actionable injuries suffered by my wife's sons from judicial review. As explicitly detailed in our moving briefs ECF76 (pg16), the sons' injuries are concrete, quantifiable, and directly caused by the violations by USCIS.

USCIS approved Mrs. Carr's citizenship eligibility on January 31, 2023, but refused to issue her physical certification for over two years, in violation of lawful statutory mandates documented in our verified proposed complaint ECF84-1. Because of this specific, unlawful withholding, my wife was prevented from filing her Form I-130 immigration petitions on behalf of her children as a United States citizen.

When she finally obtained her citizenship on February 28, 2025, and filed the

subsequent petitions, her sons were put into a visa allocation queue spanning several years. Had the USCIS complied with their statutory mandates under 8 USCS 1447 in early 2023, the sons' visa applications would have been earlier in the queue. The court was not asked to allocate an immigration visa directly (which would be contrary to lawful statutes) but instead alter the queue position for her sons to where it should have been had USCIS followed its lawful statute mandates. There was also a request for compensatory adjustments to the queue position to address my wife's loss of citizenship for over two years but that would be subject to the judgment of the court as to what is fair and appropriate. The district court erred by refusing to acknowledge it.

B. The Court Effectively Sanctioned a Combat Deployed Soldier

Earth Was Deployed on Combat Assignment And Had Limited Access

The district court's structural rigidness regarding physical signature timing operated as an unconstitutional barrier to entry for *Earth*. As certified on the record in ECF76 (pg23), *Earth* is a member of the Royal Thai Army and was actively deployed on a restricted-access combat assignment during the time when the lower court demanded physical ink signatures on amended papers.

He provided his explicit consent electronically via secure electronic text channels under LR 11.1(d), which I formally filed as an exhibit (ECF71-1) which is a picture of a hand written note in Thai where *Earth* asks to join the matter. *Tin* provided an equivalent signed printed request which is ECF71-6 but both were simply ignored by the court by systematically rejecting all electronic signature verification. That was particularly troublesome for *Earth* while he was physically deployed in a hostile area with restricted logistical capabilities and was a gross

violation of due process. Pro Se litigants cannot be compelled to perform the absolute impossible.

As established in our supporting due process briefs ECF76 (pg6,9), the interests of justice demand that the 14-day local objection windows be liberally modified or automatically extended to accommodate foreign nationals and active military personnel. The district court's total silence on this unique hardship constitutes an abuse of discretion requiring reversal.

4. DoS Not Protected by Sovereign Immunity

DoCNR Challenge Well Founded

A. The APA Waives Immunity for Specific Performance

We Seek Future Service Credits and Lawful Processing

The TXND courts' dismissal of the DoS claim based on a lack of subject-matter jurisdiction constitutes a plain error of law. DoS is not insulated by sovereign immunity from our claims because the Administrative Procedure Act (APA embodied in 5 USCS 551-59) contains an explicit waiver of the federal government's immunity for actions seeking relief other than money damages. Under 5 USCS 702:

> An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States...

In our Motion ECF73 (pg15) and our Verified Reply ECF75 (pg11), our family does not seek a monetary judgment or cash refunds from the public treasury. We

seek an order to compel DoS to provide a fair hearing that complies with statutory requirements.

Our requested relief includes a credit for future services so that future visa applications are processed under a statute-mandated framework without the duplicated payment of fees for services which were never provided in accordance with law. A credit for future services is a form of specific performance, not money damages. The lower court failed to evaluate this controlling statutory waiver which we was fully developed in ECF76.

B. Doctrine of Consular Non-Reviewability Does Not Apply

DoS Claim Different from *Department of State v. Munoz*

To shield DoS from judicial review, the defendants relied on a selective expansion of the Doctrine of Consular Non-Reviewability, a position the district court accepted without independent analysis. This controversial doctrine applies exclusively to the substantive merits of a field consular officer's exercise of discretion to grant or deny a specific visa application. The Supreme Court's ruling in *Munoz* addressed an unrepresented spouse attempting to challenge the underlying national security justification for a visa refusal to **force visa issuance**.

Our lawsuit stands in sharp contrast to *Munoz*. We are not asking the federal courts to compel DoS to issue any visas; indeed, my wife and her sister were ultimately granted non-immigrant visas, as recorded in ECF75 (pg11). Instead, we challenge the unlawful process by which the applications were handled prior to issuance.

Consular interviewers consistently ignored the extensive packets of evidence

prepared under 8 USCS 1201 demonstrating strong ties and an absolute lack of intent to overstay. Interviewers instead fabricated unfounded rules, such as claiming a non-immigrant visa cannot be issued while an immigrant application is pending. Because DoS operates outside of normal administrative oversight, interviews have degenerated into an arbitrary lottery where statutory standards are ignored. Our claims center on the unconstitutional requirement to pay repeated application fees to support these unlawful interviews, a systemic procedural failure completely outside the scope of the *Munoz* decision.

C. Application Fee Injury is Jointly Attributed to USCIS and DoS

Court Erred by Dismissing Inter-Agency Procedural Failures

The lower court committed an error of law by failing to analyze the unique, inter-agency nature of the financial injuries suffered while my wife was stranded in Thailand. As detailed in our proposed Second Amended Complaint ECF84-1 and our supporting briefs in ECF76, my wife was stranded abroad because USCIS unlawfully allowed her continuous lawful permanent resident documentation to expire.

The most efficient method for my wife to return home was to apply a second time for a non-immigrant visa through DoS. Because both agencies actively contributed to this logistical crisis - USCIS through its documentation abandonment and DoS through its arbitrary interview processing - the resulting second application fee is a joint injury.

We brought these explicit claims before the trial court under 28 USCS 1361 to compel both agency heads to perform their statute mandated duties including due process. TXND court's dismissal under a generalized theory of sovereign immunity

without any analysis or due consideration, completely ignored this concrete record, constituting a plain error requiring reversal.

5. USCIS Improperly Left Mrs. Carr Stranded in Thailand

A. USCIS Violated Statutory Mandates, Failed to Adjudicate I-751

The lower court committed a plain error of law by failing to address the explicit timeline violations committed by USCIS under the governing statutes. Under 8 USCS 1186a and 8 CFRS 216.4(b)(1) the agency is required to adjudicate a jointly filed Form I-751 petition within a strict ninety-day window (waiving any interview requirement as necessary) to finalize the 10 year resident status. Instead of executing this mandatory statutory timeline, USCIS allowed my wife's I-751 to linger indefinitely without any formal administrative action.

As thoroughly documented before the trial court in our Second Amended Complaint ECF84-1, this processing breakdown forced my wife to navigate daily life with a highly confusing, multi-page temporary extension letter. This inadequate documentation created extreme inconvenience, rendering her status incomprehensible to employers and transit officials alike. This procedural delay inflicted severe emotional distress upon my wife, who was terrified of being deported without cause or notice, solely due to the agency's failure to follow its own explicit legislated deadlines, a core due process violation fully raised in ECF73 (pg34).

B. USCIS Failed Its Duty to Maintain Valid Travel Papers

The District Court reversibly erred by ignoring the harm caused by the agency's

failure to provide valid LPR documentation. USCIS has a non-discretionary statutory obligation in INA Section 264 (d) which is 8 USCS 1304(d) to ensure that LPRs are provided with valid evidence of their status to provide freedom to work and travel internationally. As we stated in ECF76, USCIS allowed my wife's temporary extension letter to expire while she was physically abroad and failed to issue any follow-up documentation or alternative passport stamp.

This directly resulted in my wife being stranded in Thailand, unable to board a commercial flight home. The lower court's silent dismissal of this logistical crisis constitutes a clear abuse of discretion requiring reversal.

The relief sought is a credit for future services for one half of the expense of the second application for a non immigrant visa. DoS is asked to provide the other half of credits for future services as they improperly denied the original visa application as discussed above.

6. USCIS Improperly Denied Citizenship to Mrs. Carr

A. USCIS Violated Statutory Timelines Approving Citizenship

Falsification of Interview Records Is a Federal Crime

The lower court committed an error of law by failing to analyze the procedural violations committed by USCIS after approving my wife's naturalization as shown in ROA10-5pg177. Under 8 USCS 1447, the agency is bound by strict statutory timelines to finalize citizenship applications once the application is approvededOn 30 Jan 2023, USCIS conducted a joint Form I-751 and Form N-400 interview, formally approving both applications on 31 Jan 2023 in ROA10-5pg177, ECF84-1.

However, instead of scheduling her oath ceremony promptly as required by 8 USCS 1448 and 8 CFR 337.2, generally within a month, the agency delayed for over six months and on 1 Sept 2023, altered the records to state that the completed January interview had been canceled due to unforeseen circumstances, ROA10-6pg178 in ECF73 (pg56). This alteration of government records is a plausible federal crime under 18 USCS 1001 and seems to have had the calculated effect of delaying my wife's citizenship. I raised these explicit timeline and record defects before the trial court in our Motions ECF73 (pg56-57).

B. USCIS Defied Due Process, Scheduled Interview Conflict Refusal to Reschedule an Interview Precluded Fair Hearing

The District Court erred by ignoring the bad-faith scheduling mechanisms that resulted in the formal denial of my wife's citizenship application. After altering her interview records, USCIS issued a notice scheduling a second Form N-400 interview for 11 Oct 2023 ECF84-1 (pg41) after USCIS had been notified that we were leaving for an extended international trip on 10 Oct 2023, ECF84-1.

As detailed in ECF84-1, we made multiple timely requests via telephone and certified written submissions to reschedule the second interview due to our inability to reschedule this complex multi-country visit with new European visas. USCIS flatly refused these requests and subsequently denied her naturalization application on October 14, 2023, ECF10-10, citing a willful "failure to appear" ECF84-1 (pg46). To deny an application for failing to appear when USCIS knew appearance was impossible violates the core due process requirement of a meaningful opportunity to be heard. The lower court's failure to review this structural defect requires reversal.

As my wife later submitted a new N-400 application for citizenship and received her Naturalization Certificate on 28 Feb 2025 ECF84-1 pg48 (more than two years after her original approval), we are seeking relief of a credit for future services with USCIS for the second application fee as well as the modified queue position for her sons' immigration visas as described above.

7. IRS Violations of Due Process and Statutory Mandates

A. The IRS Issued Seizure Notices While an Appeal Was Active

Collections Continued Despite Pending Administrative Appeal

The lower court committed an error of law by failing to analyze the procedural violations committed by the IRS during its collection actions. On 3 Sep 2024, I submitted a Form 2210 and an appeal letter to contest an unfounded penalty notice regarding our 2023 estimated taxes, paying the correctly computed penalty of $340.81 ECF84-1 (pg59). On 10 Oct 2024, the IRS formally notified us that our appeal was forwarded to the Appeals unit ECF67-15, ECF84-1 (pg60).

Despite this active administrative review, the IRS issued a CP504 Final Notice on 11 Nov 2024, ECF67-16, demanding immediate payment under threat of property levy ECF84-1. Advancing collection actions while an independent appeal is pending violates under 26 USCS 6330(e) along with principles of procedural due process. Although IRS Appeals subsequently remanded the matter on 18 Nov 2024 because the agency failed to justify the penalty ECF84-1 (pg61), the collection branch ignored the remand. I raised these explicit due process deficiencies before the trial court in ECF84-1 (pg62).

B. The Agency Disregarded the Mandated 30-Day Seizure Notice

Immediate Threat of Levy Extorted Compliance Under Coercion

The District Court erred by ignoring the explicit statutory notice violations committed by the IRS. Under 26 USCS 6331, the IRS is legally prohibited from seizing property or issuing a levy unless it provides the taxpayer with a mandatory 30-day notice period. The CP504 notice issued on 11 Nov 2024, ECF67-16, completely omitted this statutory window, demanding immediate payment to avert the seizure of our home, vehicle, and joint business accounts ECF84-1 (pg67). This statutory omission forced our family to immediately pay the disputed $753.70 under direct administrative duress to protect our personal and business assets ECF84-1 (pg61).

On 18 Feb 2025, the IRS finally admitted that our original 3 Sep 2024 calculation of $340.81 was correct and subsequently sent a refund check ECF84-1 (pg64). However, the agency issued this refund without any explanation, calculation, or accounting for our ongoing appeal, effectively abandoning the review process once its error was exposed and ignoring our appeal request for a refund of about $341 due to extenuating circumstances. The lower court erred by shielding this non-compliant administrative process from judicial review.

C. Mandamus Is Required to Compel Lawful IRS Processing

Specific Performance Sought to Correct Systemic Due Process Failures

The TXND court's summary dismissal of the IRS count without any specific mention of the IRS or the issues presented is a clear appearance of bias and undermines the due process requirement of a fair hearing. Even under a generalized theory of sovereign immunity our arguments and requested remedies

should have a fair consideration. Because we seek specific performance and regularized administrative corrections rather than money damages (instead a credit for future taxes due), our claims fall within the clear waiver of 5 USCS 702. As detailed in our proposed complaint, the IRS appeals and collections infrastructure is systemically broken, relying on intimidation to collect un-owed penalties while systematically burying valid appeals ECF84-1 (pg62-64).

We seek specific mandamus performance under 28 USCS 1361 to compel the IRS to provide clear, accessible computation tools for taxpayers with uneven annualized income ECF84-1 (pg64). Furthermore, we seek an order requiring the agency to grant automatic abeyance of penalties for first-time violations when requested, until proper estimation tools are deployed. Finally, we seek full specific performance to ensure the recovery of all residual administrative costs and minor damages directly caused by the agency's non-compliant notices, a record fully preserved across our moving papers in ECF84-1.

8. IGs and DoJ Have Joint Mandate Against Criminal Violations

IGs Must Report Federal Crimes, DoJ Must Prevent Future Crimes

None of the IG, CIGIE, or DoJ claims were addressed specifically by the court. However, the proposed complaint ECF84-1, had specific counts which addressed each claim as well as supporting briefs. Rather than repeating these same arguments which were before the court, we will simply cite the arguments presented to the court and summarize the essential points of each argument.

A. USPS IG Colluded with USPS to Perpetuate Criminal Violations

Complaint ECF84-1 explicitly incorporated ECF75-2 a Verified Brief defending Count 1 and Count 2 against USPS and USPS OIG and ECF67-3 a Verified Brief

addressing Sovereign Immunity and Executive Discretion. It also refers to ECF75-7 a Verified Brief discussing the role IG's and the DoJ in enforcing lawful statutes and the Constitution. These briefs made it clear that falsifying delivery times were indeed federal crimes and, as such, must be reported to DoJ. Executive discretion and sovereign Immunity do not extend to violating federal criminal statutes or ignoring clear and specific lawful federal statutes. Exhibits cited include ROA11-3pg193 challenging failure to report to DoJ systemic falsified delivery times and USPS IG response ROA10-1pg170 claiming USPS IG can determine whether falsified delivery times should be prosecuted.

B. DoS IG Must Report Falsified Government Records to DoJ

Complaint ECF84-1 goes on to explicitly incorporate ECF75-8 (Verified Brief defending Counts 3, 4, and 5 against DoS and DoS OIG), ECF75-5 (Verified Brief on the Right to Representation), ECF71-8 (Verified Brief concerning Pro Se Representation nuances), and ECF75-6 (an extensive challenge to the Doctrine of Consular Non-Reviewability).

As the DoS interviewers fabricated reasons for denying the visa applications in the video / audio record, these records contradicted the written denial form. When two or more records explicitly contradict each other one or more must be false. These common falsifications of government records are a de facto crime and must be reported to DoJ (but were not). In ROA10-4pg174 DoS confirms that one specific reason for denying the visa (can not have pending immigration visa) was false.

C. DHS OIG Failed to Report Known Falsifications

Complaint ECF84-1 refers explicitly to the Verified Brief supporting the DoS and DHS OIG Counts, ECF75-8, which demonstrates that DHS OIG was notified of

falsified records and other serious irregularities and, apparently, did not notify DoJ of these problems. Instead DHS OIG apparently insulated USCIS from corrective actions to prevent such violations in the future.

D. TIGTA Did Not Report False IRS Notices and Other Violations

Complaint ECF84-1 also refers explicitly to the Verified Brief supporting the IRS and TIGTA Counts, ECF76-5, which demonstrates that TIGTA was notified of false IRS Notices and other serious irregularities and, apparently, did not notify DoJ of these problems. Instead TIGTA apparently insulated the IRS from corrective actions to prevent such violations in the future.

E. CIGIE Deflected Inter-Agency Administrative Malfeasance

Complaint ECF84-1 also refers explicitly to the Verified Brief supporting the CIGIE and DoJ counts, ECF73-3. It also refers to the correspondence where the USPS Board of Governors attempted to shift investigative accountability for falsified delivery records over to CIGIE in ROA10-2pg172 and ROA10-3pg173.

F. Department of Justice Abdicated Non-Discretionary Prevention Duties

Complaint ECF84-1 also refers explicitly to the Verified Brief supporting the CIGIE and DoJ counts, ECF73-3. It also reaffirms that the Department of Justice possessed an explicit, non-discretionary constitutional duty to coordinate with reporting IGs to prevent ongoing federal crimes and protect individual constitutional rights. The core jurisdictional briefing establishing these bounds against the DoJ is located at ECF67-3 which was previously referred to concerning Sovereign Immunity and Executive Discretion.

9. Abuse of Discretion, Unsupported / Unanalyzed Denial of Sanctions

A. The District Court's Declining Decision

The District Court systematically insulated the Defendants' misconduct from judicial review by issuing a blanket denial completely devoid of factual analysis or legal scaffolding. In its order ECF59, the court stated:

> The Court does not find Defendants' conduct sanctionable and declines to issue sanctions under its inherent authority. Similarly, the Court declines to issue sanctions under Texas Disciplinary Rule of Professional Conduct 4.01 for false statements or Local Rule 83.3(b)(3) for unethical behavior.

B. Failure to Evaluate Merits Constitutes an Abuse of Discretion

The trial court's reliance on a brief, unreasoned summary to dismiss serious charges of administrative misconduct - such as the submission of false statements and legally baseless arguments - constitutes a clear abuse of discretion under established Fifth Circuit protocols.

- **Categorical Oversight Omission**: The court altered the phrasing of our moving papers from "legal and factual issues" to "legal and factual inaccuracies", shirked its underlying responsibility to evaluate the record, and altogether failed to differentiate between benign typographical errors and intentional, material misrepresentations designed to mislead the tribunal.

- **Disregard of FRCP 11(c)(2) Mandates**: FRCP 11(c)(2) motions were explicitly codified by the Supreme Court to reduce the traditional reluctance of lower courts to enforce sanctions and ensure proper baseline briefing rather than leaving enforcement entirely to unguided judicial whim. *Tollett v. City of Kemah*, 285 F.3d 357, 363 (5th Cir. 2002) states:

  > An abuse of discretion occurs where the "ruling is based on an erroneous view of the law or on a clearly erroneous assessment of the evidence”

- **The Evidentiary Default**: By failing to address the underlying merits of the first Motion for Sanctions (ECF79), the court essentially excused the fact that the former defense counsel did not file an individual response to defend their actions, treating the underlying behavior as completely unreviewable.

The total failure to apply standard legal criteria or execute a searching review of the record cannot be shielded behind a claim of absolute judicial discretion.

10. Abuse of Discretion in Denying Recusal

A. The District Court's Verbatim Disposition

The District Court summarily brushed aside our motion to recuse under 28 USCS 455(a), using a boilerplate standard to conclude without individual evaluation:

> Here, Plaintiff's allegations of 'collaboration' are wholly unfounded. And the mere fact of any ruling adverse to Plaintiff is simply insufficient to establish bias. The District Judge should find that Plaintiff is not entitled to relief under Rule 59(e) and DENY his motion (ECF No. 67).

B. Standard of Law under 28 USCS 455(a)

The statutory threshold for judicial disqualification is an objective one. Under established 28 USCS 455(a), a judge:

> shall disqualify [themselves] in any proceeding in which '[their] impartiality might be reasonably questioned.' The core test mandates recusal if a reasonable person, knowing all the underlying circumstances, would harbor genuine doubts regarding the court's complete impartiality.

C. Appearance of Bias via Unreasonable Procedural Deference

We argue that the court's continuous pattern of total deference to the Government, paired with its failure to enforce basic procedural requirements, establishes a clear appearance of bias:

- **Systemic Disregard of Mandatory Rules**: The court repeatedly accepted untimely filings from the Government without requiring a showing of good cause, while simultaneously holding pro se plaintiffs to hyper-technical, unprominent rules to strip away co-plaintiffs from the action.

- **Concealment of Material Facts**: The court's findings systematically omitted key facts regarding administrative failures across USCIS, USPS, and the DoS. Choosing to completely ignore explicit causes of action (such as FOIA non-compliance) rather than evaluating their merits moves the needle from standard courtroom administration to an appearance of deep-seated favoritism.

- **Premature Adoption of Orders**: The court accepted the Magistrate Judge's FCR before the statutory 14-day window for filing objections had run for all served parties. Rushing to adopt a dismissal order while plaintiffs are actively compiling verified objections creates an objective appearance of collusion to terminate the litigation prematurely.

When a court repeatedly misapplies clear statutory boundaries to shelter government defendants from answering for electronic record falsifications, a detached observer cannot maintain confidence in the court's neutrality.

VII. Arguments Expanding on Previous References

1. USCIS Denials for Failure to Appear Without Timely Notice

In the Proposed Complaint ECF84-1 there is a challenge to USCIS and denial of applications for 'failure to appear' when there seems to have been systemic failure to provide timely notice in pg41pr210. The exhibit cited ECF16-1 is garbled in both ROAs but the systemic failure to provide timely notice before denials has potentially far reaching consequences where thousands of deportees may need be repatriated as they were denied due process (no timely notice).

ECF84-1 relied on ECF76-2 to fully elaborate on the elements of the claims against USCIS and referred to:

1. INA 337 which is 8 USCS 1448
2. 8 CFR 337.2
3. INA 264 which is 8 USCS 1304
4. 5 USCS 552(a)(4)(B)
5. 8 CFR 216.4(b)(1)
6. 18 USCS 1001
7. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)
8. 19th Amendment
9. 8 CFR Part 1292.1
10. 8 USCS 1103
11. 8 USCS 1362
12. *Department of State v. Munoz* (S. Ct. 2024)
13. *Faretta v. California*, 422 U.S. 806 (1975)
14. *Iannaccone v. Law*, 142 F.3d 553 (2d Cir. 1998)

2. Due Process Requires Access to Evidence Considered

Both USCIS and DOS Refused FOIA Requests For Evidence

A. USCIS Falsely Claimed That There Were Only Two Records

When we requested all the records which were relied in the improper denial on October 14, 2023, ECF10-10, only two records were returned. It was improper for USCIS to arbitrarily deny us access to the records we required to contest the improper denial. The court simply ignored all FOIA which were uniformly denied by most agencies contrary to law. It was within the court's jurisdiction to

authorize the release of the requested documents but the TXND court simply ignored all FOIA requests where we asked the court for assistance.

ECF84-1pg49pr237 states:

> this is a violation of the applicant's due process right to have access to the evidence against the applicant. Mr. Carr had requested access to every record which the tribunal relied on to deny the N-400 application, but was denied access to all such records. It is also possible that the claim that there were only two responsive documents was a federal crime of falsifying government records as it is clear that more records were requested and there was no justification for withholding the other documents.

B. DoS Refuses to Provide Evidence Considered in Denials

DoS relies on an obviously incorrect reading of INA Section 222(f) which is 8 USCS 1202(f) to deny applicants access to any of DoS evidence even though INA Section 222(f) allows access for administrative purposes (such as complying with due process). Even the much more stringent requirements of the Classified Information Procedures Act (CIPA) or 18A USCS 3 which provides uniform procedures for prosecutions involving classified information has been found to support due process.

In Kiareldeen v. Reno 71 F.Supp.2d 402 (D.N.J. 2000), the court ruled in favor of an immigrant applicant facing deportation. The government must decide to either give the individual access to the classified information or to not rely on the information in their prosecution, e.g. disclose the identity of a confidential informant (such as a disgruntled ex-spouse) and subject them to cross examination or forego using the evidence altogether.

The result is DoS must restrict visa application interviewers to just the information

provided by the applicant or open their files to the applicant before the interview.

3. Issues of Law Raised by the Denial of Motion to Strike ECF97

A. TXND Held USCA5 Balancing of Public Access Overrides PII Rules

In ECF98 the TXND court denied our Motion to Strike ECF97 which was based on the simple text of FRCP 5.2. Years ago I had accidentally left unredacted PII in two exhibits and sought (and am seeking) to have the two documents (ECF20-1 and ECF67-13) sealed / stricken as there are properly redacted replacement documents (ECF24-1 and ECF69-1).

In ECF98 TXND stated:

> To the extent Plaintiff seeks to shield records from public view, he has not satisfied the standard for sealing materials filed with the Court. See *Le v. Exeter Financial Corp.*, 990 F.3d 410 (5th Cir. 2021); see also June Medical Services, L.L.C. v. Phillips, 22 F.4th 512 (5th Cir. 2022). To seal materials filed with the Court, Plaintiff must file a motion that: (1) clearly identify what information is to be sealed (e.g., page number, lines, etc.) as to each document; (2) brief why the risks of disclosure outweigh the public's common law right of access as to each document; and (3) demonstrate why no other viable alternative to sealing exists as to each document. He must also provide a proposed public version of each document.

Oddly enough, TXND had found that the USCA5 general guidance on sealing documents requires that I justify the privacy rights embodied FRCP 5.2 in each case and balance them against the public's rights to access. In ECF100 Objections I argued that Congress and the Supreme Court had already done that balance and the resulting Rule FRCP 5.2 embodies the result.

I argued that is not necessary for each party and judge to struggle with that

question of balance for PII which strictly conforms with FRCP 5.2, in this case redacting the full birth date to just the birth year and redacting Social Security Number to just the last four digits.

Indeed in ECF20-1 I also redacted my wife's Alien Number as recommended by USCIS but that goes beyond FRCP 5.2. USCIS and DoJ could ask that that I provide an exhibit that does not redact that information, but that is unlikely as USCIS provided the ID card with that number and recommended that the number be redacted in all legal filings and external correspondence. With Alien Numbers the USCA5 policy would require balancing public access with individual privacy but I imagine that USCIS recommendations would control.

Surprisingly, in ECF102 Order Upholding Denial of Motion to Strike, the TXND court confirmed the previous court finding that USCA5 guidance on balancing public access with individual privacy controls over FRCP 5.2 with:

> the Court finds that the rulings by the Magistrate Judge were neither clearly erroneous nor contrary to law. FED. R. Crv. P. 72(a); 28 U.S.C. section 636(b)(1)(A). Therefore, the Court OVERRULES the Objection and AFFIRMS the Order.

citing FRCP 72(a) and 28 USCS 636(b)(1)(A) though the TXND court did imply that it might seal the documents at some future date with:

> However, based on the information included in the Objection, the Court ORDERS Plaintiffs to file redacted versions of the challenged documents. See ECF Nos. 20-1, 67-13. The Court further ORDERS the Clerk of the Court to seal the unredacted versions of ECF Nos. 20-1 and 67-13 pending further order of the Court.[3]

3 It appears the TXND did not properly review the record of sealing documents as properly redacted replacement documents (ECF24-1 and ECF69-1) were already provided with the motions to seal ECF24 and ECF69.

USCA5 is asked to direct the TXND court to decide ECF101 Motion for Process Improvements and also explicitly Order the striking of ECF20-1 and ECF67-13. Further, the USCA5 court is asked to direct the TXND clerks to supplement the ROA with these recent TXND ECF entries once the TXND court has resolved these pending matters.

B. Statutory FRCP Overrides Discretionary Public Access Guidance

It is surprising that there could be any question over which authority controls, but that is the case in this matter. The supplemental ROA requested will allow us to present our compelling arguments included herein in our Appeal Brief to the merits panel.

The lower court's insistence on applying a common-law public-access balancing test to electronic records with PII creates a direct conflict with mandatory federal privacy rules. Under FRCP 5.2 and FRAP 25(a)(5), Congress has issued an absolute command to shield sensitive personal identifying information (PII) from public access. A lower court judge lacks the legal discretion to use USCA5 balancing guidance to override these explicit statutory privacy rules.

The federal rules enacted under the Rules Enabling Act, 28 USCS 2072, possess the full force of statutory law and completely bind the administrative choices of the clerk and the judge. When a strict rule dictates that a social security number or exact birth date must be truncated to protect a citizen from identity theft, the court has a mandatory duty to enforce that restriction. The district court erred as a matter of law by treating these clear privacy mandates as optional factors to be weighed against general public interest.

The merits panel must firmly establish that direct federal privacy protections control over discretionary public access guidelines. USCA5 must establish that individual judges can not simply ignore clear and specific statutes and the resulting rules. By declaring that the statutory commands of the federal rules are absolute, this court will restore procedural uniformity and protect the operational integrity of our electronic dockets.

4. USCA5 Clerk Errors Cause Deprivation of Due Process

A. Initial Clerk Caption Updates Improper, Delayed Resolution

There were several errors by the clerks which brought us to this impasse. The first and most obvious was the deletion of my wife and her sister from the caption in the Rule 12 Letter (without proper notice in this case and never included in the docket with 5CC6 of 26 Jan 2026).

Each of the parties listed in the ROA have the right to be heard on issues of great importance to them, but were precluded from directly participating until the caption was corrected. The request for correction was delayed until motion 5CC25 on 7 May 2026 (partially due to the lack of proper notice) and mishandling of 5CC25 by the clerks delayed the resolution of the caption issues until Order 5CC85-1 17 Sep 2026 when the matter was improperly restricted from new arguments.

How can the new parties present their legal questions and arguments when new arguments are precluded? However, this ban from presenting their unique arguments violates their due process rights to a fair hearing.

While it is theoretically possible for me to argue that my wife, her sons, and her sister should have been included in the Appeal and represent their claims, unless they are listed in the caption, they can not file their own individual briefs. Within the time and length constraints there just isn't time or space / length to properly present each of individual claims.

There could be a great savings of time and length (as well as judicial efficiency) if the overlapping claims were discussed together where the duty to perform are common along with the failure to perform but the individual injuries are set out separately. However, this would require a joint brief. Given the number of defendants (originally 9, now 11) it could well be impossible to adequately state each of the combinations of claims within the normal length and time constraints.

As such the time and length relief sought must be resolved before we can present a joint brief covering each of us.

B. Clerk Errors Led To Dismissal, Delayed Resolution of Issues

There were several later errors by the clerks which brought us to this impasse. In this matter there were only four original motions, 5CC13, 5CC25, 5CC26, and 5CC32. However through clerk errors 13 additional motions were required (4 of which were just needless redocketing of an existing motion by the clerks). Several motions were denied without any procedural or rule justification and the appeal was dismissed (5CC33-1) in violation of 5CCLR 42.3.1.2 which restricts the clerk to provide explicit 15 day notice for 'Appeals without Counsel' before dismissal and no such notice was provided.

Indeed, had the clerks instead just referred the four original motions for judicial review instead of:

1. the redocketing and non procedural denials as well as
2. generating a second ROA without authorization and
3. dismissing the appeal in 5CC33-1

There could have instead been a judicial decision resolving all the pending issues and setting a reasonable due process schedule in Jun 2026.

There is an affirmed statement 5CC74-2 which describes the early relevant motions and their relationship to each other. Further, 5CC74-2 shows that procedural process failures were the likely source of most of the confusion which resulted including the substantial rework to correct past mistakes.

C. Duplicate ROAs And Local Rules Prevents Fair Hearing

Perhaps the most serious clerk error was by the TXND Appeals Clerk and may well have been influenced by the directions of TXND Magistrate Rutherford with the creation of a likely unauthorized ROA with different pagination.

Appeal briefs must only address legal issues which were before the trial court. However with duplicate ROAs with different pagination and each with there own errors (neither is correct and accurate) we can not reliably cite either ROA as required by 5CCLR 28.2.2 which states:

> Record References. Every assertion in briefs regarding matter in the record must be supported by a reference to the page number of the original record, whether in paper or electronic form, where the matter is found using the record citation form as directed by the Clerk of Court

Our entire appeal could be rejected by the merits panel based on the lack of citations to the correct ROA.

D. Recent Clerk Errors Magnified Unwarranted Procedural Sanctions

a. Unauthorized Clerk Mooting of 5CC47 without Judicial Order

In a most unusual docket update the clerk seems to have made a judicial decision contrary to the actual Order 5CC58 which made no references to a motion to correct USCA5 procedural processes so that we would not be penalized in the future with incorrect length constraints in Motion 5CC47. The actual order 5CC58 made no mention of mooting anything.

b. Clerk Seals Active Motions to Prevent Judicial Review, Public Access

In Motion 5CC77-1 it is described how the case management clerk successfully hid from judicial review motion 5CC45-1 which was the critical active motion to correct the duplicate ROA after she was notified via email (see 5CC62) that our appeal preparations were blocked by this error. She did this my falsely marking 5CC44 and 5CC45-1 as withdrawn even though she had been informed that they were not withdrawn and were essential motions for judicial review, demonstrating timely preservation of the original motions seeking relief.

Another unfortunate effect of this false docket update was that these documents were and are blocked from public access as described 5CC77-1.

c. Court Defers Corrections of Docket and Duplicate ROA to Merits Panel

In 5CC61 we asked the court to correct these false docket entries but in Order 5CC70-1 a single judge deferred the correction to the merits panel with:

> IT IS ORDERED that Appellant's motion for reconsideration of withdrawals and extraordinary relief that said motion be treated as a motion for judicial notice is carried with the case.

Indeed that is why this relief is included herein so that we can heard on these issues. In particular we are objecting to the court allowing these two critical motions being barred from public access without any court order. Indeed, our understanding of USCA5 policy with respect to public access is that without a court order all improperly sealed documents must be immediately unsealed.

Further, 5CC61 had the effect of deferring the duplicate ROA (with different pagination) issue to the merits panel, a stage we can not reliably get to with a duplicate ROA (no way to reliably refer to the record so that any brief we submit can stricken for non compliance with 5CCLR 28.2.2).

VIII. Conclusion and Prayer for Relief

For the reasons set forth above, I respectfully request that this Court:

1. Order that we be granted explicit leave to file a full, comprehensive Supplemental Opening Brief within thirty (30) days of a final order resolving my pending motions regarding time and length relief (5CC27-1) and record legibility (5CC26 and 5CC32),
2. Grant us the relief sought in Motion 5CC47 (standard procedural motions and notices) for length violations and possibly extend the corrected processes to all USCA5 parties,
3. Grant us the relief sought in motion ECF101 to insure prompt and correct processing of PII corrections and possibly extend the correction to all USCA5 parties as well as all parties to US District Courts within the Fifth Circuit,

4. Order the explicit sealing of ECF20-1 and ECF67-13,
5. Order the unsealing (no longer restricted as withdrawn) of 5CC44 and 5CC45-1,
6. Vacate the TXND orders at ECF62, ECF63, and ECF95,
7. Recuse the previous TXND judges in this matter,
8. Grant the plaintiffs in this matter:
   a) all FOIA requests,
   b) all credits for future services requests,
   c) the declaratory judgment for Mrs. Von Kramer and her lawful presence status with SSA (see ECF84-1pg70rlf15), and
   d) all visa queue assignment adjustments requested (see ECF84-1 pg71-72rlf20-23),
9. Sanction Mr. Padis and AUSA Parker as appropriate. We might suggest 2,000 hours of community service divided with ¾ (1,500) for Mr. Padis and the remaining 500 for AUSA Parker based on their contribution to damages which resulted. We also suggest that the false statements in government emails be referred to the appropriate agency. While prosecution seems unlikely it is possible that they were each influenced by illegal orders in which case reduced penalties (including less community service) could be allowed for testimony as it is more relevant to prevent future transgressions than punishing victims of illegal orders,
10. Remand this matter to TXND with instructions to reinstate all claims for further adjudication after the FOIA requests are resolved and discovery is completed (to determine whether any aspects warrant adjustment to class action status), and
11. Such other and further relief as the court deems proper and in the interest of

justice.

Verification of Appeal Brief

I, the undersigned appellant, hereby affirm under penalty of perjury in both the United States and Thailand that:

1. I have reviewed the above motion and certifications below and believe all of the statements to be true to the best of my knowledge.

2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered to remove sensitive personal information according to normal redaction procedures.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 1 Oct 2026
Location: Irving, TX

Other Signatories

/s *Air Carr*

_____

Rueangrong Carr
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Date: 19 Aug 2025

/s *Buakhao Von Kramer*

_____

Buakhao Von Kramer
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Date: 20 Aug 2025
Location: Bangkok, Thailand

Location: Irving, TX

/s Rujipas Lawichai

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Location: Phuket, Thailand

/s Tanapon Lawichai

Tanapon Lawichai
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Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 21 Apr 2026
Location: Lopburi, Thailand

Certificate of Counsel / Pro Se Party

The undersigned hereby certifies under penalty of perjury:

1. Certificate Of Interested Persons

The following listed persons and entities as described in 5CCLR 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

1. Brian P. Carr, Appellant
2. Rueangrong Carr, Appellant
3. Buakhao Von Kramer, Appellant
4. Tanapon Lawichai, potential Appellant
5. Rujipas Lawichai, potential Appellant
6. United States of America, et al., Appellees
7. Tami C. Parker, Counsel for Appellees with appealed motion for Sanctions, potential Appellee
8. George Monroe Padis, previous Counsel for Appellees with appealed motion for Sanctions, potential Appellee
9. TXDN Magistrate Rebecca Ann Rutherford with misconduct complaint and motion to recuse, potential Appellee
10. TXDN Judge Karen Gren Scholer with misconduct complaint and motion to

recuse, potential Appellee

2. FRAP 32(g)(1) Length Certificate of Compliance

This appeal brief complies with the type-volume limitation of FRAP 32(a)(7)(B)(i) because, excluding the parts of the document exempted by FRAP 32(f), this document contains 12,364 words (which is less than the nominal 13,000 words for an appellant brief), as determined by LibreOffice Writer word processing software[4].

3. FRAP 32(a)(5) Typeface Compliance

This document complies with the typeface requirement of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6) because this document has been prepared in a proportionally spaced typeface using LibreOffice Writer using Times New Roman (14-point).

4. Certification Of Electronic Signatures

In accordance with 5CCLR 25.2.10 which states:

> 25.2.10 Signatures… Documents which require more than one party's signature must be filed electronically by... showing the consent of the other parties on the document; or any other manner approved by the court.

I hereby certify that I did indeed receive the consent of the other parties to include their signatures on this document.

5. FRAP 25(b) Service

On the recorded date of this document, I electronically submitted the foregoing document with the clerk of 5th Circuit United States Court Of Appeals using the electronic case filing system (ECF) of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter are enrolled in the court's electronic case filing (and service) system.

/s *Brian P. Carr*

4 LibreOffice Writer counted words in the selected section which was everything after the 'Statement Regarding Oral Argument' to the signature block. The certified word count was accurate on 1 Oct 2026 at 4PM.

Brian P. Carr
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Date: 1 Oct 2026

Location: Irving, TX

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