**In the United States Court Of Appeals, 5th Circuit**

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|---|---|
| Brian P. Carr,<br>Rueangrong Carr,<br>Buakhao Von Kramer,<br>Rujipas Lawichai, and<br>Tanapon Lawichai<br>Appellants<br>versus<br>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; Internal Revenue Service; Treasury Inspector General for Tax Administration; Tami C. Parker; and George M. Padis<br>Appellees | Case No. **26-10025**<br><br>Verified Motion for Judicial Review of Clerk Action under 5CCLR 27.2 and Motion to Compel Docketing and Expedite Decision<br><br>Certificate of Conference – OPPOSED |

U.S. COURT OF APPEALS
RECEIVED
Nov 10, 2026
FIFTH CIRCUIT

# Verified Motion for Judicial Review of Clerk Action under 5CCLR 27.2 and Motion to Compel Docketing and Expedite Decision

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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

**Abbreviation: Full Name or Phrase**

AUSA: Assistant United States Attorney

CFR: Code of Federal Regulations

CIGIE: Council of the Inspectors General on Integrity and Efficiency

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

DHS: Department of Homeland Security

DoJ: Department of Justice

DoS: Department of State

FRAP: Federal Rules of Appellate Procedure

FRCP: Federal Rules of Civil Procedure

IG: Inspector General

IRS: Internal Revenue Service

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

TXNDLR: TXND Local Rules

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

**Abbreviation: Full Name or Phrase**

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

USCIS: United States Citizenship and Immigration Services

**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.<br><br>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.<br><br>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.<br><br>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.

**Hyperlinks Included For Existing Records and Exhibits**

**Exhibits Not Repeated in Every Motion, Hyperlinks Offer Better Access**

While it is customary in this court for every motion to have an exhibit for each referenced document, we have chosen not to clutter the court's record with multiple copies of the same exhibits. If an exhibit is already in TXND ECF we instead simple cite ECFxxx to accurately describe the document referred to and provide easy access to a copy of the document, e.g. ECF10-5 has link to an important exhibit which was provided previously.

If an adjudicator, opposing counsel, or a member of the public wishes to inspect a referenced docket entry, they can click the blue hyperlink to open the file and later easily return to the text of our argument.

## I. Introduction

Pursuant to 5CCLR 27.2 and FRAP 27(c), we respectfully move for judicial review by a circuit judge or panel of the administrative action taken in Clerk's Memo 5CC114-9 of 9 Nov 2026. We further move to compel formal docketing and distribution of our Emergency Petition for Rehearing En Banc (5CC112-1), and request that consideration of this motion be expedited prior to 18 Nov 2026.

## II. Background of the Administrative Action Under Review

### 1. Emergency Petition for Rehearing En Banc (5CC112-1)

On 06 Nov 2026, we filed an Emergency Petition for Rehearing En Banc (5CC112-1) along with supporting affirmed statements and exhibits (5CC112-2 through 5CC112-11, and 5CC113-1 through 5CC113-4). The petition sought en banc review to address structural due process breakdowns, including uncorrected duplicate Records on Appeal (ROAs) with conflicting page numbers, and requested a unified ROA with a clean, non-extendable briefing schedule.

**Final 4 Exhibits Delayed Through Filing Mistake**

When I filed the Petition 5CC112-1 there were 15 exhibits intended to be filed with the petition, but through a mistake I omitted the last four. The next day on 7 Nov 2026 I filed a 'Notice of Filing Addendum and Submission of Omitted Exhibits' which is attached to this motion as Exhibit 1.

I used the recommended AI filing method which identified the document as a Notice of Addendum to Brief (which was ambiguous as there are many briefs in this matter). I was not permitted to adjust the docket text. I expected that the actual text of Notice would be sufficient as it stated:

> I hereby give notice of the filing of this Addendum to our Emergency Petition for Rehearing En Banc, submitted on 06 Nov 2026 (5CC112-1). Due to an administrative oversight during electronic submission, the underlying panel order and supporting exhibits were inadvertently omitted from the initial filing package. Appellants submit the following documents to complete the official record for review:

followed by descriptions of the four exhibits 5CC113-1 through 5CC113-4.

If it was found that the term 'brief' was too ambiguous. the notice text would clearly resolve any confusion. Oddly enough, the Notice itself was not filed with the exhibits (and so is attached as an exhibit).

## 2. Clerk's Memo 5CC114-9 Defers Petition, No Action Taken

### A. Memo 5CC114-9 Threatens Revocation of Electronic Filing

On 09 Nov 2026, the Clerk's Office issued a memorandum (5CC114-9) stating that "No Action" would be taken on the petition. This is the primary clerk action that we are objecting to.

The memorandum asserted that rehearing en banc is strictly a post-opinion mechanism and warned that further procedural filings could lead to the revocation of electronic filing privileges.

Clerk's Memo 5CC114-9 states:

> We received your petition for rehearing en banc with exhibits. A rehearing en banc is a post-opinion motion, and reconsideration of the court decisions mentioned has already been requested and denied. We are taking no action on this motion.
>
> Appellants are warned that excessive, duplicative, or repeatedly incorrect filings may result in the removal of electronic filing privileges. Appellants are expected to file documents in accordance with Fifth Circuit procedures and the Federal Rules of Appellate Procedure. This includes choosing the proper reliefs for all motions.

### 3. Clerk Memo's 5CC115-2 Ignores Added Exhibits

Clerk Memo 5CC115-2 states:

> The accompanying documents were filed as an addendum to the brief, but they are a notice of docket activity, two PDFs of 5th Circuit docket sheets, and a copy of an order entered 10/1/2026. We are unable to determine the relief you are seeking with this filing.

This was confusing as the 'Notice of Filing Addendum and Submission of Omitted Exhibits' of 7 Nov 2026 (Exhibit 1) was quite clear that they were addendums for the Petition 5CC112-1. However, the correction remains the same. Associate the exhibits with the Petition 5CC112-1,

### 4. Clerk Order 5CC117 Revokes Electronic Filing Privileges

The day after the warning that additional motions could cause 'the revocation of electronic filing privileges' in 5CC114-9, with Clerk's Memo 5CC117, those same privileges were revoked without any intervening filing.

Clerk Order 5CC117 states:

> As a non-incarcerated pro se litigant in this appeal, you have been GRANTED Filing User status, allowing you to file documents electronically. During the course of the litigation, you have abused the system by failure to comply with the electronic rules and standards. This type of abuse reduces the efficiency of the court's electronic filing system and justifies termination of the privilege of Filing User status.
>
> Therefore, pursuant to 5th Cir. R. 25.2.3, your status as a Filing User is terminated as of the date of this order. All future filings and service on other parties must be by paper copy or through the pro se email address provided by this court, and in accordance with the provisions of the Federal Rules of

> Appellate Procedure.

Referring to 5CCLR 25.2.3 which states:

> Non-incarcerated pro se litigants granted Filing User status under Rule 25.2.1 will have Filing User status terminated as prescribed by the clerk, generally at the termination of the case

While it is true that the rule states 'terminated as prescribed by the clerk' the warning immediately followed by termination gives the appearance of retaliation for complaining about previous clerk errors and mistakes in the prior denied motions.

## III. Grounds for Judicial Review and Compelling Action

### 1. Lack of Published Rule Precluding Pre-Opinion Review:

Neither FRAP 40 nor 5CCLR 40 contains an explicit prohibition against petitioning for en banc review when pre-opinion structural record defects prevent a party from compiling compliant record citations under 5CCLR 28.2.2. Unwritten administrative practices should not override open access to judicial review when fundamental due process rights are impaired.

### 2. Ministerial Limits of Clerk Authority:

Under FRAP 27 (b) and (c) and (5CCLR 27.1), the Clerk's Office acts ministerially. Deciding whether an en banc petition meets the criteria of exceptional importance under FRAP 40(a) is a judicial determination reserved exclusively for the judges of this Court, not administrative staff.

### 3. Necessity of a Judicial Ruling for Further Review:

An administrative "No Action" memorandum does not constitute a formal judicial order. To ensure our procedural rights are properly preserved on the record, we are entitled to a formal judicial determination on whether our en banc petition may be considered by the Court.

## IV. Request for Expedited Consideration

Our standard Reply Brief deadline is currently 18 Nov 2026. If this motion is not decided before 18 Nov 2026, our request for en banc review regarding the uncorrected ROA pagination will effectively become moot upon full submission of the appeal.

To prevent mootness and ensure our appeal proceeds on a clear and authorized record, we request that a judge or panel review and decide this motion on an expedited basis prior to 18 Nov 2026.

## V. Relief Requested

We respectfully ask that the Court grant the following relief:

1. Review and Vacate Clerk Action: Review and set aside the Clerk's administrative determinations in:

    a) Clerk's Memo (5CC114-9) of 09 Nov 2026,

    b) Clerk's Memo 5CC115-2 and

    c) Clerk's Order 5CC117 of 10 Nov 2026.

2. Direct the clerk to correct the ECF record and configuration with:

   a. Restore electronic filing privileges to myself.

   b. Restore the connection between exhibits (5CC112-2 through 5CC112-11, and 5CC113-1 through 5CC113-4) with Petition 5CC112-1.

3. Compel Docketing and Distribution: Direct the Clerk's Office to formally docket and transmit our Emergency Petition for Rehearing En Banc (5CC112-1) to the active circuit judges for consideration.

4. Alternative Judicial Order: If en banc distribution is declined, issue a formal judicial order determining whether pre-opinion en banc petitions are permissible when structural record defects impair appellate briefing.

5. Expedite Ruling: Expedite consideration and entry of an order on this motion prior to 18 Nov 2026.

Respectfully Submitted,

**Verification of Motion**

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: 10 Nov 2026
Location: Irving, TX

**Other Signatories**

/s *Air Carr*

_____

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061

Date: 19 Aug 2025
Location: Irving, TX

/s *Buakhao Von Kramer*

_____

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140
THAILAND
Date: 20 Aug 2025
Location: Bangkok, Thailand

/s *Rujipas Lawichai*

_____

Rujipas Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 20 Apr 2026
Location: Phuket, Thailand

/s *Tanapon Lawichai*

_____

Tanapon Lawichai
Ban Tha Sala 1 Moo 7
Si Mueang Chum, Maesai,
Chiang Rai 57130 Thailand
Date: 21 Apr 2026
Location: Lopburi, Thailand

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## Certificate of Counsel / Pro Se Party

The undersigned hereby certifies under penalty of perjury:

### 1. Certificate of Contact / Conference Compliance

In compliance with 5CCLR 27.4, I contacted AUSA Parker via email on 10 Nov 2026 and she responded via email with:

> Defendants are opposed to this motion

As such, appellees / defendants are considered to be OPPOSED to this motion.

## 2. 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., App 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

## 3. Certificate of Contact / Conference Compliance

In compliance with 5CCLR 27.4, I contacted AUSA Parker via email concerning this motion and AUSA Parker stated via email on 9 Sep 22 that:

> Defendants oppose an emergency motion for panel reconsideration. We do not oppose some of the relief sought in the motion, namely any correction of the record that is needed.

As such, appellees / defendants are considered to be OPPOSED to this motion.

## 4. FRAP 32(g)(1) Length Compliance

This motion complies with the type-volume limitation of FRAP 27(d)(2)(A) because, excluding the parts of the document exempted by FRAP 32(f), this document contains 1,282 words (which is less than the nominal 5,200 words for a

single motion), as determined by LibreOffice Writer word processing software[1].

### 5. 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).

### 6. 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.

### 7. 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*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 10 Nov 2026
Location: Irving, TX

1 LibreOffice Writer was used to count the works in the selected section below the Table of Contents but above the first signature block. The certified word count was accurate on 10 Nov 2026 at 12PM.