

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

<p>Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs</p> <p style="text-align: center;">versus</p> <p>United States, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Defendants</p>	<p style="text-align: center;">Civil No. 3-23CV2875 - S</p> <p>Verified¹ FRCP 72(a) Objections to ECF98</p> <p style="text-align: center;">Denying Motion to Strike ECF97 and</p> <p style="text-align: center;">To Expedite the Decision</p> <p style="text-align: center;">Certificate of Conference - OPPOSED</p>
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[FRCP 72\(a\)](#) Objections to [ECF98](#) Denying Motion to Strike [ECF97](#)

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Abbreviations Used in This Document

Basic Abbreviations Used

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

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

- AUSA: Assistant United States Attorney
- CFR: Code of Federal Regulations
- CM/ECF or ECF: Case Management/Electronic Case Files system
- DoJ: Department of Justice
- FRAP: Federal Rules of Appellate Procedure
- FRCP: Federal Rules of Civil Procedure
- LPR: Lawful Permanent Resident
- MTR: Motion to Reconsider
- PACER: Public Access to Court Electronic Records
- PII: Personal Identifying Information
- ROA: Electronic Record on Appeal
- TXND: United States District Court 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

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.

Existing Records and Decisions Are Not Attached as Exhibits

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.

Four Exhibits Added to the Record With This Motion

[Exhibit 1](#) is a series of email exchanged with TXND clerks as I asked about what written orders, rules and procedures governed actions by the clerks to seal documents (and requested a copy of any such documents) from 28 Apr 2026 through 22 May 2026.

[Exhibit 2](#) is the docket of 10 Jun 2026 from a Pacer Login unrelated to this case which shows public access to ECF20-1 and ECF67-13. [Exhibit 3](#) and [Exhibit 4](#) are the Pacer Transaction Receipts for public access to ECF67-13 and ECF20-1.

I. Introduction & Motion to Expedite

Plaintiffs respectfully submit these Objections to Magistrate Rutherford's 1 Jun 2026 Order [ECF98](#) denying Plaintiffs' Motion to Strike [ECF97](#). Under [FRCP 72\(a\)](#) and [28 USCS 636\(a\)\(1\)\(A\)](#), a District Judge must reconsider, modify, or set aside any portion of a Magistrate Judge's non-dispositive order that is shown to be clearly erroneous or contrary to law.

Plaintiffs simultaneously move to expedite consideration of these objections. Because this matter involves active, ongoing exposure of an unredacted Social Security number and a birth date via public access on Pacer, immediate intervention is required to stop a continuing violation of federal privacy mandates in [FRCP 5.2](#). Every day this motion remains pending subverts the data security standards established by Congress and the Supreme Court.

Anticipated Motion for Prospective Relief to Improve Process

It is anticipated that these Objections will be followed by a separate motion

seeking prospective relief to reduce the errors and failures from the current ad hoc process when clerks are faced with remediation of filing mistakes. Written and publicized processes will be proposed for reducing errors and enhancing productivity through less rework.

II. FRCP 72(a) Objections are Authorized and Timely

FRCP 72(a) states:

Rule 72. Magistrate Judges: Pretrial Order

(a) Nondispositive Matters... A party may serve and file objections to the order within 14 days after being served with a copy... The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

As Magistrate Rutherford's Order [ECF98](#) was filed on 1 Jun 2026 and these objections were filed within 14 days. These objections permit the district judge to modify or set aside any part of the order.

III. Background and Chronology of File Remediation Failures

The procedural history of this case reveals a series of uncoordinated administrative actions which resulted in the unsealing of ECF20-1 and ECF67-13 with unredacted Personal Identifying Information (PII) which is available for public access.

a. The Initial Exposure of ECF20-1

I filed [ECF20](#) on 5 Apr 2024 with an exhibit ECF 20-1 with a redacted picture of my wife's green card. I redacted the alien number and her birth date (leaving the birth year visible). The primary information of interest was expiration date of 13 Nov 2020 which was important as USCIS later left my wife with no documentation of her permanent resident status.

b. Clerk Temporarily Seals [ECF20](#)

However, I later observed on 19 Apr 2024 that the green card also had her birth date in a copy protection section (barely legible). I called the court clerk's office who initially sealed the parent document [ECF20](#) temporarily and assured me that when my motion to seal permanently was processed, only ECF20-1 would be sealed.

c. Motion to Correct [ECF24](#), The Attempted Correction with [ECF24-1](#)

I filed a Motion to Seal and Substitute [ECF24](#) in a rush (on 19 Apr 2025 within a few hours of my discovering the exposed PII) to replace the improperly redacted card with a fully redacted version [ECF24-1](#). Admittedly the caption for the motion was not clear but the text of the motion was clear.

d. [ECF24](#) Misunderstood By Court

Temporary Seal Becomes Permanent [ECF26](#)

The court issued an order [ECF26](#) on 22 Apr 2024 that ignored the sealing issue altogether with:

DENIES as moot... their Motion to Correct Typographical Errors (ECF No. 24)

which had the effect making the seal on [ECF20](#) permanent (at least until the matter was appealed and it was discovered that there was no court order to seal [ECF20](#)) and no order to seal ECF20-1 with its unredacted PII. This was contrary to what the clerk had explained to me when I called originally.

e. The Initial Exposure of ECF67-13

I filed [ECF67](#) on 7 Apr 2025 and it was accompanied with 21 attachments and totaled 125 pages. [ECF67](#) was a time critical Rule 60 Motion to preserve the right of appeal and was prepared in a rush. One of the 21 attachments was not properly

reviewed for PII by mistake (I thought I reviewed it, but must have reviewed another twice).

f. Clerk Temporarily Seals [ECF67](#)

ECF67-13 contained an unredacted social security number and upon seeing the error I again called the clerk on 18 Apr 2025. Again the clerk put a temporary seal on [ECF67](#) and explained that when my motion was resolved it would be unsealed and ECF67-13 would instead be sealed.

g. Motion to Correct [ECF69](#), The Attempted Correction with [ECF69-1](#)

I filed a Motion Restricting Unredacted Document [ECF69](#) on 19 Apr 2025 which was prepared in hours but which was 'UNOPPOSED' and clearly asked that ECF67-13 be sealed as it contained unredacted PII.

h. [ECF69](#) Misunderstood By Court

Temporary Seal Becomes Permanent [ECF89](#)

The court issued an order [ECF89](#) on 5 Nov 2025 that again ignored the sealing issue altogether with:

granting ... leave to file redacted documents for public access, his motion is granted

but ignored the actual relief requested in [ECF69](#) of:

court to direct the clerk to permanently lock ECF 67-13

which had the effect making the seal on [ECF67](#) permanent (at least until the matter was appealed and it was discovered that there was no court order to seal [ECF67](#)) and no order to seal ECF67-13 with its unredacted PII. This was contrary to what the clerk had explained to me when I called originally.

i. ROA Shows That [ECF20](#) and [ECF67](#) Improperly Sealed

On analyzing the ROA I found that there were several errors in the ROA. On 28 Apr 2026 I contacted several TXND clerks inquiring about how the error of having [ECF20](#) and [ECF67](#) sealed without any court order came about.

I also asked about what written orders, rules and procedures governed these actions by the clerks (and requested a copy of any such documents), [Exhibit 1](#) from 28 Apr 2026 through 22 May 2026. In the Motion to Correct Garbled Records [5CC26](#) on 13 May 2025, I explained that another motion was pending to correct the improper sealing of [ROA20pgSealed](#) and [ROA67pgSealed](#) which had been sealed 'temporarily' by the clerks without any court direction and no court order concerning the sealing of documents documents with unredacted PII, ECF20-1 and ECF67-13.

j. Court Unseals [ECF20](#) and [ECF67](#) Without Notice

ECF Provides Public Access to Documents With Unredacted PII

It appears that Chief Deputy of Operations Colt Fisher met with Magistrate Rutherford on 19 May 2026 and they may have discussed the concerns I had raised in the emails ([Exhibit 1](#)). However, the result is clear, after over a year of ignoring this problem, on 19 May 2026 the court verbally ordered that [ECF20](#) and [ECF67](#) be unsealed without any correction of sealing ECF20-1 and ECF67-13 which contained unredacted PII as discussed in the preceding motions and email discussions.

On 10 Jun 2026 I confirmed that the documents with unredacted PII were accessible on Pacer due to the courts order. See [Exhibit 2](#) the docket of 10 Jun

2026 from a Pacer Login unrelated to this case which shows public access to ECF20-1 and ECF67-13. [Exhibit 3](#) and [Exhibit 4](#) are the Pacer Transaction Receipts for public access to ECF67-13 and ECF20-1. The files were indeed provided with unredacted PII and saved in a 'locked' archive along with their sister 'free look' documents.

k. TXND Creates Unauthorized (Counterfeit) ROA with Unredacted PII

On 28 May 2026 TXND court created an unauthorized ROA (and contrary to my requests in [Exhibit 1](#)) which were sent to me via email (see [5CC37-2](#) and [5CC37-3](#)) though it is doubtful that this unauthorized ROA was ever sent to USCA5 as there was never any certification of the transmission to USCA5 as in [5CC15](#). The unauthorized ROA likely was an artifact only for pro se parties who were denied access to the actual ROA on USCA5 ECF (as described in [5CC15](#)).

This ROA was claimed to have unsealed [ROA20pgSealed](#) and [ROA67pgSealed](#) and thereby exposed ECF20-1 and ECF67-13 to public access even though they were known to have unredacted PII.

l. Urgent Request [ECF97](#) to Strike ECF20-1 and ECF67-13

On 29 May 2026 I filed an urgent UNOPPOSED Motion to Strike [ECF97](#) to strike ECF20-1 and ECF67-13 from TXND ECF as they had unredacted PII.

m. Urgent Request to Strike the Unauthorized (Counterfeit) ROA [5CC32](#)

On 30 May 2026 I asked USCA5 to strike the new / improper ROA as it permitted public access to unredacted PII (as well as breaking existing references to the certified original ROA of [5CC15](#) and to instead have TXND court submit the appropriate supplement to the certified ROA where [ROA20pgSealed](#) and [ROA67pgSealed](#) are correctly unsealed but with ECF20-1 and ECF67-13 stricken

from the ROA as [ROA24-1pg573](#) and [ROA69-1pg1571](#) provide public access to everything in ECF20-1 and ECF67-13 but with the PII redacted.

n. Order [ECF98](#) Denies [ECF97](#)

Continues Public Access to Unredacted PII

The Court Order [ECF98](#) of 1 Jun 2026 Denied [ECF97](#) and is the subject of these [FRCP 72\(a\)](#) objections. Public access to ECF20-1 and ECF67-13 and their unredacted PII continues to this date as demonstrated in [Exhibit 2](#), [Exhibit 3](#) and [Exhibit 4](#). This is contrary to [FRCP 5.2](#).

IV. Objections

a. Mandatory Privacy Rules Override Discretionary Balancing

The Court erred by substituting discretionary common-law balancing for mandatory privacy rules embodied in [FRCP 5.2](#).

In [ECF98](#), the Magistrate Judge denied striking ECF20-1 and ECF67-13 with:

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 Fin. Corp., 990 F.3d 410, 417 \(5th Cir. 2021\)](#)...

This application of [Le v. Exeter](#) is clearly erroneous. The Fifth Circuit in [Le v. Exeter](#) noted that under the standard common-law balancing test, litigants must show good cause to seal business records, "such as protecting trade secrets or the identities of confidential informants."

Unlike commercial trade secrets, which require judicial discretion to evaluate, the items at issue in [ECF97](#) are unredacted Social Security numbers and complete dates of birth. These are governed by an absolute statutory bar, not an ad-hoc discretionary balancing test.

b. Congress Has Relieved Court From Performing Ad-Hoc PII Balancing

Congress was aware of the importance of protecting personal confidentiality with the advent of electronic records while still recognizing the public's right of access (which is greatly enhanced with electronic records). To eliminate inconsistent results across federal agencies and court decisions, Congress passed the [E-Government Act of 2002 \(Public Law 107-347\)](#), Section 205(c)(3)), instructing the agencies and judiciary to develop a uniform approach to electronic data security.

As a direct result, the U.S. Supreme Court promulgated [FRCP 5.2](#) (Privacy Protection for Filings Made with the Court). [FRCP 5.2](#) explicitly defines exactly what personal identifying information (PII) must remain confidential.

[FRCP 5.2](#) states:

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number,... or birth date... the filing may include only: (1) the last four digits of the social-security number... [and] (3) the year of the individual's birth."

The phrase "unless the court orders otherwise" permits a court to expand protections or narrow them via local rules. However, because neither the TXND nor USCA5 have altered this rule via local mandates, the strict baseline definitions of [FRCP 5.2](#) are binding.

We invoked this privacy mandate in our initial motions [ECF24](#) and [ECF69](#). While [ECF97](#) contained a clerical typo citing Criminal Rule 49.1 instead of [FRCP 5.2](#), the substance of the motion explicitly invoked "Required Privacy Protection Redactions."

Furthermore, the initial motions to seal clearly established this foundational reliance.

The initial Motion to Seal [ROA24pg570](#) stated:

Pursuant to Federal Rule of Civil Procedure 5.2

The second Motion to Seal [ROA69pg1567](#) explicitly described ECF 67-13 as containing "personal identifying information which was not redacted."

The replacement filing [ROA69-1pg1571](#) verified that the data was corrected to the "last four digits of the social-security number" to comply with the rules.

**c. Order [ECF97](#) Errs, Demands Redundant Three-Part Sealing Brief
Said Requirement is Inapplicable and Redundant**

Order [ECF97](#) errs by demanding that Plaintiffs execute a standard three-part sealing brief with:

Plaintiff must file a motion that: (1) clearly identify what information is to be sealed... (2) brief why the risks of disclosure outweigh the public's common law right of access... and (3) demonstrate why no other viable alternative to sealing exists..."

This standard is wholly inapplicable to filings that fall squarely within [FRCP 5.2](#).

No adjudication or interest-balancing is required when a document exposes explicit statutory PII. Furthermore, the operational requirements imposed by the Order ignore the physical reality of the records:

1. The Physical State of ECF 20-1

As set forth in the Motion to Seal [ROA24pg570](#), ECF 20-1 is picture of my wife's green card. There are no page or line numbers to itemize.

The document was introduced solely to record its expiration date of 13 Nov 2020 which is part of series of exhibits which to demonstrated that USCIS left my wife without any valid documentation of her permanent resident status for two intervals from 13 Nov 2022 to 28 Feb 2025. This was in in clear violation of INA Section 264(d) and (e) which is [8 USCS 1304\(d\)](#) and (e).

While I had redacted this image and its date of birth (leaving only year of birth) and alien number (as required by USCIS standards), the card contained specialized, counterfeit-resistant security features that duplicated the full month and day of birth within a barely legible, faint text sector in the upper-left quadrant. This unredacted birth data remains exposed to the public in Pacer ECF20-1. A review of the corrected version at [ROA24-1pg573](#) shows this barely legible date of birth has been redacted.

2. The Physical State of ECF 67-13

Similarly, the corrected record at [ROA69-1pg1571](#) demonstrates that ECF 67-13 contained an unredacted Social Security number that was subsequently reduced to the mandatory four-digit identifier.

Because both items are squarely controlled by the requirements of [FRCP 5.2](#), the public's right of access has been overridden by Congress and the Supreme Court. The court lacks discretionary authority to keep them exposed to the public on Pacer.

**d. Congress Takes PII Exposure Seriously
the Court Cannot Disregard Rule 5.2**

To appreciate why a Magistrate Judge cannot treat an active PII exposure as a routine discretionary matter, the Court must look to how the federal government evaluates the exposure of personal data. Congress does not view the disclosure of PII as a harmless clerical error; rather, across virtually all federal agencies, the intentional or negligent release of PII is a criminal offense.

1. The Criminal Standard for Executive Agencies

Under the [Federal Privacy Act of 1974](#), [5 USCS 552a\(i\)\(1\)](#), criminal penalties are explicitly mandated for the unauthorized disclosure of protected personal records, albeit a misdemeanor with a maximum \$5,000 fine.

If an executive branch employee were to permit public disclosure of Social Security number or full date of birth that employee would face criminal prosecution and a federal misdemeanor conviction.

2. Statutory Qualification of Judicial Immunity

As [5 USCS 552a\(i\)\(1\)](#) applies only to "agency" from [5 USCS 551\(1\)\(B\)](#), the federal courts are immune from criminal prosecution for violating [FRCP 5.2](#) and permitting public access to PII.

However, this statutory immunity was intended to protect judicial independence from executive oversight - not to grant the federal judiciary a license to negligently distribute sensitive private data.

Instead, Congress enacted the [E-Government Act of 2002 \(Public Law 107-347\)](#) specifically to force the courts to create an internal mechanism ([FRCP 5.2](#)) that mirrors the strict privacy protections of the rest of the federal government. For a court to rely on a generic common-law balancing test to leave a social security number or a green card's birth metrics exposed to the public via Pacer queries completely subverts this unified federal policy.

3. Congress Can Revoke Judicial Exemptions: History of [18 USCS 1001](#)

While the judiciary currently enjoys structural immunity from the administrative penalties of the Privacy Act under [5 USCS 551\(1\)](#), the Court must recognize that Congress does not view judicial exemptions as permanent or absolute. When internal administrative mechanisms fail to maintain procedural integrity, regulatory adjustments are historically implemented by the legislature.

A clear example of this dynamic is the statutory history of the federal false statements provisions within [18 USCS 1001](#). For decades, the statutory framework of Section 1001 was broadly understood to apply almost exclusively to false statements made within executive branch agencies, effectively leaving the internal operations of the courts exempt from its terms.

However, following judicial interpretations that confirmed the exclusion of regular court filings from the reach of the statute - such as the Supreme Court's ruling in [Hubbard v. United States, 514 U.S. 695 \(1995\)](#) - Congress acted to realign

accountability across all branches of government. Through the [False Statements Accountability Act of 1996](#), Congress amended [18 USCS 1001](#) to explicitly remove the judicial branch exemption, bringing court filings directly within the scope of the law.

This legislative history demonstrates that procedural exemptions are subject to modification when necessary to reinforce structural accountability. The processing of a ROA does not grant administrative discretion to bypass the bright-line boundaries set forth by the Supreme Court and Congress under [FRCP 5.2](#).

e. Filing Remediation Not Subject to Ad-Hoc Process for Corrections

Filing errors - such as uploading an incorrect or unredacted document - are a ubiquitous, predictable reality of modern electronic litigation for both pro se litigants and licensed counsel. When an unredacted exhibit or an incorrect document is accidentally uploaded, any exposure of PII is immediate, active, and available for automated harvesting by public users.

The core procedural error of the Orders [ECF26](#), [ECF89](#) and [ECF97](#) is its reliance on a slow, manual judicial handoff. The initial sealing by the clerks is overly broad, not precise. Further there is not adequate notice or records of the initial sealing so that the judicial handoff is long delayed and without appropriate context. No one remembers what has gone before and there is no record of the early restrictions or their justifications.

Required elements to correct:

- Parties must be empowered with sample motions to correct common filing errors,

- Clerks must be empowered with publicized written standing orders from the court to immediately and permanently correct these filing errors,
- Clerks must have sample memorandum to adequately document the corrections, their basis, parties' rights to contest (14 days to file a Motion to Reconsider if there is some serious injustice is plausible)
- The court's option of sanctions must remain highly visible so that negligent filing does not become the norm.²

Because Congress and the Supreme Court have already spoken, the Court's sole duty under [FRCP 5.2](#) is to execute the mandatory protection immediately - not to demand redundant briefing while PII is visible through public access.

V. Conclusion & Prayer for Relief

For the foregoing reasons, Plaintiffs respectfully request that the District Court expedite consideration of this matter, sustain these Objections, modify or set aside the Magistrate Judge's Order [ECF98](#) of 1 Jun 2026 as contrary to law, and order the Clerk to immediately strike the unredacted documents ECF 20-1 and ECF 67-13 to prevent further exposure of mandatory statutory PII.

Respectfully submitted,

Verification of Motion

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

1. I have reviewed the above motion 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

² Mistakes are intrinsically forgiven while negligence is sanctionable.

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: 13. Jun. 2026
Location: Irving, Texas

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Certificate of Conference

These [FRCP 72\(a\)](#) Objections to [ECF98](#) Denying Motion to Strike [ECF97](#) and To Expedite the Decision are OPPOSED

The conference was held via an email from AUSA Parker on 2 Jun 2026 which stated:

Defendants oppose all your other proposed motions

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

CERTIFICATE OF SERVICE

On the recorded date of submission, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system 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