

Subject: Confer Case 3:23-cv-02875-S pending motions, ECF 67

Date: Fri, 13 Jun 2025 08:28:23 -0500

From: Brian Carr <carrbp@gmail.com>

To: tami.parker@usdoj.gov

CC: Emily Owen-DOJ <emily.owen@usdoj.gov>, Padis, George (USATXN)

<George.Padis@usdoj.gov>

Dear Ms. Parker,

I hope you have had a good week.

I noticed that you have been added to this matter and may be taking responsibility for the DoJ response in this matter. As you may already be aware there are three FRCP Rule 60 motions pending (as described in ECF 67). On 6 May 2025, Ms. Owen stated 'I am not filing any response' in our discussion of these motions. Are you planning on filing any responses (opposing these motions)?

Thanks for your attention to this matter. Wishing you all the best,

Brian

From: Brian Carr <carrbp@gmail.com>
Date: Tue, May 13, 2025 at 1:21 PM
Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider
To: Owen, Emily (USATXN) <Emily.Owen@usdoj.gov>

Hi Emily,

Sorry for the delay in getting back to you, but I spent some time contemplating what it means to be opposed to a motion in the context of the local rules.

It is my conclusion that being opposed to a motion is not about having general non specific concerns or misgivings but instead about having clear and specific issues which will be raised in an opposing response.

For example, you are likely opposed to slavery, mass shootings, burning of widows on their husband's funeral pyre, and terrorism. However, in the context of local rules, opposed means that you have a legal basis for objecting to specific relief(s) requested in the motion and that you intend to file a response opposing the motion with the legal basis for your objections.

[TXND Local Civil Rules LR 7.1](#) states:

(e) Time for Response and Brief. **A response** and brief to an opposed motion **must be filed** within 21 days from the date the motion is filed. (Bold added by Plaintiff)

The use of 'A response' instead of 'Any response' is indicative that a response is required by the opposing party if they stated that they are opposed to the motion. To claim opposition without the intent to file an opposing response could be construed as intentionally misleading the court and attempting to delay the matter.

If a motion is assumed to be opposed because of no ability to get a response from the adversely affected party, then the lack of response within the required time frame will demonstrate that the motion is, in fact, unopposed and no reply is required or authorized.

I will include an explanation similar to the above in the Rule 60 Motion to Amend the original Rule 60 Motion (ECF 67) as UNOPPOSED due to your failure to file a timely response as required by LR 7.1.

I will also include a Certificate of Conference in the new Rule 60 Motion explaining that in your email of 6 May 2025 you stated "I am not filing any response" and so concluding that the motion is 'UNOPPOSED'.

Of course in the same sense that I have a constitutional due process right to file timely Rule 60 motions even if the judge has closed the matter, you have a similar constitutional due process right to file timely opposing responses.

For all the upcoming Rule 60 motions (generally described in the first Rule 60 Motion) I will assume that you are not filing a response and so will list them as 'UNOPPOSED' based on the above quote which will be included in the Certificate of Conference. If you wish to file an opposing response just give me a heads up and I can update the Certificate of Conference.

Wishing you the best,

Brian

On 5/6/2025 8:25 AM, Owen, Emily (USATXN) wrote:

Hi Brian,

I am still opposed. Because the case is closed, I am not filing any response unless otherwise requested/ordered by the Court.

Thank you,

Emily H. Owen

Assistant U.S. Attorney

(214) 659-8605

emily.owen@usdoj.gov

From: Brian Carr <carrbp@gmail.com>

Sent: Sunday, May 4, 2025 6:31 PM

To: Owen, Emily (USATXN) <Emily.Owen@usdoj.gov>

Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

Wasn't this a fantastic weekend to be out and about. I hope you were able to enjoy it.

As you are aware, it took me a little while to get my original Motion for Relief (ECF 67) ready, 7 Apr, while your opposition was stated on 28 Mar. However, any opposition to ECF 67 was due on 28 Apr, but has not been filed yet.

I am considering another Motion For Relief to amend ECF 67 to note it is UNOPPOSED as no opposing papers were timely filed. I might include an explanation that between 28 Mar and 28 Apr you reconsidered opposing the motion. I would be open to any alternative explanation for the lack of opposing papers as well as no explanation (just the lack of a response). Would you like to have a phone conversation about this?

Now the questions are, do you have an alternative explanation that you would prefer AND do you oppose this Motion for Relief to amend ECF 67 as UNOPPOSED?

Wishing you all the best,

Brian

On Fri, Mar 28, 2025 at 2:50 PM Owen, Emily (USATXN) <Emily.Owen@usdoj.gov> wrote:

Hi Brian,

I apologize for my delay in getting back to you on this. I am opposed.

Thank you,

Emily H. Owen

Assistant U.S. Attorney

(214) 659-8605

emily.owen@usdoj.gov

From: Brian Carr <carrbp@gmail.com>

Sent: Monday, March 24, 2025 7:48 PM

To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>

Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

Separately, there are a couple or three papers from Air and couple or three papers (similar) from Buakhao which ask that these plaintiffs be included or remain in the suit. One of the papers is an Amended Complaint which was printed and then signed. Another is just a request to remain in the suit and an explanation that the Amended Complaint was submitted with their approval and they have signed to indicate to their approval and their attempt to follow the court's order that ECF 18-1 be filed unchanged as ECF 29.

The last paper is a summation of their experiences and what they want. Each of the new papers is in Thai with an English translation (not very good English, but English and Thai don't map very well). They will be mailed to the court in a few days and arrive / get filed in the next week or two. There is no conference as to whether they are opposed but there is minimal compliance with the court's filing requirements. I will be interested to see what the clerks do with them.

As to the current Motion for Relief, I am asking for relaxed filing requirements for subsequent Motions for Relief.

I am thinking about submitting three subsequent consolidated motions for relief each of which would, with the courts permission, represent all three Plaintiffs (or perhaps five for the last Amended Complaint). The motions would be:

- 1) Identifying errors in the decision (a few of which were mentioned previously)
- 2) Asking Magistrate Rutherford consider recusal to avoid the appearance of bias based on the delays in the case until my wife became a citizen and other things which create the appearance of back channel communication and, to a certain extent, collusion with the government. As there is so little to claim about the appearance for Judge Scholer, she can recuse or not based on her own judgment.
- 3) Leave to file two Amended Complaints. The first which must be filed within four months adding new Defendants of the IRS and TIGTA as well as two new Plaintiffs, Tin and Earth (nicknames for Air's two sons). I haven't mentioned Earth much before, but he is a trainer Sergeant in the Thai Artillery who would like to enlist in the U.S. Army if possible (this is new in the last couple of days). It would also add all the pending FOIA requests which have not been answered as yet with distinct reliefs for each. Of course there must be physical signatures for Earth and Tin
 - 3a) The next Amended Complaint would add references to the appropriate topic based briefs submitted previously.

That said what I would like is the ability to submit each motion without the restrictions of page limitations. I am well aware of the tricks people play to

meet the page restrictions in Appellate Briefs and don't think they are beneficial for presenting clear, concise, and persuasive arguments. For example, I think that with electronic documents 14 pt type is more readable and, hence, more persuasive. I would also like to be able to submit separate Affirmed Briefs dealing with general topics such as "Credit for Future Services" is completely different from 'Cash Payment' from the point of view of Sovereign Immunity". Then there would be separate briefs for each group of 'Credit for Future Services' reliefs showing how the general defense applies to the specific reliefs.

These same briefs would be used across all three motions so that the motion itself can be more clear, concise and persuasive.

I imagine that with such stand alone affirmed briefs covering 'State a Claim', 'Sovereign Immunity', and 'Executive Discretion', the 9 (and later 11) counts can each be addressed in less than ten pages each for a total of less than 100 pages (probably significantly less, maybe even 50 if I have time to get really clear and concise). However, considering the alternative of 52 (or even 156) briefs of 25 pages each (1300 pages or more) I can guarantee that even if all the stand alone affirmed briefs were added together in the page count it would not even get close to 1300 pages.

Of course these stand alone briefs would not be repeated in each of the three motions but just referred to as appropriate.

I will also ask that with the concurrence of the other Plaintiffs and the Court, that I be able to electronically sign papers for the other Plaintiffs based on their affirmed agreement. I could also keep and / or attach excerpts from our Line (a messaging app popular in SE Asia, but not China where it is banned, possibly for being too secure) chat sessions.

Thanks for getting back to me on this.

Brian

On 3/24/2025 9:40 AM, Owen, Emily (USATXN) wrote:

Hi Brian,

I hope you had a nice weekend as well. To clarify on the LR 7.2(c) motion, are you planning to request each of the following: (1) be allowed to submit a single consolidated motion for each plaintiff; (2) be allowed to submit separate Rule 60 motions/briefs on each relief sought; and (3) be allowed to submit each brief in excess of the page limits in the local rules?

Also, what is the length of page limit that are you going to be requesting?

Thank you,

Emily H. Owen

Assistant U.S. Attorney

(214) 659-8605

emily.owen@usdoj.gov

From: Brian Carr <carrbp@gmail.com>

Sent: Friday, March 21, 2025 9:22 PM

To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>

Subject: Re: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

I hope you are having a nice weekend.

I am planning on filing an LR 7.2(c) motion to allow longer briefs for the Rule 60 Motion(s) for Relief as well as permission to submit a single consolidated motion rather separate Motions from each Plaintiff as well separate motions for each Relief sought. The issues to be raised will be those listed previously plus some new ones....

Wishing you the best,

Brian

On Mon, Mar 10, 2025 at 9:13 AM Owen, Emily (USATXN) <Emily.Owen@usdoj.gov> wrote:

Thank you, Brian.

We are opposed to the motion.

Best,

Emily H. Owen
Assistant U.S. Attorney
(214) 659-8605
emily.owen@usdoj.gov

-----Original Message-----

From: Brian Carr <carrbp@gmail.com>
Sent: Sunday, March 9, 2025 10:21 PM
To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
Subject: [EXTERNAL] Rule 54(b) Motion to Reconsider

Hi Emily,

From what I have heard it must be difficult working for the government in these times of turmoil. I hope that you are not caught up in the maelstrom.

I am working on a Rule 54(b) Motion to Reconsider. I would appreciate it if you could let me know whether you expect to oppose the motion. I have included the early draft of the introduction so you will have some idea what to expect.

Wishing you the best,

Brian

Introduction

The Court is asked to defer dismissal without prejudice but instead grant the Plaintiffs time to file an Amended Complaint. The Plaintiffs would like to add new Defendants of the Internal Revenue Service (IRS) and The Treasury Inspector General for Tax Administration (TIGTA) as well as a new Plaintiff, Mrs. Carr's son Rujipas Lawichai.

Further relief is sought of providing Plaintiffs with meaningful results from FOIA information requests for individual records and cumulative data. Many of these FOIA requests have been pending or in process for over two years.

Once the results of the various FOIA requests for cumulative data are made available to the Plaintiffs, the Plaintiffs anticipate adding new Plaintiffs as a class action suit with the assistance of legal aid organizations such as National Immigration Litigation Alliance which was awarded costs in Garcia Perez v. USCIS, No. 2:22-cv-00806 (W.D. Wash., filed June 9, 2022) where USCIS agreed to revise its Employment Authorization Documents (EAD) administrative procedures to comply with clear and specific statutes and constitutional due process.

There are numerous errors in the Findings and Recommendations the most serious of which results in the removal of two Plaintiffs, Mrs. Carr and Mrs. Von Kramer from the matter without consulting them or giving them any opportunity to heard.

FRCP 11(a) was cited as the basis for removing Plaintiffs but notice of the problem as required by FRCP 11 was not provided to the Plaintiffs. Further the only remedy in FRCP 11 of striking the unsigned document would require the striking of the Motion to Dismiss rather than granting the dismissal.

The court is asked that a different Magistrate be assigned to this case to avoid the appearance of bias or impropriety. Magistrate Rutherford appears to have collaborated with Defendants to defer the matter until they could ameliorate their constitutional and criminal violations.

Further, the Plaintiffs request a review of Magistrate Rutherford's decision to not consider sanctions for serious of allegations of criminal falsification of government records to trick the Plaintiffs and delay the proceedings, flagrantly violating Texas Disciplinary Rules of Professional Conduct (ECF 30-2) Rule 4.01 'Truthfulness in Statements to Others' and 18 USC Section 1001 (falsification of government records).