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

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| Brian P. Carr,<br>Rueangrong Carr, and<br>Buakhao Von Kramer<br>Plaintiffs<br>versus<br>United States,<br>US Department of Justice,<br>USPS, USPS OIG, USPS BoG,<br>US CIGIE, Department of State,<br>Department of State OIG,<br>USCIS, DHS OIG, and SSA<br>Defendants | Civil No. 3-23CV2875 - S<br><br>Consolidated[1] Verified[2] FRCP Rule 60 Motions<br>For Sanctions Under FRCP Rule 11(c) for<br>* Bar Association Violations, and<br>* Delay in MTD (ECF 15),<br>* Apparent Collusion with Court<br><br>Certificate of Conference - OPPOSED |

# FRCP Rule 60 Motion For Sanctions Under FRCP Rule 11(c)

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1 These consolidated motions are a consolidation of three motions for sanctions as indicated in the title. There was an FRCP Rule 60 Motion for Relief from LR 7.1 page restrictions (ECF 67, an unopposed motion) and particularly the ability to refer to other documents in the record, but that motion is still pending. Hence this is a consolidation of three motion rather than one motion with three sections.

2 The Verification of Motion is listed in the Table Contents toward the end of this document.

## Introduction

The Court is asked to sanction AUSA Padis, the previous USATXN counsel, for:

- lying in a government email (a federal crime and Bar Association violation) in a scheme to trick us (the plaintiffs) into granting a delay of almost 60 days,
- submitting a Motion to Dismiss (ECF 15) with no valid arguments and which only served to delay the proceedings,
- apparent colluding with the court to delay and subvert justice through violations of local rules, lawful statutes (including criminal statutes) and individual constitutional rights (due process)

**Lying in Government Email, a Bar Association Violation**

This particular attempted trick was particularly egregious as my wife was in dire circumstances as an apparent 'illegal' and terrified of being deported without cause or notice even though both her 10 year green card and citizenship had been approved in a final notice and decision from USCIS (ECF 10-5) over a year before.

Instead of agreeing to the requested delay I instead sent him the notice from USCIS (ECF 10-5) and asked for his assistance in resolving this serious problem. Instead AUSA Padis continued with his chicanery and managed to delay the matter for 66 days.

**Delaying Through Meritless MTD**

The Motion to Dismiss (MTD, ECF 15) had no meritorious arguments. There were numerous false and misleading statements which described some imaginary complaint, but nothing from the actual complaint. Each argument is addressed in turn. The result was a delay of 66 days and a set up for a longer delay coordinated with the court of over a year.

**Apparent Collusion With The Court To Delay And Deny Justice**

A review of the time line of important events in this matter make it apparent that the court and DoJ had a well choreographed scheme to efficiently (with little effort by the court or DoJ) dispense with pro se matters with the likely unintended consequence of denying justice to plaintiffs whether they had a valid claim or not. AUSA Padis did the initial set up, but the court completed the 'trap' early on. Then the court completed the dismissal through numerous false statements in the Findings, Conclusions, and Recommendation (FCR, ECF 61) which are criminal violations (18 USC § 1001) .

## FRCP Rule 60 Motion Under FRCP Rule 11(c)(2) is Timely

There was a previous consolidated FRCP Rule 60 Motions for LR 7.1, LR 7.2, and LR 11.1 Relief (ECF 67) submitted on 7 Apr 2025 which was unopposed but is still pending. This pending motion is particularly relevant as it was timely submitted in accordance with FRAP Rule 4 Notices of Appeal and, as such, also makes this motion timely, raising questions for the court to consider and any response of the court will be appealable.

## History of Previous Motion For Sanctions

In the Order (ECF 59) of 27 Feb 2025, this court denied our previous Motion for Sanctions (ECF 30), which relied on FRCP Rule 11(c)(3), whereas this motion relies on FRCP Rule 11(c)(2) and FRCP Rule 11(c)(3). The court in its Order stated:

> Carr's remaining authority for sanctions under the Federal Rules of Civil Procedure falls to the Court's inherent authority. See Fed. R. Civ. P. 11(c)(3) (allowing the Court on its own initiative to require litigants to show cause); Fed. R. Civ. P. 56(h) (allowing the Court to issue sanctions if it finds that a Rule 56 affidavit or declaration was submitted in bad faith or for delay). 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.

At the time of the prior motion for sanctions, my wife was in dire straits fearing that she would be illegally arrested and deported without notice or cause, perhaps to a high security prison in El Salvador.[3] Because of those fears, the three week delay for a FRCP Rule 11(c)(2) Motion for Sanctions seemed interminable (what

3 Those illegal arrests and deportations did not occur until after my wife became a citizen but while she was an apparent illegal, Governor Abbot was threatening to send the National Guard into cities such as Dallas to find and arrest just such illegals for deportation.

if my wife was deported while we were waiting for relief from the court). However, now that my wife is a citizen I am happy to wait for a just hearing on the matter.

It is also important to note that in the Findings, Conclusions, and Recommendation (FCR, ECF 61), the magistrate made several demonstrably false statements which are prima facie evidence of federal crimes (18 USC § 1001) though until the court is given time to rule on the several FRCP Rule 60 Motions it won't be clear if the false statements were due to negligence (not even reading the Complaint, ECF 29), incompetence (only reading LR 11.1 without the essential preceding LR 1.1 which answers the question of how a pro se party can certify the electronic signature of another person), or willful intent (the last element to prosecute a crime).

As the ruling magistrate seems to have routinely falsified findings it is not surprising that the court would decline to investigate the allegations, but it is hoped that with a new judge there will be a fair hearing on the matter. It is also important to note that the court can apply whatever sanctions it deems appropriate though I have made suggestions for creative sanctions such as community service for government attorneys and pro se parties where costs are not effective.

**AUSA Padis Lies in Email, Seeking Delays**

In an exchange of emails with Mr. Carr (ECF 30-1), AUSA Padis made false statements which violated TXND Local Rules LR 83.8 (b)(3) through 'unethical behavior' as defined by Texas Disciplinary Rules of Professional Conduct (ECF 30-2) Rule 4.01 'Truthfulness in Statements to Others' and 18 USC § 1001 (falsification of government records).

It is clear that the underlying purpose of the false statements was to delay this proceeding. There is a verified brief (ECF 30-4) which discussed these false statements in depth. However, the summary is that AUSA Padis pretended that he had no copy of the complaint when, in fact, there were two copies of the complaint available. However, if he had stated that the two copies were not properly served then he couldn't get any delay as he would have admitted that the fundamental required 'notice' was completed and the court would have jurisdiction based on the statement that he had a copy of the complaint (the essential element of notice). Of course the reason for pretending that he never got a copy of the complaint was to get a delay of almost 60 days.

**Meritless Pleadings and Other Improper Antics Caused Excessive Delays**

Proper service with USATXN was completed on 9 Jan 2024 with an initial response date of 9 Mar 2024. However, due to various delaying tactics by AUSA Padis the required response date was delayed until May 14, a delay of 66 days.

One section of this motion is based on the Motion to Dismiss (MTD, ECF 15) submitted by USATXN on 08 Mar 2024 as well as an email exchange AUSA Padis initiated prior to submitting the MTD.

**Need For Creative Alternatives in Sanctions**

AUSA Padis has taken several sanctionable actions, but there was no apparent malicious intent, only taking ill-considered shortcuts in struggling with an excessive caseload. However, such actions seem widespread and the court is asked to consider creative sanctions to discourage such behavior in the future.

In particular as 'costs' are particularly ineffective with government agencies and

pro se parties, community service and 'early' filing requirements are suggested in such cases as elaborated in Mr. Carr's Affirmation (ECF 30-3).

The verified brief (ECF 30-4) also discusses sanctions and suggests sanctions of 10 hours of community service and 3 days of early filings are recommended though, obviously, the court has total discretion in this regard.

**Citing 'Not Precedent' Cases De Facto Grounds for Sanctions**

It appears to be moderately common for AUSA Padis and, perhaps, other attorneys to cite cases which explicitly state 'should not be published and is not precedent', e.g. Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018). Plaintiffs suggest that ignoring the courts clear guidance for precedent is de facto negligence and shows a lack of due diligence. It also suggests an effort to mislead the court through claiming (implicitly) that the cited cases provide relevant precedent when they explicitly do not.

Further, there is a verified brief (ECF 30-6) which suggests that the court implement a new precedent (or even additional Local Rule) declaring normal / routine creative sanctions of community service and early filings when cases are cited in a fashion to imply precedence even though they are clearly identified as 'not precedent' with the result in this matter of 16 hours of community service and 2 days of early filings.

**AUSA Padis' Motion to Dismiss Totally Without Merit**

In our response (ECF 18) to Defendants' Motion to Dismiss (ECF 15), each of AUSA Padis' arguments are dealt with in detail. Instead of repeating these rather lengthy responses they will be summarized herein citing the relevant sections of

each document.

**Introduction Has Several False Statements**

**Money Back Falsely Claimed to Support Sovereign Immunity**

On Page 1 of ECF 15, AUSA Padis falsely claims 'Plaintiffs seek money back from the United States Postal Service (USPS)'. While there are several places where Plaintiff seek credits for future services this is an example where AUSA Padis invents an imaginary complaint where he can cite 'Sovereign Immunity', but in the actual complaint we seek credits for future services which is clearly supported in Marbury v. Madison (1803) and APA 5 USC section 702. However, the important point is AUSA Padis claim is simply false.

**Separate Counts Falsely Mixed Up to Create Nonsense**

**Actual Relief is Increased Reporting and Monitoring**

AUSA Padis then goes on to say that we seek a:

> court order mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer.

This is false and another case where AUSA Padis is addressing an imaginary complaint which has nothing to do with the matter at hand.

In Counts 2, 5, 6, 8, and 8' (the second count 8, which has been renumbered as Count 9 in the pending Proposed Second Amended Complaint to correct typographical and clerical errors and to conform to the evidence) it is sought to have the OIG's and CIGIE report plausible allegations of crimes to the DoJ. They are not required to investigate anything and can refer matters to local management

after reporting them to DoJ. Local management can resolve the issues in the normal fashion.

There are no explicit requirements that local management investigate but OIG's and DoJ are required to monitor the results to insure that future crimes are prevented and appropriate redress is made to injured parties. DoJ is given absolute discretion on the decision to prosecute and is encouraged to use the threat of prosecution as a cudgel to prevent future crimes and provide redress to injured properties as appropriate.

In reality, we are expanding on a well established principle that no federal agent is permitted to commit federal crimes or infringe on the constitutionally protected rights of individuals. Further no federal agent can grant immunity preventing consequences for future crimes or future infringement on the rights of others. This is not a new restriction on executive discretion as there never was any such discretion.

Further, the rather lengthy descriptions of required actions carefully and clearly do not infringe on the DoJ discretion to prosecute which is reserved exclusively to DoJ (and for good reason).

*No Investigations Mandated for OIGs, only Reporting Crimes*

To simplify the requested limits on OIG and DoJ discretion with respect to plausible allegations of federal crimes:

* OIG must either

- investigate and report as necessary to DoJ **OR**
- report the matter to DoJ and refer the matter (likely to local management)

and monitor and report the results

* DoJ must either
  - investigate and resolve the matter **OR**
  - refer the matter (to OIG, local management, or another party) and monitor the results to insure future violations are discouraged and redress of victims is encouraged.

  DoJ may also use the threat of prosecution as well as actual prosecution to insure appropriate compliance

* Local management and other referred parties may process the matter in the normal fashion in accordance with the guidance of DoJ (no investigation is mandated though some form of investigation could be required by DoJ at its discretion).

In light of the simplified flow above, AUSA Padis' restatement 'mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into ' [a preposterously restricted set of plausible allegations of federal crimes] is false and misleading.

*DoJ Only Required to Monitor To Insure Future Compliance, Redress*

Criminal investigations implies prosecution which is explicitly reserved to the discretion of DoJ. Further no investigations are mandated as there is always the executive discretion to refer the matter (likely to local management) where the form of resolution is subject only to DoJ monitoring and review. The DoJ may require some level of investigations by local management but that is left to DoJ discretion as long as future violations are prevented and redress is provided as appropriate. The court would not be mandating any criminal investigations.

*Reporting and Monitoring of Crimes Is Essential*

Given the USPS OIG 2017 audit (see ECF 18-7 DR-AR-18-001) finding 1.9 million falsified delivery times (out of the 25.5 million scans) and the fact that no substantive corrections were made after the audit report (this problem has persisted for over a decade), substantial corrections are clearly necessary and DoJ guidance is required.

In the case of a plausible allegation of a false statement in a government email, there would be no substantive change at all. Local management could conduct appropriate inquiries but this is really no different than normal administrative procedures and local management could require additional training or something similar as the resolution. The proposed court 'mandate' would only require proper reporting to the appropriate OIG and DoJ (and possibly actual AG office in certain cases) and their monitoring of the results.

The focus of Plaintiffs' relief is clarification of OIG requirements to report plausible allegations of federal crimes (already required by statute) and DoJ to monitor and review resolutions.

With USPS, the USPS OIG has already demonstrated that there is a substantial problem with falsified records (delivery times) so the increased involvement of the OIG and DoJ are justified. The resolution could be as simple as implementing the recommendations of the USPS OIG (now with DoJ input and requirements for proper resolution) with no additional criminal investigations. USPS profits could suffer and there could be reduced USPS management bonuses but to the degree that those results are built on falsified records that could be a good thing.

With the requested FOIA requests and discovery it is expected that similar widespread violations of due process will be found with DoS visa applications and USCIS I-30, I-751, and N-400 applications (and the intrinsic falsified records from decisions which don't conform to the evidence). In that case there will likely be substantial input from both the OIGs and DoJ, but the result will be mostly about insuring that the revised procedures are correct from a constitutional and statutory requirements perspective.

We do need to demonstrate standing for any relief sought (how we were damaged by the Defendants' failure to perform). However, AUSA Padis falsely claims that the relief sought is directed exclusively to those specific damages when, in fact, we are seeking broad solutions to widespread problems not the absurd:

> initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer

We are deeply concerned about much more serious problems such as the Afghan Fiasco (ECF 76-4 which discusses illegal orders and their repercussions) but we have at most a tenuous standing in that specific failure. The broad relief sought does address the wider problems to include the Afghan Fiasco as well as helping to insure that Seal Team 6 will never be used to assassinate federal judges or federal attorneys.

**Sovereign Immunity cited Based on False Categorization**

AUSA Padis goes on to claim:

> Because Plaintiffs cannot meet their initial burden to identify an applicable

> waiver of the federal government's sovereign immunity, the Court should dismiss Plaintiffs' entire complaint

which is another example of AUSA Padis making broad claims which are completely false as every relief sought is carefully worded to avoid 'sovereign immunity'. For example we never ask for 'money back' but instead seek credits for future services as described above and which will be elaborated further in great length. There are three fundamental causes of action and AUSA Padis 'denies' the first USPS cause of action by creating the imaginary 'money back' claim.

## AUSA Padis' 'Background' Misleading

## Picks Out Irrelevant Details and Omits Fundamental Allegations

*Ignores Mrs. Carr Visa Denial, No Due Process*

In section I, Background on page 2 of ECF 15, AUSA Padis cites irrelevant details concerning my wife's immigration visa but ignores foundational statements such as my wife's non-immigrant visa being denied in 2018 without due process (DoS did not permit my wife to present the evidence she had prepared) in the Complaint (ECF 11-1 and 29) paras 65 - 68.

It is misleading for AUSA Padis to cite irrelevant details and omit critical facts. This is particularly important as this visa denial was to the spouse of a U.S. citizen which is one of the well established exceptions to the offensive (to us) Doctrine of Consular Non Reviewability (DoCNR) which denies due process to aliens on the false premise that they are not people (perhaps vermin) unless they are the spouse of a citizen. Clearly AUSA Padis is just trying to confuse the court with extraneous and misleading claims in order to create donfusion.

By omitting references to Count 3, AUSA Padis seeks to remove the foundation to the second cause of action against DoS, but just because there is no Count 3 in AUSA Padis' imaginary complaint, the actual complaint demonstrates DoS failure to provide statutory mandated non immigrant visa decisions based on due process to spouses of U.S. citizens.

*Ignores Lack of Due Process in Mrs. Von Kramer's Visa Denials*

AUSA Padis mentions the denial of Buakhao's non immigrant visa application in 2019 citing only ECF 11-1 and 29 para 90 but ignores that the denial clearly violated her right to due process as the interviewer claimed the denial was based on 'lack of firm travel plans' even though he did not give Buakhao the opportunity to present any evidence which would have included flight tickets and an invitation from my wife and I covering accommodations for the 2 weeks. ECF 11-1 and 29, para 90-109.

Indeed Buakhao's three non immigrant visa denials provide an ideal opportunity for us to challenge the offensive (to us) DoCNR while still correcting the underlying lack of due process in such visa processing based on my wife's denial. It is quite legitimate for Buakhao to challenge DoCNR based on ECF 11-1 para 121 and 167.

AUSA Padis attempts to support his claims of failure to state a claim but that is only true in his imaginary complaint where all the required elements are not well pled. In the actual complaint all the required elements are well pled and AUSA Padis transparent effort to create confusion by ignoring relevant statements indicates that AUSA Padis' primary goal was to delay, mislead, and confuse, not to resolve issues.

**Ignores USCIS Failure to Provide Required 10 Year Green Card**

**Mrs. Carr Stranded in Thailand**

A particularly egregious example of this is AUSA Padis' ignoring of my wife's I-751 application on 04 Aug 2020 to have the conditions on her 2 year green card removed and receive a 10 year green card. Instead of issuing my wife a ten year green card within 90 days as required in 8 CFR 216.4(b)(1)[4], USCIS sent her temporary extension letters which finally left her stranded in Thailand in Nov 2022, unable to return without getting a non immigrant visa. See ECF 11-1 para 147-163.

Just because AUSA Padis doesn't mention critical elements does not mean they don't exist. Here AUSA Padis is trying to eliminate the third cause of action against USCIS by just pretending that the required elements are not in the complaint. However, AUSA Padis omission of critical elements does not demonstrate any fault in the actual complaint, it just demonstrates that AUSA Padis is attempting to confuse and delay, wasting our and the courts time.

**10 Year Green Card and Citizenship Approved, Nothing Provided by USCIS**

**Final Decision, Order of USCIS Approves Both Green Card and Citizenship**

The most egregious omission by AUSA Padis is his ignoring the USCIS final decision and order of 30 Jan 2023 in ECF 10-5 which stated:

> We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a

4 8 CFR 216.4(b)(1) 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.

Certificate of Naturalization, which will be proof of your U.S. citizenship. See ECF 11-1 para 163.

**Mrs. Carr Left as an Apparent Illegal**

My wife's 10 year green card was approved along with her N-400 citizenship. However, USCIS never provided my wife with a ten year green card and never scheduled the Oath of Allegiance or provided the Certificate of Naturalization, ECF 11-1 para 164-209

As a result, my wife has no documentation of her permanent resident status. All previous USCIS documentation is expired. See:

ECF 24-1 Mrs. Carr Permanent Resident Card, redacted, expired 13 Nov 2020
ECF 18-6 USCIS 24 month extension letter, expired 13 Nov 2022
ECF 20-2 USCIS A-551 passport stamp, expired 2 Jan 2024

My wife could not work or travel freely and, in light of Texas SB4 (which was in effect for four hours and is still pending) she was afraid of being deported without notice or cause by ICE or National Guardsmen sent into blue counties to deport illegals or even vigilantes (Texas SB4).

Further, while her citizenship was approved over a year before the MTD, she was prevented from voting or helping her sons find better work (Thailand is still suffering from the Covid closures and its economic impact) all of which is in violation of USCIS responsibilities under the INA.

**AUSA Padis Knew Mrs. Carr Was in Dire Straits, USCIS Violating Rights**

AUSA Padis can not claim ignorance of these facts as they were called out in the

early email exchange in ECF 28-1 (Redacted Email Thread 1 Mar 24 to 18 Apr 24) where AUSA Padis lied (falsified a government record) trying to trick us into a delay as explained in ECF 30-4.

USCIS has clearly failed to perform its required duties under the INA and there was a compelling case for relief, but AUSA Padis callously made false (failure to state a claim) and misleading statements (omitting critical details like the N-400 approval above).

It is clear that AUSA Padis was simply creating meritless delays without regard to the impact on the court or other parties.

**False Claims of Sovereign Immunity**

In II A on page 3 of the MTD (ECF 15), AUSA Padis raises the bogus claim of Sovereign Immunity which has no bearing on the actual complaint in this matter (ECF 11-1) as every relief sought is clearly beyond the scope of Sovereign Immunity and in accordance with Marbury v. Madison (1803) and APA 5 USC section 702.

The absurdity of the AUSA's sovereign immunity claim is described in great depth in the in our associated FRCP Rule 60 Motions for Relief (ECF 67 and ECF 73) but it clear that primary purpose of the false claims and misleading summarizations was to support an invalid claim, not supported by the facts or the law

This specious and spurious claim of sovereign immunity is just another example of how AUSA Padis omits important facts and makes false and misleading conclusions all in the interest of confusing the court and justifying further delay.

**False Claims Lack of Pleading Standard**

In II B on page 4 of the MTD (ECF 15) AUSA Padis relies on his intentionally misleading summary of the over 250 allegations in the Complaint to conclude that there are no allegations to support the requested relief. However, it is clear that AUSA Padis knew that my wife had been stranded in Thailand as a result of USCIS unlawful delay in adjudicating her I-751 (mandated to be within 90 days in INA) for over two years.

Further AUSA Padis knew that my wife was left as an apparent illegal in these troubled times. He also knew that USCIS had approved her N-400 application for citizenship and was unlawfully denying her fundamental rights as a citizen to vote and assist her son in seeking better employment.

His intentional omission of these critical facts from his summary does not indicate that they weren't there, it just shows that AUSA Padis was simply trying to delay with meritless pleadings that have no bearing on the matter at hand.

**A. Absurd Claim of Sovereign Immunity**

In III A on page 5 of USATXN Motion to Dismiss (ECF 15) AUSA Padis makes the absurd claim Sovereign Immunity protects DoJ and OIG from their statutory duties to investigate, refer, report, and monitor plausible allegations of federal crimes.

The absurdity of this claim is discussed above in the section ‘ pages 4 - 6, but AUSA Padis would have us believe that DoJ and OIG can allow other government agencies to commit crimes with impunity and there is nothing the courts can do to reign in this 'executive discretion' gone wild. To be clear, we believe that it is

never acceptable for any government agent to order Seal Team 6 to assassinate federal judges or federal attorneys and no other agency (OIG or DoJ) can permit such crimes to made with impunity. Every agent of the federal government must support and defend the constitution.

Falsifying government records are clearly less serious crimes, but lesser options of referring the matter to local management to resolve the problem is an acceptable alternative as long as it is reported to and monitored by the applicable OIG and DoJ.

### B. Challenge to USPS Jurisdiction False and Misleading

**AUSA Padis Denies Well Known Facts, Attempts to Create Legal Fiction**

In III B on page 5 (ECF 18) challenges USPS jurisdiction and misconstrues the law in the matter with legal theories that are simply false. AUSA Padis states:

> **Although Congress through the Postal Reorganization Act waives sovereign immunity for certain categories of claims**, "the statute also provides that the [Federal Tort Claims Act or the] FTCA 'shall apply to tort claims arising out of activities of the Postal Service.'" Dolan v. U.S. Postal Serv., 546 U.S. 481, 484 (2006). The FTCA in turn limits the federal government's waiver of sovereign immunity with certain exceptions, 28 U.S.C. § 2680, including (pertinent here) that the federal government retains sovereign immunity from "[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter." Id. at 485. Here, because Plaintiffs' claim concerns an allegedly late-delivered package, that claim arises out of the allegedly "negligent transmission of letters or postal matter" such that the federal government retains sovereign immunity. See id. **Therefore, Plaintiffs' claims concerning the alleged one-day delayed delivery of Mr. Carr's package should be dismissed for lack of jurisdiction**.[5]

5 Bold added by the Plaintiffs. The logic error is that the first bolded statement is true but nowhere does AUSA Padis establish that the 'certain categories of claims' which are valid doesn't apply to the claim being presented

**USPS Can Offer Refunds for Select Services**

It is a simple well known fact that USPS offers a select few services under various names where refunds are available if the package is not delivered within the 'Guaranteed Delivery' time. At the time of the disputed delivery such refunds were available for 'Overnight Express' packages, but not First Class mail or Priority Express mail. Any adult living in the U.S. has surely heard advertisements and seen USPS fliers which state this.

**Cited Dolan Clearly States the Plaintiffs USPS Claim is Valid**

The conclusion by AUSA Padis is blatantly false. The quoted Dolan v. Postal Service, 546 U.S. 481 (2006) goes on to say:

> 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 CFR § 111.1 (2005)... The same was true when Congress enacted the FTCA in 1946. ... See 39 USC § 245 (1940 ed. and Supp. V) ("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," ... an objective consistent with retaining immunity as to claims of mail damage or delay covered by postal registration and insurance.

In the 1940 edition of 39 USC § 245, USPS was authorized to establish a system where senders can be indemnified for certain losses. This system is now embodied in 39 CFR § 111.1 which incorporates the Domestic Mail Manual by reference

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to the court, so the last bolded statement is not a supported conclusion and is, in fact, false.

with 604 9.2.3:

> A full refund (100 percent) may be made when: …
> * Fees are paid for Certified Mail services, USPS Tracking, or USPS Signature Services, and the article fails to receive the extra service for which the fee is paid.

Indeed we did purchase such a service through 'Guaranteed Delivery' (ECF 18-3) and, after an administrative appeal, the refund of $26.35 was approved with 'Dispute Paid' (ECF 18-8). As explained in Dolan we can seek a refund for services which we paid for and were not provided and 'for which adequate remedies were already available' under 39 CFR § 111.1.

**AUSA Lies In False Conclusion**

It appears that AUSA Padis was aware that our claim was valid (and sovereign immunity did not apply) by stating in the first bolded statement cited above:

> Although Congress through the Postal Reorganization Act waives sovereign immunity for certain categories of claims,

He then goes on to cite a lot of irrelevant limitations of the FTCA which is not the basis of refunds for 'Guaranteed Delivery' 'Overnight Express' which are supported (according to Dolan) by 39 USC § 245 (1940 ed. and Supp. V) or AUSA Padis' ambiguous 'Postal Reorganization Act'. It is apparent that AUSA knew that his claim of sovereign immunity was invalid and blatantly false as he included so much irrelevant information before his false conclusion:

> Therefore, Plaintiffs' claims concerning the alleged one-day delayed delivery of Mr. Carr's package should be dismissed for lack of jurisdiction

AUSA simply lied about the validity of the claim and attempted to cover up the lie through complex references to irrelevant case law.

**Actual Claim in This Matter Supported by the FTCA**

However, while USPS approved our refund with 'Dispute Paid', it appears USPS never actually credited our account with this payment.

Indeed, this court could order USPS to determine if the payment was ever made. If not, the court could order USPS to make the payment as USPS has already authorized the payment but not completed the process specified in 39 CFR § 111.1.

**The FTCA Supports Simple Tort Claim Against USPS**

As an alternative, the court could order USPS to make the payment under 28 USC Chapter 171 (FTCA tort claims) as this is not actually a claim for late delivery which was resolved when USPS authorized the payment, but instead a failure to pay an amount due, a simple tort claim which the FTCA does support as there is no exception for accounting and payment failures.

**Credit for Future Services Not Protected By Sovereign Immunity**

*AUSA Lied About Seeking 'Money Back'*

In this case, the court is asked to order USPS to make a credit for future services. This is, apparently, a novel legal theory, which I would like to develop fully. Of AUSA Padis lied and claimed that we were seeking 'money back'. Just because AUSA does not have any defense against this novel legal theory, he can not make statements which he knows to be false.

**C. False Claim of Exhaustion of Remedies Doctrine**

AUSA Padis includes a few seemingly random quotes from some of the underlying statutes making already convoluted statutes even more impenetrable. However, the conclusion is that AUSA Padis claims (falsely) that because we did not avail ourselves of the administrative appeals process provided by USCIS we can not

seek relief from the court.

Of course this nonsense. There is the Exhaustion of Remedies Doctrine which says that the courts prefer for parties to pursue simpler methods of resolving disputes before turning to the courts. This just makes plain good sense as the courts are generally slower and more expensive than the alternatives (and the courts have an excessive workload as well). However, this is not an absolute rule (as AUSA Padis falsely states) and if the court finds there was good cause for skipping the administrative appeals and the court has jurisdiction (such as a constitutional question, due process being a prime example) then the court can consider the matter. It happens that in this case we did have good cause for bypassing normal administrative appeal and also pursued an alternative (but still within the letter of the law) appeal.

AUSA Padis summation of the section (actually the entire section header) of:

> The naturalization statute provides an adequate remedy of which Plaintiffs have not availed themselves, requiring dismissal of Plaintiffs' naturalization-related claims.

is blatantly false.

**Administrative Appeal Process Violated Due Process**

The contested decision by USCIS (ECF 10-10) claimed that we had to file form N-336 if we wanted to appeal the decision but didn't mention the exorbitant fee required to file the form, $700. The N-400 application itself had a hefty $625 but it was still less than fee to appeal a bad decision. The complaint goes into this due process violation in depth and seeks relief from the court of lowering the N-336 fee. Certainly there was a constitutional question for the court to address so

jurisdiction was proper.

This is especially true for decisions which deny applications for 'failure to appear'. If the applicant was in the hospital in a coma and unable to appear at the hearing, the cost to correct the error must not be so high as prevent those with limited resources from appealing. Justice is not reserved for the rich and even the poor and uneducated are entitled to a fair hearing (via due process).

**Administrative Appeal Was Pursued Via Novel Channels**

INA 336 is actually three statutes 8 USC § 1445, 1446 and 1447.

section 1445 covers the application itself, completing the N-400, paying the fee, and having the N-400 accepted. section 1446 covers the interview and acceptance or denial. section 1447 describes the appeal process. AUSA Padis quoted random selections from those statutes apparently seeking to avoid making it clear that his claim was nonsense.

A much clearer description of the appeals process is described in the applicable federal rules 8 CFR 336.2(a) which was cited in the USCIS decision (ECF 10-10).

The relevant rule 8 CFR 336.2(a) states:

> (a) The applicant, or his or her authorized representative, may request a hearing on the denial of the applicant's application for naturalization by filing a request with USCIS within thirty days after the applicant receives the notice of denial.

It is important to note that there is no mention of form N-336 and its exorbitant fee in the actual rule. We chose an alternative method of 'filing a request with USCIS'

of emailing a request for assistance to the Director of USCIS (ECF 30-8) as well as the DHS IG, our Representative in Congress, and DoJ. This email was sent on 7 Nov 2023, well within the 30 day requirement. Not only did it meet the requirements of 8 CFR 336.2(a), it also completed the exhaustion of remedies guideline by requesting assistance from numerous other sources.

**D. Visa Denials Not Discretionary**

AUSA Padis goes on to challenge the DoS visa denial claims as if they were discretionary citing Aguilera v. Holder, 354 F. App'x 882, 884 (5th Cir. 2009). However, non-immigrant visas are governed by clear statutes and the denial cited a particular statute (INA 214(b)[6]) as the justification for the denial. AUSA Padis' claims are completely baseless. The insertion of text 'such as a non-immigrant tourist visa' is legal fiction designed to deceive the court.

It should also be noted that Aguilera includes the statement that it is not precedent and there is no explanation for its use. As such it should incur minimal additional sanctions as described in ECF 30-6 for citing a decision which was not precedent without any explanation.

**D. Doctrine of Consular Non Reviewability (DoCNR)**

The Complaint had two claims against DoS for failure to provide due process in their 4 visa denials to my wife (2018) and Buakhao (2019). Count 3 exclusively dealt with DoS lack of due process in denying my wife's visa (ECF 11-1 para 59 - 83), but AUSA Padis completely ignored that Count, perhaps because exceptions

6 INA 214(b) is 8 USC § 1184 which states:

(b) Presumption of status; written waiver

Every alien ... shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 1101(a)(15) of this title.

to DoCNR are well established for spouses of U.S. citizens.

Further, in ECF 11-1 para 121 and 167 refer to unconstitutional restrictions made on foreign nationals (as in DoCNR) which we intend to challenge. This is elaborated at great length in our Response (ECF 18) pages 13 - 22 where we elaborated on the challenges to DoCNR we intend to bring but the foundation of those novel and untested challenges were already laid out in the complaint (ECF 11-1) para 121 and 167.

It was not proper for AUSA Padis to include DoCNR in the MTD as novel and untested legal theories are permitted at this stage of litigation and the foundations of that challenge were already present in our citing historical prejudice against aliens (such as the 1882 Chinese Exclusion Act) and the offspring of such offensive (to us) policies in the form of DoCNR.

## E. Frivolous Allegations

### Entire Argument (full page) Reduced to Eight Words

This is the most egregious of AUSA Padis arguments. He describes all the allegations of the complaint as frivolous but the actual allegations are reduced to 'infer conspiracy and false documents from administrative delays'. The first half of the argument is just quotes from Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018), another not precedent decision which warrants sanctions on its own.

The second half of this argument was simply mixing up unimportant allegations which were included to provide context with unrelated reliefs. Of course you can make any serious and well stated claim sound ‘frivolous’ by randomly choosing

words and phrases and mixing them until they are suitable nonsense. However, Starrett only concerns allegations which are on their face frivolous and not the relationship of the allegations and relief.

The remainder of this entire argument was simply eight words describing allegations which 'infer conspiracy and false documents from administrative delays'. While such allegations might be unfounded and rejected by the court they certainly would not rise to the level of Starrett to be called frivolous.

**There Are No Such Frivolous Allegations in the Complaint**

The problem is there are no allegations in the complaint which 'infer conspiracy and false documents from administrative delays' as shown in our Response (ECF 18) pages 41 – 50.

AUSA Padis admitted in later phone conversations that while there are numerous allegations of false documents, none are based on administrative delays.

AUSA Padis tried to justify the 'frivolous' argument from just the remaining 'infer conspiracy ... from administrative delays' with another false statement.

**USATXN Makes Further False Claims To Justify Frivolous**

In USATXN's response (ECF 35) of 28 May 2024, referring to ECF 3 (or ECF 11-1, a machine readable version of that complaint) they claimed that:

> Plaintiffs allege Mrs. Carr's N-400 interview was delayed and ultimately denied based on "falsified records" leading to her interview being missed. Id. at 3 paragraph 6-8.

However, there is no mention of any delay in the actual text cited which was:

> 6. On 31 Jan 2023 as a result of a joint interview held on 30 Jan 2023 for a

> permanent green card (I-751) and for citizenship (N-400), the United States Citizenship and Immigration Service (USCIS) approved Mrs. Carr's I-751 application for a permanent green card while not actually providing the green card as her N-400 citizenship application was also approved. [see ECF 10-1]
> 7. However, instead promptly providing Mrs. Carr with a Certificate of Naturalization, on 01 Sep 2023, USCIS updated her N-400 record to note that the interview of 30 Jan 2023 was canceled due to unforeseen circumstances. [see ECF 11-1]
> 8. Mr. Carr complained to USCIS, the Department of Homeland Security (DHS) OIG and DoJ of falsified records (the interview had been completed and the N-400 had been approved). Even so, USCIS scheduled a 'second' N-400 interview for 11 Oct 2023, a date when USCIS had been informed that Mrs. Carr would be out of the country. Mr. and Mrs. Carr made numerous efforts to reschedule the interview which were refused. USCIS denied Mrs. Carr's N-400 application on 14 Oct 2023 for 'failure to appear'. [ECF 10-10] Mr. Carr has since complained to DHS OIG of 'whistleblower' retaliation for his previous reports of federal crimes and other malfeasance by USCIS.

This was from the introductory overview of the claim with the details in paragraphs 161 to 204 on pages 26 to 39. A review of the affirmed statements in the verified Complaint (ECF 29) makes it clear that 'whistleblower' retaliation was actually a reasonable supposition based on:

- reporting problems to USCIS Director, DHS OIG and DoJ
- which was followed by several falsified documents and violations of due process and lawful statutes and
- finally illegal denial of citizenship.

There were no allegations which 'infer conspiracy and false documents from administrative delays' and the entire ‘frivolous’ argument was false wasting the time of all parties and resulting in unwarranted delays.

**The Court May Have Colluded With USATXN to Delay and Dismiss Matter**

**Matter Dismissed Based On Courts "Misunderstanding" Local Rules**

**Local Rules Consider Pro Se Party As Attorney**

The magistrate's Findings, Conclusions, and Recommendation (FCR, ECF 61) dismissed most of the Counts in this matter based on purportedly improper electronic signatures for my wife and her sister in ECF 29, when actually the problem was the courts not considering TXND Local Civil Rules LR 1.1 definitions which declares that:

> "attorney" means either:
> (1) a person licensed to practice law ... or
> (2) a party proceeding pro se in any civil action.

**Court Declares Mr. Carr's Actions Improper Because Not An Attorney**

In its FCR (ECF 61) the court stated:

> Rueangrong and Buakhao did not personally sign the Amended Complaint [ECF 29], ... Rather, they purportedly gave Brian permission to sign the Amended Complaint "electronically on their behalf" … But Brian, **who is not an attorney**, is not authorized to ... sign pleadings on behalf of others.[7]

**Pro Se Party Can Certify the Signature of Another**

But LR 11.1 states:

> (c) Certification of Signature of Another Person. By submitting a document by electronic means and representing the consent of another person on the document, **an attorney** who submits the document certifies that the document has been properly signed.
> (d) Requirements for Another Person's Electronic Signature. **An attorney** who submits a document by electronic means that is signed by another person ... must:
> (1) ... or **represent the consent of the other person** in a manner permitted

7 Bold added by Plaintiffs.

> or required by the presiding judge; ...[8]

Based on LR 1.1, LR 11.1 can be restated as:

> By submitting a document by electronic means and representing the consent of another person on the document, a… [pro se party] who submits the document certifies that the document has been properly signed.
>
> ... A ... [pro se party] who submits a document by electronic means that is signed by another person ... must:
> ... **represent the consent of the other person** in a manner **permitted** or required by the presiding judge; …

**Timing of Motions, Responses, Orders Suggest Collusion**

**Apparent Well Choreographed Scheme to Deny Justice**

A review of the time line of important events in this matter make it apparent that the court and DoJ had a well choreographed scheme to efficiently (with little effort by the court or DoJ) dispense with pro se matters with the likely unintended consequence of denying justice to plaintiffs whether they had a valid claim or not.

**Scheme Requires Two or More Plaintiffs, USCIS as Likely Defendant**

This particular trick or scheme seems to center on matters with two or more plaintiffs. USCIS would be the likely target of most of such suits as USCIS is so egregious in its dealing with foreign nationals (who are not yet citizens and, hence, have no proper representative in congress).

Also, in most USCIS suits there are likely to be at least two plaintiffs, a citizen or resident spouse or host (in common asylum or TPS cases) and the new immigrant who is being mistreated.

8 Bold added by Plaintiffs.

**Overview of the Scheme to Deny a Just Hearing**

While it is required that the initial complaint for pro se suits be on physical paper (as in ECF 3)[9] with physical signatures, the scheme requires tricking the plaintiffs into amending the complaint which they can now submit electronically.

Then the court orders 'the Plaintiffs' to 'file this same proposed Amended Complaint' without any guidance on how to do that (and violating LR 15.1(b) which specifies that the clerk should file the approved Amended Complaint).

Once the citizen / resident plaintiff files the complaint as directed, the court then takes no action for an extended period (close to a year in this case).

Then the FCR is a surprise to the plaintiffs and the 14 day notice is hidden under a 'service notice' and includes numerous incorrect demands such as specificity and inability to appeal rather than the real requirement of notice of objections (not yet perfected) and the alternative of FRCP Rule 60 Motions for Relief if the 14 day deadline was missed inadvertently.

The FCR is disingenuous with numerous unrelated and nonsensical citations (e.g. citing LR 11 incorrectly) and is designed to dishearten the plaintiffs with false claims about the injured (immigrant) party not being a party to the suit as they did not properly sign the amended complaint and the citizen / resident party having no standing because they can not represent another person.

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9 Court rules previously prevented pro se parties from filing any paper electronically when ECF was new. However, as the court became accustomed to the advantages of electronic filing and retrieval, the court switched to practically requiring all parties (even pro se) to file most papers electronically (LR 5.1(c)). For pro se parties, the initial complaint still has to be filed and served on paper, possibly to preserve the barrier of 'proper service' for pro se parties which is a kind of 'weeding out' process to eliminate those pro se plaintiffs who aren't really serious or even able to abide by basic rules.

After waiting almost a year, the 14 day notice is too short for the parties to understand their situation and options. The court and DoJ stonewall any efforts by the plaintiffs to correct the purported 'defects' and obtain a fair hearing in the hopes that the plaintiffs will just give up, accepting their mistreatment by USCIS as persisted by the DoJ and court.

**Timeline Events For Scheme to Deny a Just Hearing In This Matter**

In this matter, the scheme was implemented through coordinated filings by the DoJ and the court.

**Time Line of Relevant Court Filings**

| Date | Filing |
|---|---|
| 1 Mar 2024 | AUSA Padis sends email with false statements about service to get 60 day delay (ECF 28-1). Mr. Carr responds and explains his wife's dire circumstances and just cause of action (ECF 10-5).<br><br>Delay seems to be the fundamental strategy for AUSA Padis hoping the plaintiffs will:<br>* Resolve the matter on their own,<br>* Die, get deported or otherwise become unable to continue to dispute the matter, or<br>* Give up on seeking a fair hearing |
| 8 Mar 2024 | AUSA Padis files 1st MTD (ECF 15) with disingenuous arguments from unrelated cases, e.g. citing USCIS deportation proceedings with truly discretionary decisions and falsely claiming that those statutes apply to INA non immigration visas by DoS. The arguments are minimally adapted to this matter using names and a few select details but carefully avoiding critical issues such as Mrs. Carr's dire circumstances and USCIS failures to perform (ECF 10-5) |
| 28 Mar 2024 | Mr. Carr files Response (ECF 18) opposing MTD (ECF 15) with Motion for Partial Summary Judgment (MfPSM), to provide relief for Mrs. Carr's dire circumstances) as well as Motion to Amend Complaint to correct typographical errors and to conform to the evidence. |
| 2 Apr 2024 | AUSA Padis attempts to delay matter via email through mooting of MTD (ECF 15) and MfPSM (ECF 18) based on acceptance of Amended Complaint via email |

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| | (ECF 28-1). |
| 5 Apr 2024 | Mr. Carr files Certificate of Conference opposing the mooting of pending motions or permitting any further delay which would leave Mrs. Carr in unjustified dire circumstances (ECF 20 citing ECF 10-5, ECF 20-1, ECF 18-6 and ECF 20-1) |
| 8 Apr 2024 | AUSA Padis filed a separate Certificate of Conference (ECF 21) and argued that the Plaintiff's should file the Amended Complaint as it was uncontested though it would reset the clock for an alternative MTD. |
| 12 Apr 2024 | Mr. Carr sent an email (exhibit 1 attached to this motion) to AUSA Padis asking for his response in redacting the email thread submitted as ECF 28-1. It appears that this email warned USATXN that the sanctions requested in ECF 18 of 28 Mar 2024 were likely to be expanded to include the federal crimes of falsifying government records (18 USC § 1001) from the false statements AUSA Padis made in his original email of 1 Mar 2024 (ECF 28-1). It is likely that the process of substituting AUSA Owen as counsel began on receipt of that email. |
| 17 Apr 2024 | AUSA Padis submitted the Rule 56(d) Motion (or Rule 56(d) Response) as ECF 22 opposing MfPSJ (ECF 18) with an affidavit purporting to justify why more time was required (ECF 23) but the affidavit was woefully inadequate citing nothing specific, just broad claims of needing more time to understand the issues which, according to case law, is insufficient. It did not address the relief sought of Mrs. Carr's dire circumstances and its urgent nature nor the documents from USCIS which were the sole basis for the claim and her dire circumstances (ECF 10-5). |
| 22 Apr 2024 | Magistrate Rutherford files Order resolving pending motions (ECF 26). It is here that DoJ and the Court close their trap with the order that:<br><br>> Plaintiffs must file their Amended Complaint on the docket by **April 30, 2024**. ...Plaintiffs should file this same proposed Amended Complaint as a separate docket entry titled "Amended Complaint."<br><br>This order was improper as the court should have directed the clerk file the Amended Complaint in accordance with LR 15.1. However, that would have confirmed that the electronic signatures on ECF 18 and ECF 18-1 were accepted by the court. Then the court could not complete the trap. Instead the court violated LR 15.1 providing ambiguous (or impossible) directions. It is really not possible for Plaintiffs (all three) to file an electronic docket entry (singular) in ECF. Only one ECF user can file a document under their ECF account.<br><br>By presenting the Plaintiffs with impossible directions, the court completed the trap. The court later withdrew its acceptance of the signatures on the Amended |

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| | Complaint and, on its own initiative almost a year later, contested the validity of the signatures (violating res judicata by waiting almost a year)<br><br>This order was premature in the sense that Plaintiffs were never permitted to Reply in support of their MfPSJ (ECF 18) which was being prepared and was completed and submitted on the same day. It is possible that the court would withdraw their Amended Complaint to avoid further delay being argued about in the dueling certificates of 5 Apr 2024 and 8 Apr 2024.<br><br>The order also was a federal crime (18 USC § 1001) as it concealed material facts concerning what the plaintiffs were seeking and what the basis for their claim was. It relied heavily on the MTD (ECF 15) without any apparent consideration of the MfPSJ (ECF 18) or the complaint (ECF 3). The plaintiffs have separately sought sanctions for the false and misleading statements by AUSA Padis in the MTD (ECF 15), but there are lesser standards of truthfulness for motion papers ( 18 USC § 1001 does not apply). However, decisions of the court are held to the standards of 18 USC § 1001. |
| 22 Apr 2024 | USATXN substituted AUSA Owen as Counsel (ECF 27) in this matter just hours after the previous MTD (ECF 15) was declared moot. This creates the appearance of collusion as the court was only waiting for the USATXN Response and not the plaintiffs' Reply and USATXN expected this, perhaps through back channel communications through the clerks in the different offices.<br><br>This substitution was the likely response to the redacted email thread sent to AUSA Padis on 12 Apr 2024 (ECF 28-1) documenting his federal crime (18 USC § 1001) and bar association violations. |
| 22 Apr 2024 | Mr. Carr filed his Reply (ECF 28) supporting MfPSJ (ECF 18) on the evening of the same day, but it was after the order. In it Mr. Carr cited the propensity of AUSA Padis to delay (even while Mrs. Carr was in dire circumstances after her 10 year green card and citizenship were approved (ECF 10-5)) and referred to the false statements in AUSA Padis email of 1 Mar 2024 (ECF 28-1). |
| 22 Apr 2024 | Mr. Carr files the proposed Amended Complaint (ECF 18-1) as the Amended Complaint even though LR 15.1 required the clerk to file the complaint. He was unaware that the court was actually demanding that all three plaintiffs file the complaint electronically so that there would be three complaints in the record, one for each plaintiff (making answering and other references tedious) |
| 8 May 2024 | Mr. Carr filed the motion for sanctions (ECF 30) which this motion argues was denied in error. |
| 14 May 2024 | AUSA Owen files a second MTD (ECF 31) which is virtually identical to ECF 15 with the omission of the 'Frivolous' argument. |

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| 14 May 2024 | Mr. Carr filed a Motion to Reconsider (ECF 32) which challenged the false statements in the findings of ECF 27 where Mrs. Carr dire circumstances of being left an apparent illegal after USCIS approved both her applications for a 10 year green card and citizenship (ECF 10-5) were described as 'various attempts by Ms. Carr and Ms. Von Kramer to obtain immigration benefits' |
| 15 May 2024 | Mr. Carr filed a second MfPSJ as ECF 33 |
| 29 May 2024 | AUSA Owen filed a Motion to Strike the MfPSJ (ECF 33). This was actually a Rule 56(d) motion with attached affidavit (ECF 38) which was equally flawed as the original, ECF 23. |
| 9 Jun 2024 | Mr. Carr filed their Response (ECF 39) opposing Motion to Strike (ECF 33) and Reply Supporting MfPSJ (ECF 33). |
| 11 Jun 2024 | AUSA Owen filed Reply (ECF 41) Supporting Motion to Dismiss (ECF 31). |
| 13 Jun 2024 | Mr. Carr filed Reply (ECF 42) Supporting Motion to Reconsider (ECF 32). |
| 17 Jun 24 | The court filed Order (ECF 43) that the Motion to Strike (ECF 37) was actually a Rule 56(d) motion which was granted and Denying MfPSJ (ECF 32) as premature.<br><br>It contained the same false statements (another crime under 18 USC § 1001 of concealing material facts) as the original in ECF 26, but it should be noted that court accepted the papers signed by Mr. Carr supporting the claims by Mrs. Von Kramer and Mrs. Carr. According to res judicata the court had accepted that the Amended Complaint (ECF 29) was properly signed by all three plaintiffs.<br><br>The court left the MTD (ECF 31) as pending even though the MfPSJ was denied as premature, thereby leaving Mrs. Carr in dire circumstances indefinitely as the court delayed any decision on the MTD for almost a year. |
| 26 Feb 2025 | The court Order (ECF 59) denying Motion for Sanctions (ECF 30) and Order (ECF 60) Denying Motion for Reconsideration (ECF 32 referring to ECF 18, ECF 22). |
| 27 Feb 25 | Findings, Conclusions, Recommendations (ECF 61) granting MTD (ECF 31) with hidden 14 day notice and denying status of Mrs. Carr and Mrs. Von Kramer in the complaint (ECF 29) as their electronic signature was not valid (no previous objections to their signatures by any party including the court). Irrelevant and nonsensical FRCP Rule 11 references conceal the fundamental complaint.<br><br>This is a series of false statements (and crimes under 18 USC § 1001) as LR 1.1 and LR 11.1 in combination demonstrate the signatures were submitted correctly according to local rules |
| 21 Mar 2025 | Order (ECF 62) Accepting Findings, Conclusions, Recommendations (ECF 61) and Order (ECF 63) dismissing matter by Judge Scholer. This is also a crime under 18 USC § 1001 as relying on a known false document is also a crime. Any |

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| | judge should be familiar with local rules and know the procedure for electronic signatures by pro se parties (who are attorneys according to local rules, which is certainly the prerogative to the court to accept individuals to appear before the court and act as counsel). |

## Questions Raised By Apparent Scheme

By leaving Mrs. Carr in dire circumstances (and concealing her status as an apparent illegal) for an extended period the court and DoJ colluded to deprive her of the rights of being a citizen (and even of being secure in her status as a permanent resident) as provided for in the decision by USCIS (ECF 10-5) which approved both her 10 year green card and citizenship well over two years ago.

Why were the MfPSJ's resolved almost immediately and the Motion to Amend forced to create additional delays (which is contrary to law)?

Why did it take over a year to get any decision from the court but only 22 days to close the matter (with hidden 14 day notice)?

Why did the court make false statements such as 'Brian, who is not an attorney, is not authorized to ... sign pleadings on behalf of others' which is directly contradicted by LR 1.1 and LR 11.1 which declare that Mr. Carr is an attorney (LR 1.1) and can certify the electronic signatures of other through their consent (LR 11.1)

## Community Service Requested as Sanctions

### Estimates of Time Wasted Adjusted for Community Service

It took Mr. Carr roughly 140 hours preparing the Response (ECF 18) to AUSA Padis

However, that does nothing to alleviate the delay created by the meritless Motion to Dismiss or the time wasted by Mr. Carr and the court in refuting and reviewing the MTD.

**Nature and Amount of Sanctions Requested**

It took Mr. Carr roughly 140 hours preparing the Response to AUSA Padis meritless Motion to Dismiss (MTD) and associated papers which adjusts to 35 hours of community service for AUSA Padis. Of course if the court finds that some portions of the MTD had some merit, the court can adjust hours as it deems appropriate.

In addition the total delay from the MTD to the next response from USATXN is now 66 days so that figure is used as the number of days early filing for USATXN in this matter. Sadly that will likely be AUSA Parker but the Defendants have had the benefit of additional time to prepare in this matter and it will be incumbent on them to prioritize this matter.

In this case Community Service for AUSA Padis is particularly appropriate as he has callously ignored my wife's plight of not being able to work and travel freely as she has no documentation of her permanent resident status. This is particularly difficult in times of the still pending Texas SB4 law to deport 'illegals' with unknown due process. My wife is also wrongfully being denied her rights as a citizen to vote and, of importance to her, help her son seek better employment opportunities. These also justified early filings for the Defendants until some relief is provided to my wife.

In addition to the above, it took Mr. Carr about 32 hours to prepare this Motion for Sanctions which results in an adjusted 8 hours of Community Service.

It should be noted that there will likely be additional Motions for Sanctions for later filings by AUSA Padis but that will only result in additional Community Service hours as the cumulative early filing days is already covered in this motion.

As such sanctions are requested as follows:

| CS | EF | Relevant Pleadings / Interaction |
|---|---|---|
| 10 | 3 | Email Interactions Prior to Initial Motion to Dismiss |
| 16 | 2 | Citing Two Decisions which are 'Not Precedent' |
| 35 | 60 | Delay from meritless Motion to Dismiss and time spent defending |
| 8 | NA | Time preparing first Motion for Sanctions |

CS Community Service Hours Required

EF Number of days for Early Filing Required

**Refusal to Consider Sanctions Creates Appearance of Bias**

In the Order (ECF 59) denying our Motion for Sanctions (ECF 30), the court again has apparent bias and disregard to prompt, equitable, and just resolution to disputes. The court correctly notes that such sanctions are at the discretion of the court and concludes ‘the Court declines to issue sanctions’ even for serious violations of Texas Bar ethics (lying in a government email, a federal crime).

**AUSA Padis Lies in Email, Tries to Delay Case**

Before responding to our Complaint in Mar 2024, AUSA Padis sent me an email in which he lied about not receiving a copy of the complaint with ‘the U.S. Attorney's Office has no record of having been served in this case’ when actually (he admitted

later), they had records of being served but their records indicated that I served the complaint personally rather than through a third party (not a party to the suit). Of course the complaint was actually delivered by a friend of mine with my assistance (he handed the packet to the correct person), but AUSA Padis was hoping to trick me into giving him an almost 60 day delay.

**Mrs. Carr Left as An Apparent Illegal Alien**

I did not agree to any delay as my wife had been left as apparent illegal alien with no 10 year green card or citizenship (citizenship had been promised USCIS notice of 31 Jan 2023, ECF 10-5) and was terrified of ICE (immigration police to her) arresting her without cause and deporting her (perhaps to a maximum security prison in El Salvador) without any hearing or even any chance to talk with me. Instead I replied to his email with a copy of the complaint along with the USCIS final decision and order (ECF 10-5) and asked for his assistance in resolving this pressing matter and offered that the other matters could be dealt with at a more leisurely pace.

**Court Continues Delay, Creates Appearance of Bias**

However, AUSA Padis and DoJ continued to delay and, with the help of the court left my wife as an apparent illegal alien for over a year before she was able to get citizenship more than two years after USCIS had approved it. After it was apparent that AUSA Padis was only trying to delay, I submitted the motion for sanctions (ECF 30) on 8 May 2024, but the court took no action until 26 Feb 2025 with ECF 59.

The court's power to sanction goes back to early English law along with the development of due process and the court has almost absolute discretion with

sanctions. However, the requirement that the court be unbiased and recuse itself restricts the courts discretion with sanctions (due process overrides this basic discretion).

AUSA Padis violations of TXND LR 83.8 (b)(3) through 'Unethical Behavior', Texas Disciplinary Rules of Professional Conduct (ECF 30-2)[10] Rule 4.01 'Truthfulness in Statements to Others' and 18 USC § 1001 (falsification of government records) along with the delay, leaving my wife in dire circumstances, were quite serious and warranted at least an investigation of the facts and circumstances to determine if sanctions were appropriate.

However, the courts decision which ‘declines to issue sanctions’ without any investigation creates the appearance of bias and ‘personal knowledge’ or collusion. It is also not surprising as the court itself delayed and lied avoiding prompt and equitable justice.

The court should recuse itself and new justices should issue consider this motion for sanctions.

**Conclusion**

The court is asked to consider the actions of AUSA Padis in conjunction with the court and impose sanctions appropriate for the violations and the damages which resulted. Community service and early filings are suggested as possible sanctions, but the court is, of course, to choose whatever sanctions it seems appropriate.

10 TDRPCEffective013122.pdf in ECF 30-2 is a copy of the Texas Disciplinary Rules of Professional Conduct retrieved from https://www.texasbar.com/ but the link used to retrieve the document was a dual party link with built in redirection which makes the link intrinsically unreliable and not robust. Such links are not archived in the various web archives making the validity uncertain.

The court is also asked to provide such other and further relief as it deems appropriate.

Respectfully submitted,

**Verification of Motion**

I, Brian Carr, 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 be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered in accordance with normal redaction procedures to remove sensitive personal information or other sensitive information as identified in the redaction.

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: 29. Aug. 2025
Location: Irving, Texas

**Alphabetical Index**

**Certificate of Conference**

This Motion for Sanctions under FRCP Rule 11(c) is OPPOSED.

While this is a timely FRCP Rule 60 Motion For Relief (as required for a 'closed' case), it is also a Motion for Sanctions under FRCP Rule 11(c) (the specific relief sought). In LR 7.1, there is not a specific listing for FRCP Rule 60 Motions For Relief but it is also a Motion for Sanctions Under FRCP Rule 11(c) which is listed in LR 7.1 as conference required. Also, as this motion will be provided to defendants at least 21 days before it is submitted to the court (to comply with FRCP Rule 11(c)), it is assumed that if the motion is submitted it was because the parties could not agree on an alternative.

/s Brian P. Carr

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Brian P. Carr
1201 Brady Dr
Irving, TX 75061

## CERTIFICATE OF SERVICE

In accordance with FRCP Rule 11(c) requirement for preliminary service not including the court and FRCP Rule 5 service by mailing, on 29. Aug. 2025 I mailed this document to AUSA Padis in a USPS Priority Mail Flat Rate Envelope with a prepaid shipping label addressed to:

George M Padis (Assistant United States Attorney)
Texas Bar No. 24088173
1100 COMMERCE ST FLOOR NUMBER 3
DALLAS, TX, 75242-1001

by placing the envelope into a blue United States Postal Service mail box.

Further, 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

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Brian P. Carr
1201 Brady Dr
Irving, TX 75061