



Brian Carr <carrbp@gmail.com>

Re: 3:23-cv-02875-S , Appeal Case 26-10025, Motion Conference, Nomination of James David Mercer for bar membership

1 message

Brian Carr <carrbp@gmail.com>

Sun, Apr 12, 2026 at 3:03 PM

To: "Parker, Tami (USATXN)" <tami.parker@usdoj.gov>

Cc: James Mercer <jmer498@msn.com>

Dear AUSA Parker,

I hope you are well.

I am asking your position on a motion for extension of time on the submission of the brief in this matter for an additional 40 days for counsel representing all five plaintiffs / appellants to appear in this matter and to prepare the motions I previously presented to you (email of 20 Feb 2026 copied below).

On consideration of the difficulty of submitting joint motions with five appellants all pro se for the relief sought I concluded that I must engage an attorney to represent all the appellants and proceeded to contact attorneys with experience challenging DoJ, USCIS, and DoS. However, given Trump's order that DoJ sanction such firms, they were generally unresponsive with most not answering and those who did respond simply saying that they can not take on such a case at this time.

Similarly local attorneys were hesitant to take on such an appeal given the motions for sanctions and recuse and misconduct complaints as they feared reprisals which could destroy their practice.

However, my roommate from graduate school at MIT became an attorney as a second career after working as a chemical engineer for many years. He is older now and is winding down his practice and so does not fear reprisals. However, he is in California and does not know Fifth Circuit bar members to nominate him for bar membership (as the preferred way appearing in this matter).

He is [James David Mercer #233569](#) and, as you can see, a member in good standing with the California State Bar. As opposing counsel, are you willing / able to nominate him for membership in the Fifth Circuit bar? If that is not possible I can inquire with the clerk about how to get a nomination and, if that fails, ask the court to assist with this problem or grant him permission to appear pro hac.

As you can imagine the logistics of Mr. Mercer representing four additional appellants has not been worked out (and they are all in Thailand at this time) but I am inquiring if you are OPPOSED to an extension of 40 days for counsel to appear in this matter and to prepare the motions:

- Motion to Amend the Caption to clarify that the appeal is for all three original plaintiffs as well as the two new plaintiffs who signed the proposed amended complaint ([ECF76-1](#)) as appellants and the two new defendants (IRS and TIGTA) as appellees.
- Motion for Leave to File Joint Briefs for all the appellants.
- Motion to Sever Issues to get two separate appeals for the denied Motions for Sanctions with Mr. Padis and you as separate appellees in separate appeals. Also, the denied Motions to Recuse as two separate appeals merged with the present complaints against Magistrate Rutherford and Judge Scholer (initial complaints as [ECF96-1](#) and [ECF96-2](#), revised complaints [5CCrCR](#) , [5CCrSR](#) and [5CCrCS](#), [5CCrSS](#)).

Presumably appellant counsel will contact you concerning these motions so there is no need to state USATXN's position on the expected motions.

Thanks for your attention to this matter.

Brian

On Fri, Feb 20, 2026 at 8:08 PM Brian Carr <carrbp@gmail.com> wrote:

Dear AUSA Parker,

I hope you are having (or had) a nice weekend.

Fifth Circuit Rules appear inconsistent with respect to conferences for motions before they are filed. However, they do seem to be required for any action with a pro se party who files electronically, which will be the case here.

I am planning on three motions which may be consolidated or separate depending on the content (and whether they make sense to be consolidated). They are:

- Motion to Amend the Caption to clarify that the appeal is for all three original plaintiffs as well as the two new plaintiffs who signed the proposed amended complaint ([ECF76-1](#)) as appellants and the two new defendants (IRS and TIGTA) as appellees.
- Motion to Leave to File Joint Briefs for all the appellants.
- Motion to Sever Issues to get two separate appeals for the denied Motions for Sanctions with Mr. Padis and you as separate appellees in separate appeals. Also, the denied Motions to Recuse as two separate appeals merged with the present complaints against Magistrate Rutherford and Judge Scholer (initial complaints as [ECF96-1](#) and [ECF96-2](#), revised complaints [5CCrCR](#) , [5CCrSR](#) and [5CCrCS](#), [5CCrSS](#)).

The court could then also group the four severed appeals together for administrative purposes for expeditious processing but that is exclusively within the purview of the court.

Can you let me know if you OPPOSED or UNOPPOSED to each of the motions (if there are any portions of any of those motions which you are UNOPPOSED to, I will consider breaking out those portions as separate motions).

Thanks for your attention to this matter.

Brian

P.S. I am copying Mr. Padis as the case law is pretty thin on how denied motions for sanctions are handled after they are severed and how new additional appellees are added. As he hasn't appeared in this appeal the Certificate of Conference won't include any response from Mr. Padis (so none is requested). This is just a courtesy copy in case he decides he would like to appear at some point.



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