Dear Pro Se Intake Clerk,

I respectfully submit the attached filings for docketing in *Mphasis Corporation v. Rojas*, Case No. **1:25-cv-03175 (JMF)(OTW)**. These filings are submitted **on the first permissible filing date following the Court's most recent filing injunction**.

I. Motion Package for Docketing

Please docket the following documents under the titles listed below:

- **Defendant's Motion to Clarify and Correct the Record Regarding "Trade-Secret" Assertions and the Court's Treatment of Sworn Evidentiary Material**
- **Memorandum of Law in Support of Defendant's Motion to Clarify and Correct the Record**
- **Exhibit A – Evidentiary Chain**
- **Table of Exhibits**
- **Proposed Order**

Each document is flattened and prepared for electronic docketing.

These filings seek clarification and correction under Fed. R. Civ. P. 60(b)(3), Rule 72(a), Rule 83(b), and Fed. R. App. P. 10(e) to ensure that the docket accurately reflects the evidentiary record.

II. Separate Re-Filing of ECF 411 (Sworn Declaration)

In addition, I respectfully request docketing of a separate attachment titled:

"Defendant's Re-Filed Sworn Declaration Previously Submitted as ECF 411 (Re-Filed Under 28 U.S.C. § 1746)"

This filing is a verbatim reproduction of ECF 411, re-submitted solely to restore a previously-stricken evidentiary document **on the first permissible filing date following the Court's most recent injunction**.

No new argument has been added, and no substantive changes have been made. The document now includes a proper 28 U.S.C. § 1746 certification.

Re-filing is made pursuant to:

- **Fed. R. Civ. P. 60(b)(3)** (orders premised on factual mischaracterization),
- **Fed. R. Civ. P. 83(b)** (limitations on local procedural sanctions), and
- **Fed. R. App. P. 10(e)** (correction of the record for appellate review).

The PDF is flattened and preserves the original content.
If the Court requires an OCR-processed version for text-searching or accessibility, I can provide one immediately.

Thank you for your attention and assistance.
Please confirm docketing.

Respectfully,
/s/ Albert Rojas
Pro Se Defendant
319 W. 18th St., Apt. 3F
New York, NY 10011

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION,
Plaintiff,
v.
ALBERT ROJAS,
Defendant.

Case No. 1:25-cv-03175 (JMF)(OTW)

DEFENDANT'S MOTION TO CLARIFY AND CORRECT THE RECORD REGARDING "TRADE-SECRET" ASSERTIONS AND THE COURT'S TREATMENT OF SWORN EVIDENTIARY MATERIAL

Defendant Albert Rojas respectfully moves pursuant to Fed. R. Civ. P. 60(b)(3), Rule 72(a), Rule 83(b), and the Court's inherent authority to ensure an accurate docket and fair adjudication, for clarification and correction of certain characterizations in ECF 488. The record reflects clear inconsistencies between the factual evidence—much of it filed by Plaintiff—and the Court's description of Defendant's filings as "frivolous" or involving "trade-secret" misuse.

Plaintiff's own exhibits foreclose any "trade secret" theory. The Court's prior reference to Defendant's filings as involving "trade secrets" is inconsistent with the provenance, disclosures, and governance-failure evidence that Plaintiff placed on the docket.

Correction is required for two independent reasons:

1. **Plaintiff's own evidence—ECF 14-4, 14-38, 14-40, 14-41, and 14-10—shows that Mphasis transmitted QBE materials to Defendant, not vice-versa, and documents the internal governance failures that Defendant lawfully reported under statutory whistleblower protections.**
2. **ECF 488 imposed sanctions retroactively and struck sworn declarations without addressing their content, contrary to Rule 83(b), Rule 11(b)(3), Rule 60(b)(3), and binding Second Circuit authority.**

Correction of these issues is necessary to maintain an accurate record for review by the District Judge and, if necessary, the Court of Appeals.

This motion does not seek reconsideration of the injunction at ECF 475, but only correction of factual characterizations and docket irregularities necessary for proper review.

I. INTRODUCTION

The Court's prior order (ECF 488) described Defendant's filings referencing Plaintiff's own exhibits as "frivolous" and reflective of "trade-secret" concerns. Those characterizations are **inconsistent with the record**. Plaintiff filed exhibits that:

- show its own Vice President transmitting "QBE.pptx" to Defendant's personal Gmail (ECF 14-4);

- show that Mphasis itself lost track of the QBE device and acknowledged governance failures (ECF 14-10);
- show Defendant promptly reporting those governance failures and identifying the laptop as protected evidence under DTSA/SOX/Dodd-Frank/NYLL §740 (ECF 14-40);
- show Defendant lacked internal access and was restricted to web-only interfaces, refuting any "trade-secret" theory (ECF 14-41); and
- show that Defendant provided contemporaneous notice of these issues to counsel and the Court (ECF 14-38).

Because these filings originate from Plaintiff—and establish a chain of custody and governance-failure timeline wholly inconsistent with a "trade-secret" misuse narrative—the Court's prior description of Defendant's evidentiary submissions requires correction. So too does the retroactive application of filing restrictions and the striking of sworn declarations.

II. FACTUAL BACKGROUND (THE FIVE KEY EXHIBITS)

A. ECF 14-4 — Mphasis transmitted "QBE.pptx" to Defendant's Gmail

ECF 14-4 contains an unbroken email chain showing:

- **Feb. 28, 2025**: Mphasis Vice President **Ruturaj Waghmode** emailed "QBE draft deck" ("QBE.pptx") to **rojas.albert@gmail.com**.
- Multiple internal forwards by Mphasis personnel.
- Defendant neither requested nor initiated the transmission.
- Plaintiff publicly filed this exhibit.

This exhibit conclusively establishes provenance:
Mphasis initiated the transmission; Defendant did not obtain QBE materials improperly.

B. ECF 14-38 — Defendant's April 30 communications documenting governance failures

ECF 14-38 shows Defendant notified Mphasis and counsel of governance defects, device-tracking failures, and data-handling irregularities **before** any dispute over QBE materials arose.

This establishes contemporaneous notice and contradicts any implication that Defendant acted improperly with respect to corporate materials.

C. ECF 14-40 — Defendant identified the QBE laptop as material evidence under DTSA/SOX/Dodd-Frank/NYLL §740

In ECF 14-40, Defendant explicitly advised Mphasis's counsel that the laptop was not a simple asset-return matter but **material evidence in an active whistleblower controversy**, implicating:

- DTSA §1833(b) (whistleblower immunity for disclosure of trade secrets to report violations),
- SOX §1514A,
- Dodd-Frank §78u-6(h),

- NYLL §740.

This destroys any suggestion of concealment or misuse: Defendant was protecting evidence as required by law.

D. ECF 14-41 — Defendant documented lack of internal access and the retaliation sequence

ECF 14-41 (113 pages) shows:

- Defendant lacked corporate VPN access;
- Defendant never had domain access or internal permissions;
- Defendant worked through **web-only** interfaces;
- Defendant raised governance issues to Mphasis and QBE;
- Retaliation followed shortly after the QBE.pptx transmission.

This exhibit precludes any claim that Defendant accessed or removed trade secrets.

E. ECF 14-10 — Mphasis's internal emails admitting governance collapse

ECF 14-10 is among the most critical exhibits. It shows:

- Mphasis executives forwarded internal chains to Defendant;
- They acknowledged **losing track of who controlled the QBE laptop**;
- They admitted "too many moving parts";
- They copied Defendant on chains without confidentiality notation.

This corroborates Defendant's governance concerns and contradicts Plaintiff's litigation theory.

F. ECF 411 and ECF 442 — Sworn Chain-of-Custody Evidence Was Improperly Stricken Based on a Factual Error

ECF **411** is Defendant's sworn § 1746 declaration filed on September 4, 2025, containing the full **chain-of-custody and provenance** of the QBE.pptx file, including:
(1) the full email transmission chain from Mphasis Vice President **Ruturaj Waghmode** to Defendant,
(2) internal Mphasis forwarding activity,
(3) Plaintiff's own admissions in ECF **369**, **375**, and **404** concerning what the alleged "trade secret" actually is,
(4) Defendant's whistleblower notices under DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h), and NYLL §740, and
(5) technical evidence demonstrating that Defendant had **no VPN, no domain access, and no internal QBE system permissions** to obtain any material independently.
Despite this, the Court's September 19, 2025 Order (ECF **442**) struck ECF 411 in full on the mistaken premise that it contained "confidential/proprietary" or "trade-secret" information—

without analyzing its contents and **without acknowledging that Plaintiff itself filed the underlying material** at ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**.
Each of these exhibits confirms that:

1. **The QBE.pptx originated entirely inside Mphasis;**
2. **Mphasis personnel—not Defendant—transmitted the file externally;**
3. Defendant lacked any internal access, domain credentials, or VPN privileges;
4. Defendant's disclosures were made under statutory whistleblower protections; and
5. Mphasis and QBE experienced internal governance failures, not misappropriation.

Striking ECF 411 removed from the record the **central exculpatory evidence** needed to understand the provenance of the QBE file. Because ECF 442 did not consider the contents of ECF 411 or the corroborating filings Plaintiff itself placed on the docket, the order is **clearly erroneous**, contrary to Rule **72(a)**, and inconsistent with Rule **11(b)(3)**, Rule **83(b)**, and Rule **60(b)(3)**.

Defendant now re-files ECF 411 with this Motion and requests that it be restored—or considered as operative under Rule **10(e)**—so that the District Judge may review a complete and accurate record.

Nothing in ECF 411 was obtained improperly; every document referenced was either (a) filed publicly by Plaintiff, (b) transmitted by Mphasis personnel, or (c) produced as part of Defendant's protected whistleblower disclosures. Striking such evidence solely because it contradicts Plaintiff's narrative is inconsistent with Rule 11(b)(3), Rule 83(b), and Second Circuit precedent.

III. ARGUMENT

A. The Record Forecloses Any "Trade-Secret Misuse" Theory

Each of the five core exhibits—ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**—was filed by **Plaintiff**, not Defendant, and each independently demonstrates that no "trade-secret misuse" occurred:

1. **Transmission**: ECF **14-4** confirms that *Mphasis personnel*, not Defendant, transmitted QBE.pptx externally.
2. **Technical Impossibility**: ECF **14-41** establishes that Defendant had **no VPN, no domain credentials, and no internal QBE/Mphasis system access**, making misappropriation technically impossible.
3. **Governance Failures**: ECF **14-10** documents Mphasis and QBE's internal admissions of **device-tracking failures**, dual-endpoint exposure, and uncertainty over who maintained custody of the laptop.

4. **Protected Disclosures**: ECF **14-40** documents Defendant's statutory whistleblower designations under **DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h)**, and **NYLL §740**, foreclosing any inference of wrongful intent.
5. **Evidentiary Status**: ECF **14-40** further confirms that the QBE laptop was treated as **evidence**, not company property, well before any dispute arose.

A litigant **may not weaponize its own disclosure** to manufacture an allegation of misconduct against an opposing party.

Solvent Chem. Co. v. E. R.R. Presidents Conf., 166 F.R.D. 284, 290–91 (S.D.N.Y. 1996) (a party may not rely on its own voluntary disclosure to assert wrongdoing).

Here, Plaintiff voluntarily placed the relevant materials on the public docket **before any motion practice began**, and the record affirmatively disproves each element of a trade-secret theory. Accordingly, the factual predicates underlying the Court's prior "trade-secret" characterization cannot be sustained.

B. ECF 488 Retroactively Sanctioned Pre-Injunction Filings in Violation of Rule 83(b), Due Process, and Binding Authority

ECF **475** states that the preliminary injunction was entered **"in the afternoon of October 22."** Nevertheless, ECF **488** sanctioned filings that were **indisputably transmitted before the injunction existed**, including:

- **ECF 474** – filed **4:30 a.m., October 22**, and
- **ECF 476** – filed **3:45 p.m., October 22**.

Both timestamps precede the injunction's operative moment.

Sanctioning filings that predate the injunction constitutes **retroactive enforcement**, which is **procedurally impermissible** and violates multiple governing authorities:

1. **Fed. R. Civ. P. 83(b)** – local procedures cannot expand judicial power or authorize sanctions where no operative rule or order existed at the time of the conduct.
2. ***Roadway Express, Inc. v. Piper*, 447 U.S. 752, 767–68 (1980)** – due process requires **notice, an operative rule, and an opportunity to conform behavior** before sanctions may issue.
3. ***Warrick v. N.Y.C. Hous. Auth.*, 836 F. Supp. 2d 118, 128 (E.D.N.Y. 2011)** – courts **"may not punish conduct occurring before an order is in effect."**
4. **Rule 72(a)** – an order premised on a factual error (here, the timing of filings) is **clearly erroneous and contrary to law**.
5. **Basic due-process principles** – a litigant cannot be sanctioned for conduct that was **not subject to any operative restriction** at the time it occurred.

Because the injunction had **not yet taken effect** when ECF 474 and 476 were filed, ECF **488** imposed sanctions **without legal authority**.

This renders ECF 488 **clearly erroneous**, inconsistent with Rule 83(b), and invalid under binding Supreme Court and Second Circuit precedent.

C. Striking Sworn Declarations Without Review Violates Rule 11(b)(3), Rule 60(b)(3), and Chambers

ECF **480–481** are sworn declarations submitted under **28 U.S.C. § 1746**, authenticating and supplying the chain-of-custody context for the exhibits Plaintiff itself filed at:

- **ECF 14-4** (transmission of QBE.pptx by Mphasis personnel),
- **ECF 14-38** (contemporaneous governance warnings),
- **ECF 14-40** (statutory whistleblower designations),
- **ECF 14-41** (Defendant's lack of internal access), and
- **ECF 14-10** (internal admissions of governance failures).

Striking sworn authentication declarations **without reviewing their contents**, **without making factual findings**, and **without addressing the corroborating materials already on the docket** is inconsistent with controlling authority:

1. **Chambers v. NASCO, Inc., 501 U.S. 32, 44–46 (1991)** – inherent authority may be exercised only with restraint and **must rest on explicit factual findings** supported by the record.
2. **Alyeska Pipeline Serv. Co. v. Wilderness Soc., 421 U.S. 240 (1975)** – courts may not impose sanctions absent clear statutory or procedural authority.
3. **Oliveri v. Thompson, 803 F.2d 1265, 1272 (2d Cir. 1986)** – sanctions **cannot rest on speculation** or incomplete factual review.
4. **Fed. R. Civ. P. 11(b)(3)** – a court may not strike or sanction factual matter **without assessing its evidentiary support**.
5. **Rule 60(b)(3)** – orders premised on factual mischaracterization or omission must be corrected.

These declarations were required to preserve the provenance, chain-of-custody, and whistleblower context necessary for appellate review.

Because ECF 480–481 were stricken **without examination and without findings**, the order is inconsistent with *Chambers*, *Oliveri*, Rule 11(b)(3), and Rule 60(b)(3) and must be corrected.

D. Correction Is Required to Maintain an Accurate Appellate Record Under Rule 10(e)

The current docket contains descriptions and omissions that are inconsistent with the actual evidentiary record, including:

- Plaintiff's own exhibits (ECF **14-4**, **14-10**, **14-38**, **14-40**, **14-41**);
- Defendant's sworn declarations (ECF **411**, **480**, **481**);
- The uncontested chain-of-custody evidence showing Mphasis, not Defendant, transmitted QBE.pptx; and
- Plaintiff's internal admissions in ECF **369**, **375**, and **404**.

Because key filings were **mistakenly stricken** or **mischaracterized**, the current docket does not accurately reflect the record before the Court. Rule **10(e)** requires correction where the docket:

1. **omits material evidence**,

2. **contains factual misstatements**, or
3. was rendered incomplete due to **procedural error**, including misapplication of an injunction or mistaken striking of sworn evidence.

Accurate preservation of the record is essential for:

- meaningful **appellate review**,
- proper **Rule 60(b)(3)** assessment of factual mischaracterization, and
- maintaining the **factual integrity** of the proceedings.

Because the omissions and misdescriptions in the docket materially affect the issues on review, Rule 10(e) correction is required.

E. ECF 442 Misapplied the Injunction by Striking ECF 411 Based on a Factual Premise Directly Contradicted by Plaintiff's Own Exhibits

ECF **411**—Defendant's sworn § 1746 chain-of-custody declaration filed September 4, 2025—is the **only comprehensive provenance record** for the QBE.pptx transmission.

ECF **442** struck ECF 411 on the mistaken assumption that Defendant had "disclosed" QBE materials, but that assumption is **directly refuted** by the record Plaintiff itself created:

- **ECF 14-4**: Mphasis Vice President **Ruturaj Waghmode** transmitted QBE.pptx externally to Defendant;
- **ECF 14-10**: Mphasis/QBE internally admitted governance failures, device-tracking lapses, and dual-endpoint exposure;
- **ECF 14-38**: Defendant raised governance-risk warnings **before** any dispute arose;
- **ECF 14-40**: Defendant designated the QBE laptop as evidence under **DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h), and NYLL §740**;
- **ECF 14-41**: Defendant lacked VPN, domain access, or internal QBE/Mphasis permissions, making misappropriation **technically impossible**.

ECF **442** did not address any of these exhibits, nor did it analyze the chain-of-custody evidence ECF 411 contains.

Striking a sworn declaration **without**:

- evaluating its contents,
- reconciling it with Plaintiff's own filings, or
- making required factual findings

violates:

1. **Chambers v. NASCO, Inc., 501 U.S. 32 (1991)** – inherent authority must be exercised with restraint and grounded in **explicit factual findings**;
2. **Roadway Express, Inc. v. Piper, 447 U.S. 752 (1980)** and **Warrick v. N.Y.C. Hous. Auth., 836 F. Supp. 2d 118 (E.D.N.Y. 2011)** – due-process requires that sanctions rest on **actual, reviewed evidence**, not factual assumptions;
3. **Fed. R. Civ. P. 11(b)(3)** – courts must assess evidentiary support before striking or sanctioning factual matter;

4. **Rule 72(a)** – an order based on a factual premise refuted by the docket is **clearly erroneous and contrary to law**;
5. **Rule 83(b)** – local procedures cannot expand sanction authority or authorize striking evidence absent compliance with federal rules.

Because ECF **442** rests on a factual premise the record **squarely contradicts**, clarification and correction are required both to maintain the integrity of the docket and to ensure accurate appellate review.

IV. RELIEF REQUESTED

For the reasons stated above, Defendant respectfully requests that the Court:

1. **Clarify the record** to confirm that ECF **14-4**, **14-38**, **14-40**, **14-41**, and **14-10**—all filed by *Plaintiff*—are operative evidentiary materials and may be properly referenced by Defendant.
2. **Correct the docket** to remove any implication of "trade-secret misuse" by Defendant where the record shows the QBE.pptx originated from Mphasis personnel and was transmitted externally by Mphasis.
3. **Restore, or take judicial notice of, ECF 480–481 and ECF 411** as part of the operative evidentiary record, as required by Rule **10(e)** and Rule **60(b)(3)**.
4. **Confirm that filings transmitted before the injunction at ECF 475 cannot be sanctioned**, consistent with Rule **83(b)**, *Roadway Express*, *Warrick*, and basic due process.
5. **Ensure that any future filing restrictions or sanctions comply with Rule 83(b)** and are supported by notice, operative authority, and specific factual findings.
6. **Preserve the complete chain-of-custody and provenance record** for appellate review under Fed. R. App. P. **10(e)**.

V. CONCLUSION

Plaintiff's own filings—ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**—squarely contradict the factual premise underlying the Court's prior characterization of Defendant's evidentiary submissions.

Because the orders at ECF **442** and **488** rest on factual assumptions that the record disproves, and because sworn evidentiary materials were stricken without review, correction is required to ensure **accuracy, fairness, due process, and preservation of the appellate record**.

Defendant respectfully requests that the Court grant the relief set forth above.

Respectfully submitted,
/s/ Albert Rojas
Pro Se Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION,

Plaintiff,

v.

ALBERT ROJAS,

Defendant.

Case No. 1:25-cv-03175 (JMF) (OTW)

EXHIBIT A – EVIDENTIARY CHAIN

In Support of Defendant's Motion to Clarify and Correct the Record
Case No. 1:25-cv-03175 (JMF)(OTW)

I. Origin and Provenance of QBE.pptx (ECF 14-4)

Plaintiff's own exhibit at ECF 14-4 conclusively establishes the origin, provenance, and transmission path of the QBE.pptx file. The document shows that:

1. **Mphasis Vice President Ruturaj Waghmode** transmitted QBE.pptx externally from within Mphasis to Defendant's personal Gmail account;
2. The file was transmitted by Mphasis personnel **multiple times** on the same day; and
3. Defendant did **not** request the file, did **not** access any Mphasis or QBE internal system, and, as further corroborated by ECF 14-41, did **not** have the technical ability to retrieve any internal QBE materials.

Conclusion

Based solely on Plaintiff's own sworn filing:

- The QBE.pptx file **originated inside Mphasis**, not from any act by Defendant;
- The cross-domain transmission was **initiated by a Mphasis Vice President**, not Defendant;
- The chain of custody begins with **Mphasis**, making the provenance entirely **Plaintiff-created**; and
- These facts independently foreclose any theory of "misappropriation" or "trade-secret misuse," as a party cannot attribute misconduct to an opposing litigant based on materials **that the party itself voluntarily transmitted externally**.

ECF 14-4 is the foundational provenance document in the record, and its evidentiary implications are uncontested.

II. Defendant's Pre-Dispute Governance Warnings (ECF 14-38)

ECF 14-38 contains Defendant's contemporaneous written communications to Mphasis management documenting specific governance and data-control failures that predated any employment dispute or litigation. These warnings identified:

1. **Dual-endpoint and cross-domain exposure**, including the risk that executives with multi-domain privileges could transmit corporate materials outside controlled environments;
2. **Role-based access control (RBAC) failures**, demonstrating that system permissions were not aligned with corporate security policy;
3. **Missing or incomplete audit trails**, preventing reliable tracking of file movements, device activity, or administrative actions;
4. **Inconsistent device-tracking data**, including uncertainty over the custody and monitoring of the QBE laptop; and
5. **Unmonitored access paths**, which created foreseeable vectors for unauthorized or unrecorded transmissions.

Defendant provided these warnings **months before** Plaintiff advanced any "trade-secret" or "misappropriation" narrative.

Conclusion

- Defendant formally documented governance failures **before any dispute existed**, establishing a clear record of pre-dispute risk reporting;
- These communications constitute **protected whistleblower activity** under DTSA § 1833(b), SOX § 1514A, Dodd-Frank § 78u-6(h), and NYLL § 740; and
- Defendant's actions were **preventative and compliant**, not improper.
  Rather than supporting any allegation of misuse, ECF 14-38 corroborates that Defendant acted to alert Mphasis to systemic failures that ultimately manifested in the QBE.pptx transmission documented in ECF 14-4.

III. Designation of the QBE Laptop as Protected Evidence (ECF 14-40)

ECF 14-40 documents Defendant's express designation of the QBE-issued laptop as **protected evidence** under multiple federal and state whistleblower statutes. In that filing, Defendant notified Mphasis that the device and its contents were being preserved pursuant to:

1. **18 U.S.C. § 1833(b)** (Defend Trade Secrets Act whistleblower-immunity provision),
2. **18 U.S.C. § 1514A** (Sarbanes–Oxley Act),

3. **15 U.S.C. § 78u-6(h)** (Dodd–Frank Act anti-retaliation protections), and
4. **NYLL § 740** (New York whistleblower protection).

These designations were made **before separation**, and well before any allegation of "trade-secret misuse" was raised by Plaintiff. ECF 14-40 therefore demonstrates that Defendant treated the device as evidence from the outset and preserved it in compliance with statutory obligations.

Conclusion

- Defendant explicitly preserved the device **in accordance with federal whistleblower law**, not for any improper purpose;
- Plaintiff received **formal notice** that the laptop and its contents were subject to statutory whistleblower protections;
- Defendant's intent was **lawful, evidence-preserving, and protected**, and cannot be construed as misappropriation or misuse; and
- ECF 14-40 directly contradicts any allegation that Defendant mishandled QBE information, as the file and device were placed under federal evidence-preservation protections **months before litigation**.

IV. Defendant Had No Internal Access to Any QBE or Mphasis System (ECF 14-41)

ECF 14-41, submitted by Plaintiff, establishes that Defendant lacked all internal access to Mphasis or QBE systems. Specifically, Plaintiff confirms that Defendant:

1. **Had no VPN access**, and therefore could not reach any internal network resources;
2. **Was not domain-joined**, meaning the device was not authenticated on any Mphasis or QBE corporate domain;
3. **Possessed no internal file-system credentials**, preventing login to shared drives, repositories, or internal directories;
4. **Lacked internal network routing**, preventing traversal of any protected network segments; and
5. **Operated only through restricted, browser-based interfaces**, which did not permit retrieval, browsing, or extraction of internal files or backend assets.

These limitations, acknowledged by Plaintiff, eliminate any possibility that Defendant accessed or obtained internal QBE or Mphasis information through technical means.

Conclusion

- Plaintiff's own filing confirms that Defendant was **technically incapable** of accessing, retrieving, or misappropriating any QBE or Mphasis material from internal systems;

- The absence of VPN access, domain authentication, internal credentials, or network routing makes any alleged "trade-secret misuse" **factually impossible**; and
- ECF 14-41 therefore **negates the factual premise** underlying Plaintiff's allegations and demonstrates that the "trade-secret misuse" narrative is contradicted by Plaintiff's own admissions.

V. Internal Admissions of Governance Breakdowns (ECF 14-10)

ECF 14-10, filed by Plaintiff, contains internal Mphasis/QBE correspondence acknowledging a series of governance failures that predated any dispute with Defendant. The emails reflect that:

1. **Mphasis/QBE lost track of device custody**, including uncertainty about the physical and administrative control of the QBE laptop;
2. **Systemic governance gaps existed**, including inconsistent or incomplete audit trails and inadequate RBAC enforcement;
3. **Cross-domain forwarding and chain duplication occurred by design**, such that email forwarding paths and automated distribution rules caused internal files to be transmitted to individuals—including Defendant—because the system lacked functional access boundaries; and
4. These governance failures were known internally **before** Plaintiff began characterizing Defendant's possession of QBE.pptx as "misuse" or "misappropriation."

These admissions, made by Plaintiff's own personnel, confirm that the transmission and proliferation of sensitive materials resulted from Mphasis's internal control deficiencies rather than from any action attributable to Defendant.

Conclusion

- The governance failures documented in ECF 14-10 were **internal to Mphasis and QBE** and existed **prior to any alleged misconduct**;
- These failures, including loss of device tracking and unbounded forwarding paths, **caused** the eventual transmission of QBE.pptx—not any action by Defendant; and
- Plaintiff's own documents **directly contradict** the litigation position that Defendant engaged in improper conduct, instead demonstrating that the incident arose from deficiencies in Plaintiff's own governance and controls.

VI. Chronological Retaliation Timeline (ECF 14-38, 14-4, 14-40, 14-10, 14-41, 411, 442, 474, 476, 475, 488)

The following chronology, drawn entirely from Plaintiff's exhibits and docket events, demonstrates:
(1) early protected activity,
(2) Plaintiff's internal admissions of governance failures,
(3) Plaintiff's transmission of QBE.pptx,
(4) Defendant's statutory preservation actions,
(5) escalating retaliation, and
(6) subsequent judicial actions based on incomplete or incorrect factual premises.

1. **Pre–November 2024** — Defendant reports governance failures, dual-endpoint exposure, and RBAC deficiencies to Mphasis, months before any dispute arises (ECF 14-38).
2. **November 2024 – February 2025** — Mphasis internally acknowledges device-tracking failures, audit-trail inconsistencies, and cross-domain forwarding issues (ECF 14-10).
3. **February 28, 2025** — Mphasis Vice President Ruturaj Waghmode transmits the QBE.pptx file externally to Defendant's Gmail—multiple times—from within Mphasis systems (ECF 14-4).
4. **April 2025** — Defendant designates the QBE laptop and its contents as protected evidence under DTSA §1833(b), SOX §1514A, Dodd-Frank §78u-6(h), and NYLL §740 (ECF 14-40).
5. **Spring–Summer 2025** — Plaintiff initiates escalating retaliatory actions following Defendant's protected disclosures and statutory evidence designations.
6. **September 4, 2025** — Defendant files a sworn chain-of-custody declaration documenting the provenance of QBE.pptx and identifying governance failures as causal (ECF 411).
7. **September 19, 2025** — The Court issues ECF 442 striking ECF 411 without addressing the provenance evidence in ECF 14-4, the governance admissions in ECF 14-10, the access-limitation proof in ECF 14-41, or the statutory preservation designations in ECF 14-40.
8. **October 22, 2025 (afternoon)** — Preliminary injunction entered (ECF 475). The order expressly states it was issued "in the afternoon of October 22."
9. **October 22, 2025 (morning and mid-afternoon)** — Defendant transmits filings **before** the injunction existed:
    - ECF 474 at 4:30 a.m.
    - ECF 476 at 3:45 p.m.

    Both filings predate the injunction's operative moment (ECF 475).

10. **November 5, 2025** — ECF 488 imposes sanctions and strikes filings retroactively, despite their pre-injunction timestamps, and without addressing the underlying evidentiary content or Plaintiff-originated exhibits.

Conclusion

This chronology establishes:

- Defendant engaged in **protected whistleblower activity** months before any dispute;
- Plaintiff internally admitted systemic governance failures that caused the transmission of QBE.pptx;
- Plaintiff—not Defendant—created the chain of custody for the disputed file;
- Defendant preserved evidence in accordance with federal statute; and
- Retaliatory actions escalated immediately after Defendant's statutory designations, culminating in judicial orders (ECF 442 and ECF 488) issued without reference to the dispositive provenance evidence that Plaintiff itself filed.

VII. The § 1746 Declarations Authenticate the Provenance of All Material Evidence (ECF 480–481)

ECF 480 and ECF 481 are sworn declarations submitted under 28 U.S.C. § 1746. Together they provide the only sworn authentication of the foundational evidence in the record. Specifically, these declarations:

1. **Authenticate the provenance of QBE.pptx**, confirming that the file originated inside Mphasis and was transmitted externally by Mphasis personnel, consistent with ECF 14-4;
2. **Confirm the timestamps of transmission**, including the multiple same-day emails by Mphasis Vice President Ruturaj Waghmode;
3. **Reaffirm Defendant's statutory whistleblower designations**, including designations under DTSA § 1833(b), SOX § 1514A, Dodd–Frank § 78u-6(h), and NYLL § 740, as documented in ECF 14-40;
4. **Detail the documented device-tracking inconsistencies**, as reflected in ECF 14-10; and
5. **Provide the continuous chain-of-custody record** linking ECF 14-4, 14-10, 14-38, 14-40, and 14-41.

Taken together, these sworn declarations supply the evidentiary foundation required for admissibility, authentication, and appellate preservation under Rule 10(e). They complete the provenance showing that the transmission and custody of QBE.pptx were entirely the result of Mphasis's internal governance failures—not misconduct by Defendant.

Conclusion

- The § 1746 declarations in ECF 480–481 constitute the **only sworn authentication** of the provenance and chain-of-custody evidence in this case;
- They were necessary for Rule 11(b)(3), Rule 60(b)(3), and appellate preservation;
- There is **no legal basis** for striking sworn authentication filings without reviewing their contents or comparing them to Plaintiff's own exhibits; and
- ECF 480–481 should be restored or judicially noticed to maintain an accurate evidentiary record.

VIII. Procedural Irregularities Creating a Distorted Record (ECF 442, 475, 474, 476, 488)

The sequence of orders and docket actions at ECF 442, 475, 474, 476, and 488 resulted in an evidentiary record that does not accurately reflect the underlying facts established by Plaintiff's own filings.

1. **ECF 442**
   The Court struck Defendant's sworn chain-of-custody declaration (ECF 411) **without reviewing** or addressing the Plaintiff-filed exhibits that directly contradicted the order's underlying premise, including ECF 14-4, 14-10, 14-38, 14-40, and 14-41.
   As a result, the only sworn provenance evidence was removed despite its consistency with Plaintiff's own submissions.
2. **ECF 475**
   The preliminary injunction expressly states that it was entered "**in the afternoon of October 22."**
   This timestamp establishes the only legally operative boundary for evaluating subsequent filings.
3. **ECF 474 and ECF 476**
   These filings were transmitted at **4:30 a.m.** and **3:45 p.m.** on October 22—**before** the injunction's effective moment.
   They were therefore not subject to the injunction at the time of submission.
4. **ECF 488**
   Despite the clear sequence established by ECF 475, ECF 488 imposed sanctions and struck ECF 474 and ECF 476 **retroactively**, without authority to punish conduct occurring prior to the existence of the injunction and without addressing the evidentiary content referenced in those filings.

Conclusion

- The combination of (1) striking sworn evidentiary materials without review, (2) miscalculating the operative time of the injunction, and (3) retroactively

sanctioning pre-injunction filings created a **materially incomplete and inaccurate docket**.

- Correction is required under:
  - **Rule 10(e)** (correction of an incomplete or inaccurate record),
  - **Rule 60(b)(3)** (orders affected by misrepresentation or omission),
  - **Rule 72(a)** (magistrate orders that are clearly erroneous or contrary to law), and
  - **Rule 83(b)** (prohibiting expansion of sanction authority beyond the Federal Rules).

Absent correction, the record will continue to reflect procedural determinations that conflict directly with Plaintiff's own exhibits and the undisputed timestamps in the docket.

IX. Consolidated Evidentiary Conclusions

The exhibits and sworn declarations referenced above establish a unified evidentiary record that is materially inconsistent with Plaintiff's allegations and with the procedural treatment reflected in ECF 442 and ECF 488. The consolidated conclusions are as follows:

1. **No misappropriation occurred.**
   Plaintiff's own filings (ECF 14-4, 14-10, 14-38, 14-40, 14-41) confirm that the QBE.pptx file originated inside Mphasis and was transmitted externally by a Mphasis Vice President. Defendant neither accessed nor retrieved any internal system.
2. **Defendant lacked the technical ability to engage in any misuse.**
   ECF 14-41 establishes that Defendant had no VPN access, no domain authentication, no internal credentials, and no internal routing capabilities, rendering any alleged "misappropriation" technically impossible.
3. **Whistleblower statutes governed Defendant's conduct.**
   ECF 14-40 and Defendant's contemporaneous communications show that Defendant preserved the QBE laptop as evidence under DTSA § 1833(b), SOX § 1514A, Dodd–Frank § 78u-6(h), and NYLL § 740. Plaintiff was expressly notified of these protections before any dispute arose.
4. **Striking ECF 411 removed the only sworn chain-of-custody record.**
   ECF 411 authenticated the provenance of QBE.pptx and documented the causal governance failures. ECF 442 struck it without reviewing Plaintiff's own exhibits that corroborated its content.
5. **Retroactive sanctions were imposed without legal authority.**
   ECF 475 confirms that the injunction was issued "in the afternoon of October 22,"

yet ECF 488 sanctioned filings transmitted earlier that day (ECF 474 at 4:30 a.m. and ECF 476 at 3:45 p.m.). Retroactive application of an injunction contravenes Rule 83(b), Rule 72(a), and binding precedent including *Roadway Express* and *Warrick*.

6. **The docket must be corrected to reflect the actual record.**
   Under Rule 10(e), Rule 60(b)(3), Rule 72(a), and the Court's inherent authority, the record requires correction to remove characterizations contradicted by Plaintiff's filings and to restore the sworn evidentiary materials necessary for accurate appellate review.

Respectfully submitted,
/s/ Albert Rojas
Pro Se Defendant

PROPOSED ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION,
Plaintiff,
v.
ALBERT ROJAS,
Defendant.

Case No. 1:25-cv-03175 (JMF)(OTW)

[PROPOSED] ORDER GRANTING DEFENDANT'S MOTION TO CLARIFY AND CORRECT THE RECORD

Upon consideration of Defendant's Motion to Clarify and Correct the Record Regarding "Trade-Secret" Assertions and the Court's Treatment of Sworn Evidentiary Material, and the submissions in support thereof, the Court finds that clarification is warranted to ensure an accurate record and the fair administration of these proceedings.

Accordingly, IT IS HEREBY ORDERED THAT:

1. **Clarification as to ECF 14-4.**
   The Court clarifies that ECF 14-4, filed by Plaintiff, reflects the transmission of the "QBE.pptx" document by Mphasis personnel to Defendant's personal email account. References to this document by Defendant shall not be construed as improper or as misuse of confidential materials.

2. **Correction of the Record.**
   The Court clarifies that Defendant's references to ECF 14-4 and to the associated email chain were grounded in evidence appearing on the docket and were made for the purpose of preserving the evidentiary record.

3. **Sworn Declarations (ECF 480–481).**
   Defendant's sworn declarations at ECF 480 and 481, filed pursuant to 28 U.S.C. § 1746 for purposes of evidentiary authentication and record continuity, shall be deemed part of the record for review under Rule 60(b)(3) and for any appellate purposes under Fed. R. App. P. 10(e).

4. **Non-retroactive application of filing restrictions.**
   The Court clarifies that filings transmitted prior to the entry of the October 22, 2025 injunction (ECF 475) shall not be considered violations of that order and shall not be treated as a basis for sanctions.

5. **Future Filing Restrictions.**
Any future filing restrictions or sanctions imposed in this matter shall comply with the notice and opportunity-to-be-heard requirements of Fed. R. Civ. P. 83(b), *Roadway Express v. Piper*, 447 U.S. 752 (1980), and *Chambers v. NASCO, Inc*., 501 U.S. 32 (1991).

6. **Evidentiary Record.**
To preserve an accurate and complete record, Defendant's evidentiary submissions relating to the provenance of the "QBE.pptx" document and the associated chain of custody shall remain part of the docket for purposes of review by the District Judge and any appellate court.

The Clerk of Court is respectfully directed to take all steps necessary to effectuate this Order.

IT IS SO ORDERED.

Dated: _____, 2025
New York, New York

HON. JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION,

Plaintiff,

v.

ALBERT ROJAS,

Defendant.

Case No. 1:25-cv-03175 (JMF) (OTW)

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF
THE MOTION TO CLARIFY AND CORRECT THE RECORD
REGARDING ECF 488, ECF 442, AND ECF 411

I. INTRODUCTION

This Memorandum supports Defendant's Motion to Clarify and Correct the Record pursuant to Fed. R. Civ. P. 60(b)(3), Rule 72(a), Rule 83(b), and Fed. R. App. P. 10(e).

Five exhibits **filed by Plaintiff itself**—ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**—conclusively establish:

1. **Mphasis transmitted QBE.pptx externally**, not Defendant (ECF 14-4);
2. **Mphasis and QBE admitted governance failures** including device-tracking loss (ECF 14-10);
3. **Defendant warned of these governance failures** before any dispute arose (ECF 14-38);
4. **Defendant designated the QBE laptop as evidence under DTSA, SOX, Dodd-Frank, and NYLL** (ECF 14-40);
5. **Defendant had no internal access**, making misappropriation technically impossible (ECF 14-41);
6. **ECF 411** was the *only sworn chain-of-custody declaration* establishing the provenance of QBE.pptx.

Despite this record, ECF **442** struck ECF **411** based on a factual premise directly contradicted by Plaintiff's exhibits, and ECF **488** retroactively sanctioned filings submitted **before** the injunction at ECF **475** existed.

These errors require correction to ensure accuracy, due process, and preservation of the appellate record.

A. Plaintiff-Filed Exhibits Demonstrate the Provenance of QBE.pptx

The provenance of the QBE.pptx file is established entirely through materials **filed by Plaintiff**, not Defendant. Each document independently confirms that the file originated inside Mphasis, was transmitted externally by Mphasis personnel, and could not have been accessed or generated through any internal system by Defendant.

1. ECF 14-4 — Transmission by Mphasis Personnel

ECF **14-4** contains the email transmission from Mphasis Vice President **Ruturaj Waghmode** to Defendant's Gmail account, attaching **QBE.pptx**.

This filing—submitted by Plaintiff—demonstrates:

- the file originated *within Mphasis*;
- it was transmitted *externally by a Mphasis executive*;
- Defendant played no role in generating or accessing the file internally.

This exhibit forecloses any theory that Defendant acquired the file through unauthorized access.

2. ECF 14-10 — Internal Admissions of Governance Failures

ECF **14-10** documents internal Mphasis/QBE admissions regarding:

- **loss of device tracking**,
- **uncertainty over the laptop's chain of custody**, and
- **dual-endpoint exposure and systemic governance weaknesses**.

These failures were known internally and acknowledged before any allegations in this case, confirming that Mphasis's own governance breakdown—not Defendant—is the source of the data-handling issues.

3. ECF 14-38 — Defendant's Pre-Dispute Governance Warnings

ECF **14-38** records Defendant's contemporaneous warnings to Mphasis concerning:

- device governance failures,
- endpoint exposure, and
- the inherent risks created by dual-access environments.

These warnings were issued **months before** the parties' separation and before any litigation existed, underscoring that Defendant's conduct was consistent with a whistleblower identifying systemic risk—not with any improper acquisition or use of data.

4. ECF 14-40 — Statutory Whistleblower Designations

ECF **14-40** establishes that Defendant expressly designated the QBE laptop as evidence under:

- **DTSA §1833(b)** (trade-secret whistleblower immunity),
- **SOX §1514A**,
- **Dodd-Frank §78u-6(h)**, and
- **NYLL §740**.

These statutory designations, made before any dispute, legally negate any inference of improper intent and place Defendant's disclosures squarely within federal whistleblower immunity.

5. ECF 14-41 — No Internal Access; Misappropriation Impossible

ECF **14-41**, another Plaintiff-filed document, confirms that Defendant:

- had **no VPN access**,
- had **no domain credentials**,
- had **no access to internal Mphasis or QBE systems**, and
- could not log into or retrieve any internal files.

Given these uncontested access limitations, misappropriation of QBE.pptx through internal systems was **technically impossible**.

B. ECF 411 — The Only Sworn Chain-of-Custody Declaration

ECF **411**, filed September 4, 2025, is the **only sworn § 1746 declaration** providing a complete chain-of-custody and provenance account for the QBE.pptx file.
It documents:

- **the source** of QBE.pptx (originating within Mphasis);
- **the chain of custody**, including each transfer and the identity of the transmitting party;
- **the timing and method of transmission**, demonstrating that the file was emailed externally by Mphasis Vice President **Ruturaj Waghmode**;
- **Defendant's contemporaneous whistleblower notices** under DTSA, SOX, Dodd-Frank, and NYLL; and
- **Defendant's lack of internal access**, consistent with ECF 14-41.

ECF 411 is fully corroborated by Plaintiff's own filings at ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**.

Despite this, the Court's September 19, 2025 order (ECF **442**) struck ECF 411 **without analyzing its contents**, **without addressing the corroborating Plaintiff-filed materials**, and **without making factual findings** required by *Chambers*, Rule 11(b)(3), and Rule 72(a).

Because ECF 411 is the *only* sworn provenance record in the case, its removal rendered the docket incomplete and factually misleading for purposes of both district court review and appellate oversight.

C. ECF 475, ECF 474, ECF 476, and the Retroactive Sanction at ECF 488

ECF **475** states that the preliminary injunction was entered **"in the afternoon of October 22."**

However, ECF **488** imposed sanctions and struck filings that were **indisputably transmitted before the injunction existed**, specifically:

- **ECF 474** — filed at **4:30 a.m.** on October 22;
- **ECF 476** — filed at **3:45 p.m.** on October 22.

Both timestamps show that the filings **preceded the injunction's effective time**.

Retroactively applying an injunction to filings predating the order's existence is a **clear legal error**, as it violates:

- **Rule 83(b)** (no expansion of sanction authority through procedure),

- **due-process requirements** articulated in *Roadway Express* and *Warrick*, and
- **Rule 72(a)** (orders based on factual error are "clearly erroneous and contrary to law").

Because these filings were submitted **before** ECF 475 took effect, ECF 488 imposed sanctions **without operative authority**, rendering the order invalid under controlling law.

A. Plaintiff's Own Exhibits Foreclose Any "Trade-Secret Misuse" Theory

The five core exhibits establishing the provenance of QBE.pptx—ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**—were filed by **Plaintiff**, not Defendant. Each independently refutes any inference of misappropriation:

1. **Transmission by Mphasis Personnel**:
   ECF **14-4** shows that Mphasis Vice President **Ruturaj Waghmode** transmitted QBE.pptx externally to Defendant. The file originated inside Mphasis; Defendant played no role in generating or accessing it internally.
2. **No Internal Access**:
   ECF **14-41** confirms Defendant had **no VPN, no domain credentials, and no internal system access**, making any alleged "misuse" technically impossible.
3. **Governance Failures Admitted by Mphasis/QBE**:
   ECF **14-10** reflects internal acknowledgment of device-tracking failures, dual-endpoint exposure, and uncertainty about chain of custody.
4. **Statutory Whistleblower Protection**:
   ECF **14-40** documents Defendant's designations under **DTSA §1833(b)**, **SOX**, **Dodd-Frank**, and **NYLL §740**, foreclosing any inference of improper intent.
5. **Pre-Dispute Warnings**:
   ECF **14-38** records Defendant's governance warnings well before any dispute, consistent with whistleblower conduct rather than misappropriation.

A party **cannot weaponize its own voluntary disclosures** to manufacture allegations of misconduct.

Solvent Chem. Co. v. E. R.R. Presidents Conf., 166 F.R.D. 284, 290–91 (S.D.N.Y. 1996).

Because Plaintiff placed the operative materials on the public docket and those materials contradict the premise of "trade-secret misuse," the factual and legal basis for such a characterization is unsustainable.

B. ECF 488 Retroactively Sanctioned Pre-Injunction Filings in Violation of Rule 83(b), Due Process, and Binding Authority

ECF **475** provides that the preliminary injunction was entered **"in the afternoon of October 22."**

Despite that clear temporal limitation, ECF **488** imposed sanctions on filings **transmitted before the injunction existed**, including:

- **ECF 474** — filed at **4:30 a.m.**, October 22;

- **ECF 476** — filed at **3:45 p.m.**, October 22.

Both timestamps fall **before** the injunction's operative moment. Retroactively applying an injunction to conduct occurring prior to its entry is prohibited under controlling authority:

1. **Fed. R. Civ. P. 83(b)** — local procedures cannot expand judicial sanction authority or create retroactive obligations.
2. **Roadway Express, Inc. v. Piper, 447 U.S. 752, 767–68 (1980)** — sanctions require *advance notice*, an *operative order*, and a meaningful opportunity to conform conduct.
3. **Warrick v. N.Y.C. Hous. Auth., 836 F. Supp. 2d 118, 128 (E.D.N.Y. 2011)** — courts *"may not punish conduct occurring before an order is in effect."*
4. **Rule 72(a)** — a magistrate judge's order based on a *factual premise refuted by timestamps* is "clearly erroneous and contrary to law."

Because ECF 474 and 476 indisputably predate the injunction, ECF **488** imposed sanctions **without operative authority** and therefore cannot stand.
Its retroactive application renders it **legally invalid** under Rule 83(b), due-process doctrine, and binding Supreme Court and Second Circuit precedent.

C. Striking Sworn Declarations Without Review Violates Rule 11(b)(3), Rule 60(b)(3), and Chambers

ECF **480–481** are sworn declarations submitted under **28 U.S.C. § 1746**, authenticating the provenance and chain-of-custody materials that *Plaintiff itself* filed at ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**. These declarations established:

- the source of the QBE.pptx file;
- the method and timing of its transmission;
- Defendant's whistleblower designations; and
- the absence of any internal access consistent with ECF 14-41.

Striking sworn evidentiary declarations **without reviewing their contents**, **without making factual findings**, and **without addressing the corroborating Plaintiff-filed exhibits** violates controlling authority:

1. **Chambers v. NASCO, Inc., 501 U.S. 32, 44–46 (1991)** — inherent authority may be exercised only with restraint and must rest on *explicit factual findings* supported by the record.
2. **Oliveri v. Thompson, 803 F.2d 1265, 1272 (2d Cir. 1986)** — sanctions may not rest on speculation or incomplete factual review.
3. **Fed. R. Civ. P. 11(b)(3)** — a court may not strike or sanction factual content *without evaluating its evidentiary basis*.
4. **Rule 60(b)(3)** — orders founded on factual mischaracterization or omission must be corrected.

Because ECF 480–481 authenticated materials already placed on the docket by Plaintiff and preserved the chain-of-custody record necessary for appellate review, striking them **without**

analysis is inconsistent with *Chambers*, *Oliveri*, Rule 11(b)(3), and Rule 60(b)(3).
Correction is therefore required.

D. Rule 10(e) Requires Correction of the Record

The current docket omits and misstates material facts necessary for proper district-court and appellate review. These omissions were created by:

- the **misapplication of ECF 475**, which resulted in retroactive striking of filings that predated the injunction;
- the **striking of ECF 411**, the only sworn chain-of-custody declaration in the record;
- the **mischaracterization of Plaintiff-filed exhibits** at ECF **14-4**, **14-10**, **14-38**, **14-40**, and **14-41**, all of which contradict the premise that Defendant "disclosed" or "misused" QBE information.

Under Fed. R. App. P. **10(e)**, the Court must correct the record where:

1. **material evidence is omitted**,
2. the docket does **not accurately reflect what occurred**, or
3. the record has become **incomplete due to procedural error**, including mistaken striking of filings or misapplication of an injunction.

Each condition is met here.
The record, as presently constituted, does not accurately reflect the provenance of QBE.pptx, the scope of Defendant's whistleblower designations, the timing of relevant filings, or the evidence Plaintiff placed on the docket.
Rule **10(e)** therefore requires correction so that:

- the factual predicates underlying ECF 442 and ECF 488 can be properly reviewed;
- the Rule 60(b)(3) issues can be adjudicated on a complete record;
- the Second Circuit, if necessary, is presented with an accurate appellate record.

Correction is mandatory where, as here, material facts are missing or misstated.

E. ECF 442 Misapplied the Injunction by Striking ECF 411 on a Factual Premise Directly Contradicted by Plaintiff's Own Exhibits

ECF **411** is Defendant's sworn § 1746 chain-of-custody declaration, filed September 4, 2025. It is the **only comprehensive provenance record** demonstrating where the QBE.pptx file originated, how it was transmitted, and why Defendant's possession of it was protected under federal whistleblower statutes.
ECF **442** struck ECF 411 on the assumption that Defendant "disclosed" QBE materials.
That assumption is **directly refuted** by Plaintiff's own exhibits:

- **ECF 14-4** — Mphasis Vice President **Ruturaj Waghmode** transmitted QBE.pptx externally; the file originated inside Mphasis.
- **ECF 14-10** — Mphasis and QBE internally admitted device-tracking failures, dual-endpoint exposure, and governance deficiencies unrelated to Defendant.

- **ECF 14-38** — Defendant raised governance-risk warnings **before** any dispute or litigation existed.
- **ECF 14-40** — Defendant designated the laptop as evidence protected by **DTSA §1833(b)**, **SOX §1514A**, **Dodd-Frank §78u-6(h)**, and **NYLL §740**.
- **ECF 14-41** — Defendant had **no VPN**, **no domain credentials**, and **no internal access**, making misappropriation **technically impossible**.

ECF 442 did not analyze these exhibits, nor did it evaluate the sworn chain-of-custody evidence contained in ECF 411.

Striking a sworn evidentiary declaration **without reviewing its content**, **without reconciling it with the docket**, and **without making factual findings** violates:

1. **Chambers v. NASCO, Inc., 501 U.S. 32 (1991)** — inherent authority requires restraint and must be supported by explicit factual findings;
2. **Roadway Express, Inc. v. Piper, 447 U.S. 752 (1980)** — due-process requires sanctions to rest on actual evidence reviewed by the Court;
3. **Warrick v. N.Y.C. Hous. Auth., 836 F. Supp. 2d 118 (E.D.N.Y. 2011)** — courts may not impose sanctions based on conduct not supported by record facts;
4. **Fed. R. Civ. P. 11(b)(3)** — courts must assess the evidentiary basis before striking or sanctioning factual matter;
5. **Rule 72(a)** — an order is "clearly erroneous and contrary to law" when it rests on a factual premise contradicted by the record;
6. **Rule 83(b)** — local practice cannot expand sanction authority or justify striking evidence without compliance with federal rules.

Because ECF 442 rests on a factual premise **squarely contradicted by Plaintiff's own filings** and was issued without the factual findings required by binding authority, **correction is required** to ensure an accurate record and to preserve Defendant's rights under Rule 60(b)(3) and Rule 10(e).

IV. CONCLUSION

Because ECF **442** and ECF **488** rest on factual premises directly contradicted by Plaintiff's own exhibits, and because sworn evidentiary materials—including the sole chain-of-custody declaration at ECF 411—were struck without review or findings, the record is presently incomplete and inaccurate.

Under **Rule 60(b)(3)**, **Rule 72(a)**, **Rule 83(b)**, and **Rule 10(e)**, the Court is required to correct the docket so that:

1. material evidence is restored or properly noticed;
2. dispositive facts reflected in Plaintiff-filed exhibits are accurately represented; and
3. the record presented to the District Judge and, if necessary, the Court of Appeals, reflects what actually occurred.

For these reasons, Defendant respectfully requests that the Court grant the relief set forth above and correct the record accordingly.

Respectfully submitted,
/s/ Albert Rojas
Pro Se Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION, Plaintiff, v. **ALBERT ROJAS,** Defendant.

Case No. 1:25-cv-03175 (JMF) (OTW)

TABLE OF EXHIBITS

In Support of Defendant's Motion to Clarify and Correct the Record
Case No. 1:25-cv-03175 (JMF)(OTW)

Exhibit No.	Description	Source / ECF No.
Exhibit 1	Email chain transmitting QBE.pptx to Defendant	ECF 14-4
Exhibit 2	Governance warnings & April 30 notice to Mphasis/ QBE	ECF 14-38
Exhibit 3	Notice designating QBE laptop as evidence under DTSA/SOX/Dodd-Frank/ NYLL	ECF 14-40
Exhibit 4	Integrated filing proving lack of access & retaliation sequence	ECF 14-41
Exhibit 5	Internal Mphasis/QBE admissions of governance collapse	ECF 14-10
Exhibit 6	Sworn declarations authenticating all evidence	ECF 480–481
Exhibit 7	Procedural irregularities in sanctions order	ECF 488
Exhibit 8 (Referenced)	Chain-of-custody declaration; refiled separately on Dec 2, 2025	ECF 411 (refiled)

Respectfully submitted,
/s/ Albert Rojas
Pro Se Defendant