Dear Pro Se Intake Clerk,

I respectfully request that the attached filing be docketed in *Mphasis Corporation v. Rojas*, Case No. **1:25-cv-03175 (JMF)(OTW)**, titled:

"Rule 60(b)(3) Supplemental Declaration – Preservation of Record and Objection to Sanction Order (ECF 488)."

This filing is submitted **on the first permissible filing date following the Court's most recent filing injunction**. It serves as a narrow supplemental clarification to the Rule 72(a) objection previously filed concerning ECF 488 and is submitted solely to preserve the accuracy of the record.

Thank you for your assistance.

Respectfully,
Albert Rojas
Pro Se Defendant
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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MPHASIS CORPORATION, Plaintiff, v. **ALBERT ROJAS**, Defendant.
Case No. 1:25-cv-03175 (JMF)(OTW)

RULE 60(b)(3) SUPPLEMENTAL DECLARATION

(Preservation of Record and Objection to Sanction Order – ECF 488)

I, **Albert Rojas**, declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

I. Purpose and Timing

1. This declaration is submitted immediately after expiration of the temporary filing restriction entered at ECF 488 (through December 1, 2025).

2. It supplements the Rule 72(a) objection already filed, to ensure that the factual record relevant to sanctions and the stricken filings (ECF 474 – 483) remains preserved for appellate review under Fed. R. App. P. 10(e).

II. Grounds for Relief Under Rule 60(b)(3)

3. Rule 60(b)(3) authorizes relief from an order obtained through "fraud, misrepresentation, or misconduct by an opposing party or by the court."

4. ECF 488 rests on clear procedural and factual misstatements constituting "misconduct" within the meaning of the rule, including (a) retroactive application of an injunction not yet in force, and (b) characterization of sworn evidentiary filings as "frivolous" without review or notice.

5. By striking filings that were transmitted before entry of ECF 475 and by failing to consider § 1746 sworn declarations (ECF 480–481), the Court denied Defendant a meaningful opportunity to be heard and compromised the accuracy of the docket.

III. Procedural and Substantive Errors

6. **Timing Contradiction and Retroactivity.** ECF 488 acknowledges that the injunction was entered on the afternoon of October 22 yet nonetheless strikes ECF 474 (04:30 a.m.) and ECF 476 (03:45 p.m.) as "frivolous." Because those filings predated any operative order, their invalidation constitutes retroactive punishment contrary to due process. See *Roadway Express v. Piper*, 447 U.S. 752, 767 (1980).

Defendant further notes that the language labeling lawful, evidentiary filings as 'frivolous' was personally offensive and professionally damaging, and stands inconsistent with this Court's own factual findings and the standards of judicial fairness.

7. **Unsupported Finding of Frivolousness.** No finding of bad faith or willful misconduct appears in the record. Under *Chambers v. NASCO, Inc*., 501 U.S. 32 (1991), and *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975), a court may not invoke its inherent power to sanction absent specific factual findings of bad faith.

8. **Violation of Rule 83(b).** Local rule enforcement must be consistent with the Federal Rules and due process. Monetary fines payable to the Clerk require notice and a hearing. None were provided here.

9. **Destruction of Evidentiary Record.** Striking sworn declarations from the docket impairs Defendant's ability to present a complete appellate record under 28 U.S.C. § 1291 and Fed. R. App. P. 10(e), and interferes with statutory protections for whistleblower disclosures under 18 U.S.C. § 1833(b).

IV. Relief Requested

10. For the reasons above, Defendant respectfully requests that the District Judge:

a. Vacate the sanction portion of ECF 488 and restore ECF 474 – 483 to the docket;

b. Reaffirm Defendant's right to submit sworn § 1746 declarations for record continuity; and

c. Clarify that any future filing restrictions must comply with Rule 83(b), *Roadway Express*, and *Chambers* by providing advance notice and an opportunity to be heard and that such restrictions shall specify their duration.

V. Conclusion

The Court's order at ECF 488 was issued without authority, without notice, and in contradiction of its own factual findings. Relief under Rule 60(b)(3) is necessary to prevent manifest injustice and to preserve an accurate record for review.

Executed under penalty of perjury this 2nd day of December 2025.

Respectfully submitted,

/s/ **Albert Rojas**
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Dated: December 2, 2025