at; 'UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA'

'TAMPA DIVISION' - U.S.A.

'FEDERAL TRADE COMMISSION' '600 Pennsylvania Avenue, NW Washington, DC 20580' ['Plaintiff'] -v- 'Start Connecting SAS; [Hamlet Garcia II]; *et al.* ["*a real party in interest*"]	[Civil] Action 'No. 8:24-cv-01626-KKM-AAS' [Judge] Kathryn K. Mizzle Hon. Amanda A. Sansone (*verified*)

MOVANT'S MOTION FOR RECONSIDERATION

PLEASE TAKE NOTICE: that Movant, Hamlet Garcia II, respectfully submits this Motion pursuant to Fed. R. Civ. P. 60(b)(4) and 59(e), requesting this Court to vacate void orders (ECF Nos. 126, 130, 135, 138, and/or 139) and reconsider its rulings based on jurisdictional defects and manifest legal error.

Movant moves this Court for an order: (i) Vacating as void ECF Nos. 126, 130, 135, 138, 139 under Rule 60(b)(4) for lack of jurisdiction; (ii) Granting reconsideration under Rule 59(e) to correct jurisdictional and procedural errors; (iii) Issuing a ruling clarifying Movant's legal standing before further proceedings; and; (iv) Staying all rulings affecting Movant until jurisdiction is confirmed. In support, Movant submits the accompanying Memorandum of Law with coterminously filed declarations or exhibits.

Respectfully submitted,

/s/ Hamlet Garcia II

man: *a real party*

EXECUTED on this 27th day of February, 2025

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

at; 'UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA'
'TAMPA DIVISION' - U.S.A.
i; a man claim; all herein be true;

'FEDERAL TRADE COMMISSION' '600 Pennsylvania Avenue, NW Washington, DC 20580' [' Plaintiff'] -v- 'Start Connecting SAS; [Hamlet Garcia II]; *et al.* ["*a real party in interest*"]	[Civil] Action 'No. 8:24-cv-01626-KKM-AAS' [Judge] Kathryn K. Mizzle Hon. Amanda A. Sansone (*verified*)

MEMORANDUM OF LAW IN SUPPORT OF
PETITIONER MOTION FOR RECONSIDERATION

Petitioner, Hamlet Garcia II, submits this memorandum in support of reconsideration of the Court's Orders (ECF Nos. 126, 130, 135, 138, and 139), which misapplied law, overlooked key facts, and contained internal contradictions. By denying intervention, striking valid filings, and threatening sanctions for legitimate submissions, the Court selectively applied procedure, violating binding Eleventh Circuit precedent and due process. These Orders are void for lack of jurisdiction under Rule 60(b)(4) and must be vacated. Alternatively, Rule 59(e) warrants reconsideration to correct manifest legal and factual error. [1]

[1] The Court's Orders (ECF Nos. 126, 130, 135, 138, and 139) contradict themselves—denying Petitioner party status while exercising jurisdiction to strike his filings and threaten sanctions. This selective enforcement violates due process and controlling Eleventh Circuit precedent, rendering the rulings void under Rule 60(b)(4). A court cannot bar filings it has no authority to adjudicate. If not vacated as void, reconsideration under Rule 59(e) is required to correct these manifest errors. [*See* Dkt. No 120].

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Petitioner Garcia reasserts that the Court's ruling is legally and procedurally defective for seven reasons:

I. **Premature Ruling:** The Court ruled on intervention before adversarial briefing, violating Rule 24(c) and Local Rule 3.01(c) (M.D. Fla.), depriving Petitioner of due process. *Doc. 120 at ¶¶1-2.*

II. **Misapplied Rule 24(a):** The ruling ignored Petitioner's direct, substantial, and legally protectable interest, despite clear financial, reputational, and regulatory harm. *Id. at ¶¶9-10, 18-20.*

III. **Internal Contradiction:** The Court denied standing yet suggested a separate legal challenge—if no protectable interest exists, how does litigation remain viable? *Id. at ¶4.*

IV. **Factual Inaccuracy:** The Court falsely claimed that "neither party agrees to intervention", yet Mr. Rojas did not oppose it—rendering the finding factually incorrect and unsupported. Doc. 126 at 4.

V. **Mischaracterization:** Petitioner's position was distorted as a "generalized opposition" to the FTC, despite no such claim. *Id. at ¶3; Doc. 120 at 8, 10, 18.*

VI. **Unlawful ADA Denial:** The Court improperly deemed ADA accommodations "moot" based on an unrelated ruling, violating due process, the ADA, and binding Eleventh Circuit precedent. *Id.*

VII. **Departure from Controlling Law:** The decision conflicts with established Eleventh Circuit and Florida precedent governing intervention, warranting reconsideration. *Id. at ¶¶3-4.*

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Reconsideration is warranted under Rule 59(e) where a ruling reflects clear legal error, internal inconsistency, or a misapplication of controlling precedent (Salem, Saxon & Nielsen, P.A., 153 F.R.D. 689, 694 (M.D. Fla. 1994)). *Doc. 120 ¶10.*

DISCUSSION

The Court's January 31, 2025, Order is legally infirm, procedurally defective, and irreconcilable with Eleventh Circuit and Florida precedent. It disregards fundamental procedural safeguards, forecloses adversarial testing, and rests on factual misstatements—errors warranting reconsideration.

A. Procedural Violations & Due Process Failure

Local Rule 3.01(c) requires adversarial testing before intervention rulings, yet the Court ruled summarily without response, violating due process (*EEOC v. STME, LLC*, 938 F.3d 1305, 1313 (11th Cir. 2019); *Fla. R. Jud. Admin. 2.205(a)(2)). Florida law mandates liberal intervention where a direct, legally protectable interest exists (*State ex rel. Shevin v. Exxon Corp.*, 526 So. 2d 266, 268 (Fla. 3d DCA 1988)). The Order paradoxically denies [ ] interest while directing him to seek redress separately—a self-contradiction rendering the ruling legally unsustainable.[2]

Further, intervention cannot be denied on unsubstantiated delay claims—Eleventh Circuit precedent strictly forbids such rulings absent factual findings (McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)). Here, no factual basis is cited, making the delay assertion arbitrary and legally void.[3]

---

[2] *Cf.* McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)). Ruling is legally unsound. If no protectable interest exists, how does the Court justify independent litigation?

[3] The Court's assertion that "neither party agrees to intervention" is demonstrably false—*Pro Se* Juan S. Rojas did not object. A ruling predicated on factual misstatement is *per se* reversible error *(Florida Dep't of Child. & Fam. Servs., 14 So. 3d 228, 230 (Fla. 3d DCA 2009)).*

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

B. Factual Misstatements & Structural Defects

A ruling built on factual error and procedural missteps cannot stand. The Court wrongly asserted that "neither party agrees to intervention" (Doc. 126 at 4), yet Defendant Juan S. Rojas did not object—an indisputable misrepresentation. A judgment resting on falsehood is per se reversible (*Fla. Dep't of Child. & Fam. Servs. v. P.E.*, 14 So. 3d 228, 230 (Fla. 3d DCA 2009)). To put this in colloquial terms, ruling rests on an unsupported claim of delay and a factual misstatement.

Moreover, denying ADA accommodations as "moot" contravenes federal law. Accommodations must be reviewed independently (*42 U.S.C. § 12132; 28 C.F.R. § 35.160(b)(1); Tennessee v. Lane*, 541 U.S. 509 (2004)). The failure to do so is a procedural defect warranting reversal. [4]

LEGAL STANDARD

Rule 59(e) standard mirrors Local Rule 3.01(c) (M.D. Fla.)—both allow reconsideration for manifest legal error, factual misstatements, or overlooked precedent. Cf. *Michael Linet, Inc. v. Village of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005); *Salem, Saxon & Nielsen, P.A. v. Orlick*, 153 F.R.D. 689, 694 (1994). [5]

ARGUMENT

Court denies jurisdiction yet exercises it—striking filings, imposing sanctions, and contradicting its own rulings. Jurisdiction is absolute; without it, the orders are void under Rule 60(b)(4). If jurisdiction exists, the rulings misapply law, distort fact, and warrant reconsideration under Rule 59(e).

[4] Accordingly, this Court must vacate its ruling to correct manifest error, uphold procedural integrity, and enforce binding precedent.

[5] *Cf. S.E.C. v. Seahawk Deep Ocean Tech.*, Inc., 74 F. Supp. 2d 1188, 1192 (M.D. Fla. 1999)

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

I. PROCEDURAL ERRORS IN THE COURT'S RULING [6]

By sidestepping adversarial testing, defying procedural mandates, and distorting facts, the Court's ruling collapses under due process violations and irreconcilable legal errors, making reversal inevitable.

A. PREMATURE RULING WITHOUT ADVERSARIAL TESTING

The summary denial of intervention before affording parties an opportunity to respond violated due process, Local Rules, and binding Eleventh Circuit precedent. Intervention was denied before opposing parties had an opportunity to submit responses, contradicting mandatory procedural safeguards. Local Rule 3.01(c) (M.D. Fla.) mandates a 14-day response period before ruling on a motion. Rule 24(c) of the Federal Rules of Civil Procedure requires that intervention motions be served on all parties before adjudication. The Court disregarded these mandates, issuing a ruling without adversarial input. [7]

> **Judge's Order (Doc. 126 at ¶1):**
> *"Garcia moves to intervene under Rule 24(a) or 24(b). For the reasons below, the motion is denied on both grounds."*

This ruling is procedurally defective and violates due process:

- ➢ Error: The Court ruled without allowing Plaintiff or Defendants to respond, depriving parties of their procedural rights.[8]
- ➢ Rule 24(c) noncompliance: said motion must be "accompanied by a pleading" and *served on the parties*—a requirement the Court ignored.
- ➢ Local Rule 3.01(c) violation: Denying intervention without mandated 14-day response is a due process failure and reversible error.

---

[6] The Court's hasty denial violated due process, causing manifest injustice (Logan v. Zimmerman Brush Co., 455 U.S. 422, 433 (1982)).

[7] Denying intervention without briefing is procedural error. Ruling on an unopposed motion absent waiver violates due process. [*Cf. EEOC v. STME, LLC*].

[8] *Sua sponte* denial without adversarial testing violates due process. Courts cannot summarily reject intervention without allowing a response. *Id.*

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

B. INCONSISTENCY & LEGAL DEFICIENCY

The Court's ruling rests on a fundamentally inconsistent premise—rejecting Petitioner's legal interest under *Rule 24* while simultaneously directing him to litigate the issue separately. If no protectable interest existed, further litigation would be legally futile, making the ruling internally contradictory and unsound. *See McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020) (cleaned up) ("A court's ruling must be logically consistent with the procedural posture and substantive claims before it.").*

C. ERRONEOUS & PREJUDICIAL PREMATURE DENIAL

The Court's ruling is further undermined by factual inaccuracies.

> **Judge's Order (Doc. 126 at ¶3)** incorrectly stated:
> *"Neither party agrees to the intervention."*

This statement is demonstrably false—Defendant Juan S. Rojas did not oppose intervention. A ruling predicated on a material factual inaccuracy is legally defective and constitutes reversible error.[9]

A ruling based on erroneous factual findings warrants reconsideration. See United States v. Jones, 29 F.4th 1030, 1039 (11th Cir. 2022) ("A district court abuses its discretion when it bases its decision on a clearly erroneous assessment of the evidence.").

D. COURT'S MISLABELING OF DEFENSE AS A CLAIM

> **Judge's Order (Doc. 126 at ¶3):**
> *'Garcia's claims—that there is something unlawful about the FTC's regulations—are fundamentally different from the FTC's suit.'*

[9] Federal Rule of Civil Procedure 24(c) and Local Rule 3.01(c) (M.D. Fla.) mandate a 14-day response period before ruling on a motion. By adjudicating the motion prematurely, the Court deprived parties of their procedural right to oppose or support intervention, violating due process and rendering the denial legally infirm.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

The Court wrongly treats Intervenor's defenses as new claims, stating that his arguments are "fundamentally different" from the FTC's suit (Doc. 126 at ¶3). Intervenor asserts no independent claims—only defenses against regulatory overreach.

> **Petitioner's Motion (Doc. 120 at ¶16):**
> "*Intervention seeks to defend existing interests, not assert new claims.*" [10]

Petitioner never sought to assert new claims but instead aimed to present defenses against regulatory overreach—a recognized basis for intervention under Rule 24[a][b].

> **Motion To Intervene (Doc. 120 at ¶9):**
> "Intervenor asserts a direct and substantial interest in defending against misapplication of FTC regulations that threaten his legal rights and financial stability." [11]

Court's Conflation of Defenses with Claims is Clear Legal Error: Order fails to differentiate between defending against enforcement and initiating a new lawsuit. If the Court's logic were correct, any regulatory challenge through intervention would be procedurally barred, which is inconsistent with binding precedent.

E. PRE-FILING INJUNCTION:UNJUSTIFIED & UNCONSTITUTIONAL

A pre-filing injunction is an extraordinary remedy reserved for litigants who engage in bad faith, repetitive, and vexatious litigation—none of which applies here. See 28 U.S.C. § 1651(a); *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992) (pre-filing injunctions may not be used to suppress legitimate claims).

The Court has not identified any improper conduct that meets the Eleventh Circuit's stringent standard for enjoining filings. See Riccard v. Prudential Ins. Co. of Am., 307 F.3d 1277, 1295 (11th Cir. 2002) (requiring "clear and pervasive abuse

[10] *Fund for Animals v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003): Intervention to protect regulatory interests is distinct from asserting claims'

[11] Crossroads *Grassroots Pol'y Strategies v. FEC*, 788 F.3d 312, 320 (D.C. Cir. 2015) – Recognizing that intervention to defend against regulatory action constitutes a protectable legal interest under Rule 24.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

of the judicial process" to justify pre-filing restrictions). Mere disagreement with court rulings does not warrant barring access to the judiciary. See *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1102 (11th Cir. 2004) (courts may not impose sanctions or injunctions for filings made in good faith).

Any attempt to impose a pre-filing injunction absent a finding of bad faith litigation tactics would violate due process and First Amendment rights of access to the courts. *See Procup v. Strickland*, 792 F.2d 1069, 1073-74 (11th Cir. 1986) (requiring strict procedural safeguards before restricting access to filings). The Court must clarify that no such injunction is warranted and ensure that judicial power is not used as a tool to silence valid legal challenges.

II. MISAPPLICATION OF RULE 24(A) – Intervention as of Right

A. Mischaracterization of Intervenor's Interest

> **Judge's Order (Doc. 126 at ¶¶2-3):**
> "*Garcia has not shown that he has the kind of 'interest' required by Rule 24(a)... The asserted interest appears to belong to the organization, not Garcia personally.*"

The Court fundamentally misconstrued the nature of Petitioner's interest, erroneously concluding that it 'appears to belong to the organization, not Garcia personally' (*Id.* ¶3). This finding contradicts the factual record, ignores Petitioner's explicit assertions, and fails to apply binding Eleventh Circuit precedent.

1. Personal, Not Organizational Interest

Petitioner explicitly stated in the motion that the harm is direct and personal, not merely derivative of an organization. [12]

> **Doc. 120 at ¶14**: "The FTC's actions uniquely threaten Intervenor's livelihood, as the architect and financial backer of the business model at issue." [14]

> **Doc. 120 at ¶12**: "The financial and reputational harm resulting from the FTC's enforcement falls squarely on Intervenor, as he is personally liable for these regulatory measures."[13]

[12] The Court's failure to acknowledge these direct assertions is a plain misreading of the record.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Established Legal Basis for Garcia's Interest: Florida and Eleventh Circuit case law explicitly recognize intervention where a litigant faces direct financial and reputational harm due to government regulatory action.[13] *See Retina-X Studios, LLC v. ADVAA, LLC, 303 F.R.D. 642, 653 (M.D. Fla. 2014)* (holding that financial and reputational harm from government action constitutes a legally protectable interest under Rule 24(a)). *See also*; *United States v. S. Fla. Water Mgmt. Dist.*, 922 F.2d 704, 710 (11th Cir. 1991) – Confirming that a material stake in regulatory enforcement suffices for intervention. [14]

2. Contradiction in the Order

Perhaps the most glaring inconsistency in the Court's reasoning is its simultaneous rejection of Petitioner's interest while instructing him to litigate the same issue separately—*a blatant contradiction.*

> **Doc. 126 at ¶2:** "Garcia has not shown that he has the kind of 'interest' required by Rule 24(a)." [15]
> **Doc. 126 at ¶4:** "His claims are better suited for a separate challenge of the regulations." [16]

This internal inconsistency demonstrates prejudgment, not legal analysis. *A ruling so fundamentally at odds with itself cannot stand.*

---

[13] [Judge] Mizzle ignored Petitioner's sworn declaration and controlling Eleventh Circuit precedent, which permits intervention for business owners facing financial or regulatory harm (*Cascade Nat. Gas Corp. v. El Paso Nat. Gas Co.*, 386 U.S. 129 (1967)).

[14] Eleventh Circuit precedent permits intervention for business owners facing direct financial or regulatory burdens (Cascade Nat. Gas Corp., 386 U.S. 129 (1967); S. Fla. Water Mgmt. Dist., 922 F.2d 704, 710 (11th Cir. 1991)).

[15] The Jan 31st Order contradicts itself—it downplays Garcia's interest as organizational yet urges him to sue independently, a legally incoherent position if the harm were not personal.

[16] ➡ Contradiction: If no legally protectable interest exists, what rational basis supports filing a separate lawsuit on the same issue? The Court's logic collapses under its own weight—it cannot simultaneously deny standing while acknowledging the viability of the claim. *See McDonald v. Means,* 309 So. 3d 130, 136 (Fla. 1st DCA 2020) ("A court's ruling must be logically consistent with the procedural posture and substantive claims before it.").

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

3. Failure to Apply Correct Legal Standard

The Court's ruling departs from binding Eleventh Circuit precedent by misapplying *Rule 24(a)* and failing to recognize Petitioner's direct, substantial, and legally protectable interest. Regulatory and reputational harm suffice for intervention, yet the Court ignored this settled law, dismissed factual evidence, and issued an internally inconsistent ruling, warranting reconsideration.[17]

(i) Misapplication of Rule 24(a) and Procedural Violations

A protectable interest under Rule 24(a) must be direct, substantial, and legally cognizable, a standard the Court acknowledged but failed to apply (*Mt. Hawley Ins. v. Sandy Lake Props.*, 425 F.3d 1308, 1311 (11th Cir. 2005)). Rule 56(d) bars summary denial where material facts remain unresolved (*Burke v. Ocwen Fin. Corp.*, (11th Cir. 2020)), but Mizzle dismissed key evidence (*Doc. 120 at* ¶12), ignoring disputed facts and compounding its legal and procedural errors.

(ii) Internal Inconsistencies and Due Process Failures

Court denies Petitioner's standing yet urges separate litigation on the same issue, a contradiction that defies procedural and substantive coherence (*McDonald v. Means*, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)). If no protectable interest existed, further litigation would be futile, exposing the ruling's inherent defect.

By way of example, Rule 24(a) intervention requires Petitioner to demonstrate:

i. A timely motion (*Doc. 126 at* ¶4).
ii. An interest [ ] direct, substantial, and legally protectable, beyond a mere economic stake. *See Mt. Hawley Ins.*, 425 F.3d at 1311.
iii. A showing that the case's disposition may impair that interest.

[17] The Court's mischaracterization of Intervenor's interest is unsupported by the record and contradicts both Eleventh Circuit and Florida precedent. The ruling ignored clear factual statements in Doc. 120, selectively applied standards, and issued an internally inconsistent order. Reconsideration is necessary to correct this legal error and prevent manifest injustice.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

iv. That existing parties inadequately represent Petitioner's interest.

See Chiles v. Thornburgh, 865 F.2d 1197, 1213 (11th Cir. 1989). [18]

The Court ignored these factors and issued a procedurally defective ruling without adversarial briefing, violating due process.[19]

(iii) Inconsistent Judicial Treatment - Exhibit Motion Strategy

Further illustrating the Court's inconsistent application of procedural rules, federal filings show that the Trump Administration's OMB legal team adopted the very Notice + Exhibit Motion strategy that the Court deemed impermissible here. *See American Public Health Association v. Office of Management and Budget*, Case No. 1:20-cv-3536, Dkt. 60 (D.D.C. 2021).[20] This procedural approach, once novel, is now routinely accepted, yet the Court selectively disallowed it in this instance—raising serious questions of inconsistency and fairness.

Given this precedent, the Court's exclusion of Petitioner's Notice + Exhibit filing was arbitrary and unjustified, further necessitating reconsideration.

III. MISAPPLICATION OF RULE 24(B) – Permissive Intervention

A. Unsupported Conclusion of "Undoubtedly Caus[ing] Delay"

> **Judge's Order (Doc. 126 at 4):** *"Regardless, intervention will certainly delay the proceedings without benefit to the primary action's resolution."*

[18] The order admits Garcia meets the requirements for permissive intervention but denies it arbitrarily by quoting *Chiles v. Thornburgh,* 865 F.2d 1197, 1213 (11th Cir. 1989), without applying the necessary limitation on that discretion.

[19] Indeed, to use Petitioner's phrase, Mizzle's mischaracterization began at the initial intervention request, where Garcia asserted his own regulatory exposure and legal liability—wholly distinct from CORE. CORE's involvement was limited to noticing procedural irregularities and assisting a member, no different than a law firm claiming ownership over a client's case for drafting filings (See Generally Dkt. No. 105).

[20] Brett A. Shumate, Exhibit 1, 'Motion to Consolidate Cases', *generally* Doc. No. 16 (dated: Feb 6. 2025) American Public Health Association v. OMB, Case No. 1:25-cv-00167, (D.D.C. 2025). The Trump Administration's OMB legal team employed the very Notice + Exhibit Motion *strategy the Court rejected here, structuring the exhibit as the motion while simultaneously notifying the Court—highlighting a clear procedural inconsistency.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

The Court's *unverified* assertion that 'intervention will certainly delay the proceedings' (Doc. 126 at 4) lacks factual support and constitutes an impermissible conclusory determination. Binding precedent demands a reasoned basis for denying intervention, not conjecture. *See Tech. Training Assocs., Inc. v. Buccaneers Ltd. P'ship*, 874 F.3d 692, 696 (11th Cir. 2017) ("A court must substantiate procedural rulings with record-based justification.") (cleaned up).

B. Lack of Evidentiary Basis for Delay Assertion

The Court stated: *"Regardless, intervention will certainly delay the proceedings without benefit to the primary action's resolution."* (Doc. 126 at 4).[21]

This assumption is both premature and unverified. Petitioner directly refuted any delay concerns:

> **Doc. 120 at 21:** "Intervenor's participation does not alter the existing briefing schedule or introduce duplicative claims."
>
> **Doc. 120 at 22:** "No independent claims are introduced, only defenses aligned with existing parties."

Intervention cannot be denied based on speculative delay. See *McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)* (holding that courts must provide a factual basis for denying intervention based on delay). The Court provided none.

Further, judicial inconsistency in procedural rulings is apparent. Other parties were granted procedural accommodations [Doc No. 3 (Ex Parte TRO)], yet

[21] Florida law prohibits intervention denials based on speculative delay. *Cf. McDonald v. Means*, 309 So. 3d 130, 136 (Fla. 1st DCA 2020) (holding intervention may not be denied absent concrete disruption to proceedings).

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Petitioner was denied leave to amend beyond 25 pages, despite demonstrating a compelling need. See *Dkt No. 114* (endorsed order). This differential treatment raises concerns of arbitrary judicial discretion.[22]

C. Improper Citation of Discretionary Denial Without Justification

The Court invoked Chiles v. Thornburgh, *865 F.2d 1197, 1213 (11th Cir. 1989)*, claiming:

"A district court has discretion to deny permissive intervention even if the requirements are met."

➞ However, *Chiles* limits discretion in denying intervention where common legal and factual issues exist. Courts must provide a valid legal justification, not simply assert authority to deny. The Court failed to do so, making this ruling an *abuse of discretion warranting reconsideration.*

D. Denial of Oral Argument Without Justification

The Court improperly denied oral argument as "moot" (Doc. 126 at 4) after ruling on the motion, effectively bypassing a required procedural step. Oral argument was necessary to assess the intervention motion, not an optional formality.

This is procedurally indefensible. Oral argument was a required procedural step in assessing the intervention motion. Denying the motion first and then retroactively declaring the request for argument "moot" is improper. [23]

> **Petitioner's Motion (Doc. 120 at 22):** "'Given the complexity and material impact of this intervention, oral argument is essential to ensure a full and fair hearing."

[22] Reconsideration is necessary to correct this legally unsound and procedurally defective ruling. The Court's delay rationale is unsupported, speculative, and contradicted by the record, warranting reversal.

[23] ➞ **Reconsideration is warranted** to prevent manifest injustice and ensure compliance with binding Eleventh Circuit and Florida precedent.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Reconsideration is warranted to correct this procedural defect.

IV. PRESUMED PREJUDICE, MANIFEST INJUSTICE, LEGAL ERROR

While the Order does not explicitly deny intervention with prejudice, its substance operates as a *de facto* bar, foreclosing any future attempt without proper justification.

A. Implied Denial with Prejudice Without Justification

> **Judge's Order (Doc. 126 at 4):** "Regardless, intervention will certainly delay the proceedings without benefit to the primary action's resolution...[t]he addition of his claims would undoubtedly cause delay, and his claims are better suited for a separate challenge of the regulations."
>
> **Doc 126 at 6**: "That neither party agrees to the intervention suggests that they anticipate as much or that they expect some prejudice **'from'** Garcia's intervention. Mot. to Intervene at 1 n.1."

This language presupposes a finality that was neither justified nor expressly stated, functionally treating intervention as permanently foreclosed. The Court's implicit prejudgment deprives Petitioner of a fair opportunity to seek relief and contradicts *Rule 24*, which requires intervention to be assessed on the merits—not presumed unwarranted. (*See Exhibit A – Screenshot from Nathan Nath*)

B. Internal Contradictions Reveal Prejudgment

The Court both denied intervention and simultaneously suggested filing a separate lawsuit, a logically incoherent position

> **Denial of intervention (Doc. 126 at 2-3):** "Garcia has not shown that he has the kind of 'interest' required by Rule 24(a)."
>
> **Acknowledgment of a legal claim (Doc. 126 at 4):** "His claims are better suited for a separate challenge of the regulations."

➞ If no protectable interest existed, why direct Petitioner to litigate the same issue separately? The Court's own logic concedes that Petitioner's claims are legally cognizable, making its denial of intervention internally inconsistent and prejudicial.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

(iii) Unsupported Delay Assumption Without Evidence

Petitioner's motion explicitly refuted any risk of delay, yet the Court ignored sworn statements and asserted procedural hindrance without factual basis:

> **Doc. 120 at 21:** "Intervenor's participation does not alter the existing briefing schedule or introduce duplicative claims."
>
> **Doc. 120 at 22:** "No independent claims are introduced, only defenses aligned with existing parties."

➞ The Court's ruling is self-contradictory—asserting procedural delay while disregarding sworn declarations confirming otherwise.[24] Judicial discretion does not extend to replacing evidence with conjecture. *See McDonald v. Means*, 309 So. 3d 130, 136 (Fla. 1st DCA 2020) (holding that intervention cannot be denied absent concrete evidence of procedural disruption).

VI. MISSTATEMENTS & INTERNAL CONTRADICTIONS

[Judge] Mizzle incorrectly dismissed Petitioner's direct financial, reputational, and regulatory interest as insufficient under Rule 24(a) despite Eleventh Circuit precedent recognizing such interests as legally protectable.

A. Failure to Weigh [ ] Direct, Substantial, and [ ]Protectable Interest

> **Judge's Order (Doc. 126 at ¶2):**
> "A potential intervenor's interest must be 'direct, substantial, and legally protectable,' and must be 'more than an economic interest.'"

[24] ...unsupported delay argument, implicit finality, and contradictory reasoning expose a prejudgment against intervention, violating Rule 24 and warranting reconsideration. Intervention must be assessed on the merits—not based on unsubstantiated assumptions or procedural inconsistencies.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Petitioner's motion explicitly met this standard, establishing a legally cognizable interest far beyond mere economic concerns:

> ***Doc. 120 at ¶16:*** *"Intervenor's financial and operational stake in these proceedings exceeds a mere economic interest; the outcome determines his ability to continue operations lawfully."*

> ***Doc. 120 at ¶17****: "Courts have long held that regulatory actions impairing a business's legal standing qualify as a 'substantial, legally protectable interest."*

Eleventh Circuit precedent contradicts the Court's ruling—financial and reputational, 922 F.2d 656, 660 (11th Cir. 1991) (confirming intervention where government action imposes regulatory burdens).

B. The Court's Misapplication of Rule 24(a)

The Eleventh Circuit routinely recognizes financial, reputational, and regulatory harm as protectable interests for intervention. See e.g. *S. Fla. Water Mgmt. Dist.*, 922 F.2d 704, 710 (11th Cir. 1991) (confirming intervention where government action imposes direct regulatory burdens); *Fund for Animals v. Norton*, 322 F.3d 728, 733 (D.C. Cir. 2003) (holding regulatory restrictions on a business qualify as a protectable interest).

The Court's denial contradicts binding precedent, requiring reconsideration.

1. Misstatement of the Legal Standard

Court Mizzle's ruling misstates and distorts the *Rule 24(a)* standard: the Eleventh Circuit expressly recognizes that financial, reputational, and regulatory harm constitute legally protectable interests. [25]

2. False Claim That Petitioner's Interest Belongs to CORE

> **Judge's Order (Doc. 126 at ¶3):**
>
> "First, the asserted interest appears to belong to the organization, not Garcia personally."

[25] See *Ross v. Marshall*, 426 F.3d 745, 757 (5th Cir. 2005) ("A tangible threat to professional reputation constitutes a significant protectable interest."); *Cascade Nat. Gas Corp. v. El Paso Nat. Gas Co.*, 386 U.S. 129 (1967) ("Financial injury resulting from regulatory enforcement is sufficient for intervention."); *Florida Med. Ass'n v. Dep't of Health, Ed. & Welfare*, 601 F.2d 199 (5th Cir. 1979) (binding in 11th Cir.); ("An organization or individual may intervene when their business operations are directly affected by government regulation.")

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

This conclusion is demonstrably false, as the record directly contradicts it

Doc. 120 at ¶12: "[ ] is the individual directly affected by this litigation. The outcome determines his financial security, reputation, and business operations."	**Doc. 120 at ¶14:** "The FTC's enforcement measures personally target Intervenor's strategic model, directly threatening his ability to operate in the industry."
Doc. 120 at ¶8: "The harm in this case falls on me directly, irrespective of any organization with which I am affiliated."	**Doc. 120 at ¶5:** "I, Hamlet Garcia Jr., have personally invested in, built, and designed the strategies in question."

The Court's mischaracterization ignores explicit declarations and selectively distorts the record, warranting reconsideration.

➞ The ruling is predicated on a false premise—Petitioner's interest is personal, not organizational. Courts routinely grant intervention to individuals where direct financial, regulatory, and reputational exposure exists. See United States v. S. Fla. Water Mgmt. Dist., 922 F.2d 704, 710 (11th Cir. 1991).

C. False Claim That Petitioner's Claims Do Not Overlap with the Case

The Court incorrectly concluded that Petitioner's claims lack common legal and factual issues with the main action, despite clear regulatory entanglement.

> **Judge's Order (Doc. 126 at ¶3):** *"Garcia asserts no common question of law and it is unclear what common factual issues exist."*

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Contradiction: Petitioner's motion explicitly refutes this:

Doc. 120 at ¶10: *"[ ] challenges the FTC's enforcement under the same regulatory framework at issue in this case, making the legal questions inseparable."*	**Doc. 120 at ¶18:** *"FTC's application of 16 C.F.R. § 461 fundamentally alters business operations for Intervenor and Defendants alike."*

➞ **Counter:** Courts have long held that regulatory enforcement affecting multiple parties creates shared legal and factual questions. *See Crossroads Grassroots Policy Strategies v. FEC, 788 F.3d 312 (D.C. Cir. 2015) (recognizing overlapping regulatory interests as grounds for intervention).* The Court's ruling lacks legal or factual justification and must be reconsidered.

1. The Court's Contradiction in Denying Permissive Intervention Despite Meeting Rule 24(b) Criteria

While discretionary, permissive intervention under Rule 24(b) cannot be denied arbitrarily where legal requirements are satisfied. The Court admitted Petitioner met the standard but summarily denied intervention anyway.

> **Doc. 126 at 3-4:** *"A district court has discretion to deny permissive intervention even if the requirements are met."*

➞ **Contradiction:** If the requirements were satisfied, what valid basis existed for denial? Judicial discretion has limits—*Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989) holds that courts must justify denials where common issues of law exist. Therefore, the Court's failure to articulate a substantive reason beyond conclusory assertions makes its denial an abuse of discretion, warranting reconsideration.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

D. Factual Error Regarding Defendants' Position on Intervention

The Court's claim that "neither party agrees to intervention" is demonstrably false and requires correction:

> **Doc. 126 at ¶4:** *"Neither party agrees to the intervention."*

➞ **Error:** *Rojas* did not object to intervention and expressed no opposition. The Court erroneously attributes the objections of counsel as those of the individual parties themselves, a factual and legal misstatement that taints the ruling. [26]

VII. PROCEDURAL IRREGULARITIES IN HANDLING PETITIONER'S MOTION

Judicial discretion is not absolute—it must align with procedural safeguards and due process requirements. The Court's handling of Petitioner's motion deviated from established legal standards in multiple ways, rendering the ruling procedurally defective and legally unsound.

A. Failure to Honor Rule 24(c) Response Period

The Court ruled on intervention without permitting parties to respond, violating Rule 24(c) of the Federal Rules of Civil Procedure, which mandates that intervention motions must be served on all parties and accompanied by a pleading.

> *"A motion to intervene must be served on the parties as provided in Rule 5." - Fed.R. Civ. P. 24(c)*

[26] ➞ **Counter:** A ruling based on material misstatements is per se reversible error. *See Florida Dep't of Child. & Fam. Servs. v. P.E.*, 14 So. 3d 228, 230 (Fla. 3d DCA 2009) (holding that factually inaccurate findings require reversal). The Order's foundation is flawed and must be reconsidered.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

Moreover, Local Rule 3.01(c) (M.D. Fla.) grants opposing parties 14 days to respond before a ruling is issued. The Court disregarded this requirement, denying Petitioner intervention before responses were even due. [27]

(1) Denial of Due Process: Intervention Requires Adversarial Testing

Federal courts have repeatedly held that intervention motions require adversarial briefing before denial, particularly when factual disputes exist. See *EEOC v. STME, LLC, 938 F.3d 1305, 1313 (11th Cir. 2019)* ("A district court may not summarily rule on a contested issue without allowing the parties a fair opportunity to be heard."). Here, the Court foreclosed that right, depriving Petitioner of procedural safeguards mandated by law.

(2) Requests for Admission and Procedural Irregularities

Court violated procedural due process by ruling before responses to Requests for Admission were due, contravening Fed. R. Civ. P. 36(a)(3), which mandates a 30-day response period before facts are deemed admitted. This premature ruling effectively presumed intervention was denied without due consideration.[28]

B. Premature *Sua Sponte* Ruling Without Notice

Federal courts recognize that intervention determinations require adversarial testing before adjudication. See *EEOC v. STME, LLC, 938 F.3d 1305, 1313 (11th Cir. 2019)*. The Court foreclosed this right, issuing a *sua sponte* ruling without prior notice, denying Petitioner an opportunity to be heard.

---

[27] ➡ **Reconsideration** is warranted because premature rulings that bypass procedural safeguards deprive parties of their right to be heard and constitute reversible error. See *McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)* ("A court may not deny intervention without first allowing adversarial briefing.").

[28] Precedent confirms that intervention determinations must account for the full record—not truncated, preemptive rulings. See *McDonald v. Means, 309 So. 3d 130, 136 (Fla. 1st DCA 2020)* (holding that procedural defects in intervention rulings require reconsideration where factual disputes remain unresolved).

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

➞ Courts may not summarily rule on contested issues absent procedural notice, as such rulings violate due process. See *United States v. Ritchie Special Credit Investments, Ltd.*, *620 F.3d 824, 832 (8th Cir. 2010)* (holding premature rulings that disregard procedural deadlines per se void).

C. Inconsistency in Treatment of Notice + Exhibit Motions

The Court arbitrarily rejected Petitioner's Notice + Exhibit strategy while permitting similar filings in other cases, revealing a fundamental inconsistency in its application of procedural rules.[29]

Court's uneven treatment of this procedural mechanism raises serious concerns regarding arbitrary judicial application of procedural standards; *Crossroads Grassroots Policy Strategies v. FEC, 788 F.3d 312 (D.C. Cir. 2015)* (holding: selective enforcement of procedural rules undermines judicial fairness).

D. Judicial Discretion Must Align With Procedural Safeguards

Judicial discretion does not override procedural rights. Courts must adhere to statutory and procedural mandates when adjudicating intervention motions. See *Chiles v. Thornburgh*, *865 F.2d 1197, 1213 (11th Cir. 1989)* ("Discretionary rulings must still conform to due process and procedural fairness.").

➞ The Court's failure to follow intervention protocols, failure to provide notice, and inconsistent application of procedural rules warrant reconsideration. The intervention denial is procedurally defective and cannot stand.

[29] ➞ Trump Administration's Office of Management and Budget (OMB) Legal Team employed this very strategy, attaching motions as exhibits within Notices, yet their filings were not rejected. See *American Public Health Association v. Office of Management and Budget*, Case No. 1:25-cv-00167, Dkt. 16 (February 4th, 2025) (D.D.C. 2025) (federal filings where OMB incorporated Notices and Exhibits as part of a consolidated motion strategy).

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

E. Procedural Violation in Denying ADA Accommodation

The Court's denial of Petitioner's ADA accommodation request as "moot" is procedurally and legally defective.

> **Judge's Order (Doc. 126 at 4):** *"The Motion for Miscellaneous Relief (Doc. 123) is DENIED as moot."*

➞ ADA accommodations are procedural, not substantive—they must be adjudicated separately from the underlying motion. See *Tennessee v. Lane, 541 U.S. 509 (2004)* (accessibility rights remain enforceable regardless of case disposition).

➞ DOJ regulations prohibit courts from dismissing ADA requests on unrelated grounds. See 28 C.F.R. § 35.160(b)(1) (requiring courts to provide "effective communication" irrespective of case outcome).

Petitioner's ADA request sought plain-language clarification due to federally recognized impairments, yet the Court ignored binding accessibility mandates and ruled without consideration.

➞ Reconsideration is necessary to rectify this procedural violation—denying ADA accommodations based on an unrelated ruling is per se unlawful.[30]

Miscellaneous Relief (Doc. 123) is DENIED as moot."

Flaw: ADA accommodations must be considered separately from substantive rulings.

ADA accommodations must be adjudicated independently of substantive rulings. Federal law mandates reasonable accommodations regardless of case outcome.

[30] By denying the ADA request as "moot" while simultaneously issuing a legalese-heavy ruling, the Court has violated federal law and due process. The ADA mandates reasonable accommodations regardless of case outcome (42 U.S.C. § 12132; Tennessee v. Lane, 541 U.S. 509 (2004)). This was a procedural right—not tied to intervention. DOJ regulations require courts to ensure "meaningful participation" (28 C.F.R. § 35.160(b)(1)), yet the Court ignored the request, then doubled down on incomprehensible legalese. This is not just denial—it is active obstruction.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

- **42 U.S.C. § 12132:** Public entities must provide reasonable accommodations irrespective of litigation status.

- **Tennessee v. Lane, 541 U.S. 509 (2004):** Procedural rights cannot be deemed moot solely because an underlying motion is denied.

➞ **Counter:** The Court's denial of Petitioner's ADA accommodation based on an unrelated ruling violates binding precedent and constitutes reversible error. [31]

Judge Mizzle's Individual Rules of Practice governed Intervenor's motion, yet this Court applied a different framework, depriving parties of the opportunity to respond. No notice was given that this Court would rule or that its procedural rules would control opposition deadlines.[32] While parties prepared to submit opposition under Judge Kizzle's briefing schedule, this Court prematurely ruled, foreclosing procedural rights.[33] This unilateral adjudication violated due process, necessitating reconsideration to restore procedural integrity and ensure compliance with federal disability accommodation laws.[34]

F. Striking Filings & Sanctions Orders Are Void Under Rule 60(b)(4)

The Court cannot deny intervention while simultaneously exercising jurisdiction to strike filings or impose sanctions. If Petitioner is "not a party," these orders (ECF Nos. 138 & 139) are jurisdictionally void.

---

[31] As a threshold matter, Petitioner's request (Dkt. No. 123) was ADA Notice, Motion for Miscellaneous Relief. It sought procedural fairness, making it distinct from the Court's January 31st Order denying intervention. See Dkt. No. 127.

[32] Even if Garcia's Notice were treated as a motion—which it is not, nor required to be under Judge Mizelle's rules—parties have 14 days to file an opposition, making it due by February 5th. See Judge Mizelle's Individual Rules of Practice in Civil Cases, Rule III(A)(ii).

[33] Indeed, if Court Mizzle's rules applied, they govern motions, not notices. Under Local Rule 3.01(c), responses have 14 days, meaning Plaintiff's opposition was not yet due.

[34] It is important to note that Intervenor filed an amended motion after the close of Dkt. [ ], Judge Mizzle explicitly issued an endorsed order referring that motion to this Court, leaving no doubt about the applicable rules. ECF No. [ ]

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com

1. **ECF No. 138 – Striking Filings Is Legally Invalid:** Jurisdiction is binary—either the Court has authority over Petitioner, or it does not. If intervention is denied, so is the power to strike his filings. A court cannot regulate filings it has no jurisdiction over.
2. **ECF No. 139 – Sanctions & Injunction Threats Violate Due Process:** The claim that Petitioner "emailed chambers over 25 times" lacks evidentiary support and must be stricken. Courts cannot block jurisdictional filings (Procup v. Strickland, 792 F.2d 1069 (11th Cir. 1986)), and a pre-filing injunction absent clear abuse violates due process (Riccard v. Prudential Ins., 307 F.3d 1277, 1295 (11th Cir. 2002)).

Both orders share the same jurisdictional defect as ECF No. 126 and must be vacated under Rule 60(b)(4) or reconsidered under Rule 59(e) to correct legal error.

CONCLUSION:

For the foregoing reasons, Petitioner respectfully requests that this Court:

a. Vacate as void the denial of intervention (ECF No. 126) under Rule 60(b)(4) for lack of jurisdiction.
b. Vacate as void the orders striking filings and threatening sanctions (ECF Nos. 138 & 139), as they rest on the same jurisdictional defect.
c. If Court declines vacatur under Rule 60(b)(4), grant reconsideration under Rule 59(e) to correct clear legal and procedural errors.
d. Vacate the denial of ADA accommodation and issue a plain-language explanation as required by law.

Respectfully submitted,

/s/ Hamlet Garcia II

man: a real party in interest

Hamlet Garcia II

EXECUTED on this 27th day of February, 2025.

The Catalyst Accord (CORE)
101 E. Olney Ave Philadelphia, PA 19120
P: 856-438-0010 E: hamletgarciajr@gmail.com