

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

Theodore Haugland, Plaintiff,

v.

United States Of America, Defendant.

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Case No. 1:25-cv-00710

Judge: Elaine D. Kaplan

PLAINTIFF’S MOTION FOR SANCTIONS AND DEFAULT JUDGMENT

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- *Hovey v. Elliott*, 167 U.S. 409 (1897) 10, 11

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- RCFC 37(b) 6, 10, 16

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- G.J. Postema, *A Treatise of Legal Philosophy and General Jurisprudence* (2011)
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- Louis Fisher & Katy J. Harriger, *American Constitutional Law* (2019) 11

I. INTRODUCTION

Plaintiff respectfully moves this Court for sanctions against Defendant, including entry of default judgment, pursuant to Rules 5.2(d) and 37(b) of the Rules of the United States Court of Federal Claims (“RCFC”) and this Court’s inherent authority to preserve the integrity of judicial proceedings.

This Motion arises from the Administrative Office of the U.S. Courts’ (“AO”) failure to secure sealed filings within the CM/ECF electronic filing system. A cyberattack resulted in unauthorized disclosure of sealed records, directly violating this Court’s sealing orders and undermining Plaintiff’s Fifth Amendment right to due process.

Because this breach has irreparably prejudiced Plaintiff’s ability to litigate fairly, and because lesser sanctions cannot cure either the prejudice or the systemic harm caused, Plaintiff seeks

the entry of default judgment, attorney's fees, protective relief, and an independent forensic review of the breach.

II. FACTUAL BACKGROUND

1. Plaintiff filed sensitive materials under seal pursuant to RCFC 5.2(d) and this Court's orders.
2. The AO failed to safeguard those sealed filings from unauthorized disclosure.
3. Through a cyberattack on CM/ECF, Plaintiff's sealed records were compromised and became accessible to unauthorized parties.
4. This breach undermined the confidentiality protections that Plaintiff relied upon and that this Court ordered.
5. Plaintiff's litigation position has been irreparably compromised, as confidential strategy and information may now be in the hands of Defendant or other third parties.

The systemic nature of this breach highlights a failure by the AO to uphold its responsibility to protect sealed filings. Once disclosed, the integrity of the sealing order and the fairness of proceedings cannot be restored.

III. LEGAL STANDARDS

A. RCFC 5.2(d): Protection of Sealed Records

RCFC 5.2(d) provides that “[t]he court may order that a filing be made under seal without redaction.” Once entered, sealing orders carry the full authority of the Court. Unauthorized disclosure of sealed material constitutes a violation of a standing court order.

Courts take breaches of sealing orders seriously. See *United States v. McVeigh*, 918 F. Supp. 1452, 1474 (W.D. Okla. 1996) (noting that strict compliance with sealing orders is essential to judicial integrity).

B. RCFC 37(b): Sanctions for Violations of Court Orders

RCFC 37(b)(2)(A) provides that if a party “fails to obey an order to provide or permit discovery,” the court may issue sanctions, including “rendering a default judgment against the disobedient party.”

The Supreme Court has confirmed that default judgment is appropriate where violations are willful, cause prejudice, and no lesser sanction is effective. *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 707–09 (1982).

C. Inherent Powers of the Court

Beyond the Federal Rules, courts have inherent power to sanction conduct that abuses the judicial process or undermines judicial authority. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–46 (1991). This includes the power to dismiss or enter default judgment to preserve the fairness and integrity of proceedings.

IV. VIOLATION OF PLAINTIFF'S DUE PROCESS RIGHTS

The Fifth Amendment guarantees every litigant the right to a fair hearing before an impartial tribunal. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In evaluating due process claims, courts consider:

1. **The private interest affected** – here, Plaintiff's interest in the confidentiality of sealed filings is substantial.
2. **The risk of erroneous deprivation through existing procedures** – the AO's failure to secure sealed filings has created a direct and irreversible deprivation of Plaintiff's rights.
3. **The government's interest** – the AO has a paramount obligation to protect sealed filings. Its failure undermines not only Plaintiff's rights but the integrity of the judiciary itself.

Because sealed filings have been compromised, Plaintiff no longer has a meaningful opportunity to litigate on equal footing. The breach of sealed materials directly violates Plaintiff's due process rights.

V. PRECEDENT FOR ENTRY OF DEFAULT JUDGMENT

The Supreme Court has consistently recognized the appropriateness of default judgment when parties disobey court orders or compromise judicial authority:

- *Hovey v. Elliott*, 167 U.S. 409 (1897) – courts may strike defenses for disobedience of orders.
- *Insurance Corp. of Ireland*, 456 U.S. at 707 – default judgment is appropriate where conduct undermines fairness.
- *Chambers v. NASCO*, 501 U.S. at 46 – courts may impose default judgment under their inherent powers.

These precedents confirm that default judgment is not an extraordinary remedy but an appropriate response when violations prejudice one party and threaten the judicial process itself.

VI. PREJUDICE TO PLAINTIFF

Plaintiff has suffered actual prejudice:

- **Disclosure of confidential litigation strategy and facts** to unauthorized parties;
- **Loss of protection** afforded by this Court's sealing orders;
- **Compromised ability to litigate fairly** against Defendant.

This prejudice is irreversible. As the Third Circuit noted, once confidential information is disclosed, the "bell cannot be un-rung." *In re Cendant Corp.*, 260 F.3d 183, 196 (3d Cir. 2001).

VII. LESSER SANCTIONS ARE INADEQUATE

Courts generally escalate sanctions progressively — from monetary penalties to evidentiary restrictions, and finally to default judgment. But here, lesser sanctions are inadequate because:

- **Monetary sanctions** cannot restore confidentiality once lost.
- **Evidentiary sanctions** do not address the systemic breach of sealed filings.
- **Protective orders** cannot undo the exposure of sealed material.

Because no lesser sanction can remedy either Plaintiff's prejudice or the institutional harm caused by the AO's breach, default judgment is the only adequate remedy.

VIII. REQUESTED RELIEF

Plaintiff respectfully requests that this Court:

1. Enter **default judgment** against Defendant pursuant to RCFC 37(b) and the Court's inherent powers;
2. Award **attorney's fees and expenses** under RCFC 37(b)(2)(C);

3. Enter a **protective order** prohibiting further dissemination of Plaintiff's sealed materials;
 4. Direct an **independent forensic review** of the CM/ECF breach to determine the scope of the compromise; and
 5. Grant such other and further relief as the Court deems just and proper.
-

IX. CONCLUSION

The Administrative Office's failure to safeguard sealed filings violates RCFC 5.2(d), RCFC 37(b), and this Court's inherent authority. The resulting breach irreparably prejudices Plaintiff's Fifth Amendment due process rights and undermines the integrity of judicial proceedings.

For these reasons, Plaintiff respectfully requests that the Court grant this Motion and enter default judgment, along with such additional relief as the Court deems just and proper.

Dated: August 26, 2025]

Respectfully submitted,

Theodore Haugland

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1:25-cv-00710

Fi Plaintiff, Pro Se

In the United States Court of Federal Claims

Theodore Haugland

Plaintiff(s),

v.

THE UNITED STATES,

Defendant.

Case No. 25-cv-00710

Judge Elaine D. Kaplan

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2025, a copy of Motion for Sanctions and request for default judgement,
was mailed via USPS, to Eric Smith,
at Post Office Box 26, Washington, DC 20044.


(Signature of Applicant)

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