

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Mphasis Corporation,
Plaintiff,
v.
Albert Rojas,
Defendant.

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

SUPPLEMENTAL STATEMENT IN SUPPORT OF MANDATORY JOINDER OF QBE NORTH AMERICA

(FRCP 14(a), 19(a), and 20(a))

Defendant Albert Rojas, appearing pro se, respectfully submits this supplemental statement in further support of his motion for leave to join QBE North America as a third-party defendant. This submission is necessitated by a critical judicial admission in Plaintiff's sworn declaration (ECF No. 9:10, ¶14, filed May 27, 2025), which confirms dispositive facts requiring joinder under the Federal Rules of Civil Procedure.

I. CRITICAL ADMISSION – PLAINTIFF'S OWN SWORN DECLARATION

In ¶14 of ECF No. 9:10, Plaintiff concedes that:

"Defendant operated using a client-issued laptop rather than a secured, company-provisioned device."

This declaration leaves no ambiguity:

- QBE provisioned and governed the device at issue;
- QBE—not Mphasis—controlled infrastructure, access, and auditability;
- Mphasis's failure to issue a secured endpoint directly conflicts with best practices in cybersecurity governance (see NIST SP 800-53 Rev. 5, AC-6; CIS Controls v8, Control 4.8).

This is not a collateral fact—it is central to Plaintiff's claims and Defendant's defenses.

II. QBE IS A MANDATORY PARTY UNDER RULE 19

Joinder is not optional. Under FRCP 19(a)(1)(A)–(B), QBE is indispensable:

- Without QBE, the Court cannot resolve questions of access, control, and endpoint governance;
- QBE's audit logs, provisioning policies, and system ownership are essential to determining whether Defendant acted wrongfully or lawfully under whistleblower protections;
- Failure to join QBE creates a risk of inconsistent obligations, violating Rule 19(b).

III. FAILURE TO JOIN QBE IMPERILS DUE PROCESS AND INVITES BIAS

Allowing this action to proceed without QBE not only denies Defendant access to exculpatory evidence, but creates the appearance of judicial bias—shielding the infrastructure provider while punishing the whistleblower.

Such exclusion:

- Contradicts the core holding of *Digital Realty Tr., Inc. v. Somers*, 583 U.S. 149 (2018), which affirmed statutory protection for internal and external whistleblowers;
- Obstructs public accountability and fair adjudication;
- Raises constitutional concerns under the Fifth and Fourteenth Amendments.

IV. RELIEF REQUESTED

Defendant respectfully asks the Court to:

1. Take judicial notice of Plaintiff's admission (ECF No. 9:10, ¶14);
2. Order the joinder of QBE North America as a third-party defendant under FRCP 14(a), 19(a), and 20(a);
3. Authorize proportional discovery of QBE's device logs, audit records, and provisioning data;
4. Acknowledge that continued exclusion of QBE would materially prejudice Defendant and could compromise the integrity of these proceedings;
5. In the alternative, should the Court decline to order joinder, Defendant respectfully requests an evidentiary hearing on the issue of QBE's central role and material knowledge.

Respectfully submitted,
Albert Rojas
Pro Se Defendant
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Dated: May 29, 2025

RESERVATION OF RIGHTS

Nothing in this filing shall be construed as a waiver of Defendant's rights under the U.S. Constitution or applicable whistleblower statutes, including:

- 18 U.S.C. § 1833(b) (Defend Trade Secrets Act),
- 18 U.S.C. § 1514A (Sarbanes-Oxley),
- 15 U.S.C. § 78u-6(h) (Dodd-Frank), and
- NY Lab. Law § 740 (New York Whistleblower Law).

This submission is made solely to preserve the record, invoke procedural protections, and ensure fair adjudication.