SO ORDERED.

SIGNED this 20th day of March, 2026.

Mitchell L. Herren
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

IN RE: **Benjamin Kyle Kirby,** **Debtor.**	**Case No. 23-10923** **Chapter 7**
Benjamin K. Kirby, **Plaintiff,** **vs.** **Nelnet, Inc., U.S. Department of Education,** **Defendants.**	**Adv. No. 25-5027**

Order Denying Plaintiff's Motions for Reconsideration (Docs. 72 and 78) and Granting in part and Denying in part Plaintiff's Motion To Strike and Replace, Seal, and Redact Regarding Plaintiff Earnings Exhibits (Doc. 94)

Pro se Plaintiff Benjamin Kyle Kirby seeks discharge of some $70,000 in student loans based on 11 U.S.C. § 523(a)(8)'s undue-hardship standard.[1] After the Court made several rulings related to discovery disputes, Plaintiff filed two motions seeking reconsideration of the Court's Order Addressing Discovery Motions and Objections (the November 19th Order)[2] and a motion related to filing certain documents under seal.

I. Procedural Background

Plaintiff filed a Chapter 7 bankruptcy petition in September 2023, and received a discharge a few months later, leading to the closing of his case that December.[3] Then in March 2025, Plaintiff reopened his bankruptcy case to pursue discharge of his student loan debt under § 523(a)(8).[4] He initiated this adversary proceeding against Defendants Nelnet, Inc. and the U.S. Department of Education.

Disputes and misunderstandings pertaining to discovery in the adversary proceeding soon arose, and this Court issued the November 19th Order.[5] That Order overruled Plaintiff's Objection to Defendant's Notice of Intent to Issue Subpoena Duces Tecum, granted Defendant's Motion to Compel Complete Answers to Interrogatories and Requests for Production, denied Plaintiff's Motion for Relief from Abusive Discovery and Motion for Sanctions for Attorney Misconduct, denied Plaintiff's Motion to Maintain Provisional Seals and for Leave to File Under Seal,

[1] All future statutory references are to the Bankruptcy Code, title 11, unless otherwise specified.
[2] Doc. 68.
[3] Case No. 23-10903, Doc. 1.
[4] Case No. 23-10903, Doc. 29. Student loan debt is usually not discharged in a bankruptcy absent a finding under § 523(a)(8) of "undue hardship."
[5] Doc. 68.

denied Plaintiff's Motion to Strike from the Record and Replace Plaintiff's Earnings Exhibits, granted in part Defendant's Motion to Modify Deadlines Contained in Scheduling Order, and unsealed two documents provisionally filed under seal. The November 19th Order also directed Plaintiff to give complete responses to Defendant's interrogatories as well as provide responsive materials to Defendant's requests for production by December 4, 2025. The Court then issued an Amended Scheduling Order on November 21st.[6]

Plaintiff then filed two successive motions for reconsideration of the November 19th Order. First, Plaintiff filed an Emergency Motion for Reconsideration and Limited Sealing of Exhibits (Doc. 72) asking the Court to seal certain documents containing Plaintiff's past residential address history and annual income/adjusted gross income (AGI) information and allow Plaintiff to instead upload redacted versions of those documents.[7] Second, a Motion for Reconsideration of the Court's November 19, 2025 Order (Doc. 78) which asked the Court to reverse its substantive determinations in that Order.[8] Plaintiff contends the Court's decisions amounted to clear error and would result in manifest injustice if left to stand. This second motion was accompanied by Plaintiff's Motion To Stay Deadlines Pending Resolution Of Motions For Reconsideration,[9] which the Court granted.[10]

[6] Doc. 76.
[7] Doc. 72-1 at p. 2, asking the Court to seal Doc. 56 and Doc. 57.
[8] Doc. 78 at p. 19–20.
[9] Doc. 79.
[10] Doc. 80.

Defendant then responded to Doc. 78, arguing Plaintiff's cited case law did not apply and that the Court ruled correctly in the November 19th Order.[11] Plaintiff filed a reply reasserting his arguments.[12]

After reviewing Plaintiff's filings, concerns arose over misuse of generative artificial intelligence (GenAI) in Doc. 78, so the Court ordered Plaintiff to appear and show cause why he had not violated Rule 9011.[13] At the show cause hearing, Plaintiff was unable to substantiate the veracity of several case citations and quotes in his brief, and the Court found he had violated Rule 9011(b)(2).[14]

The Court issued an oral ruling at the hearing striking Section II.7 of Doc. 78 and setting forth additional steps for Plaintiff to follow when filing with this Court as a consequence of these violations.[15] The Court then allowed Plaintiff to make oral argument at that hearing using the authentic caselaw he had found in lieu of the incorrect cases cited in the stricken portion of his brief. The Court later memorialized its oral rulings in a written order and took Doc. 78 under advisement.[16] The Court also gave Plaintiff a week from the hearing to supplement Doc. 72 with a Motion to Seal or Redact that complied with the requirements of D. Kan Rule 5.4.2(c).

---

[11] Doc. 82.
[12] Doc. 83.
[13] Doc. 85.
[14] Doc. 91.
[15] *Id.* at p. 4–6.
[16] *Id.*

Plaintiff filed his Motion To Strike and Replace, Seal, and Redact Regarding Plaintiff Earnings Exhibits (Doc. 94).[17] After receiving Defendant's response[18] and Plaintiff's reply,[19] the Court took Docs. 72 and 94 under advisement.

II. Legal Standard

Both 28 U.S.C. §§ 157 and 1334 grant this Court jurisdiction over this matter and venue is proper per 28 U.S.C. § 1408.

A. Motion for Reconsideration

D. Kan. Rule 7.3 allows a party to seek reconsideration of a court order on three grounds: 1) based on an intervening change in controlling law that affects a non-dispositive order, 2) the availability of new evidence, or 3) the need to correct clear error or prevent manifest injustice—all standards similar to a motion to alter or amend a judgment under Fed. R. Bankr. P. 9023.[20] Nevertheless, "'[a] motion to reconsider is not a second opportunity for the losing party to make its strongest case, to rehash arguments or to dress up arguments that previously failed.'"[21] Thus, the combination of strict standards and need for new argument or new evidence means a motion for reconsideration "'will generally be denied . . . .'"[22]

---

[17] Doc. 94.
[18] Doc. 99.
[19] Doc. 100.
[20] Fed. R. Bankr. 9023 incorporates Fed. R. Civ. P. 59; *see In re Johnson*, No. 21-10228, 2021 WL 4047460, at *2 (Bankr. D. Kan. Sept. 3, 2021).
[21] *Jackson v. Gragg Advert.*, No. 25-CV-2418-TC-TJJ, 2025 WL 2770599, at *1 (D. Kan. Sept. 29, 2025) (*quoting Tomelleri v. MEDL Mobile, Inc.*, No. 14-2113-JAR, 2015 WL 5098248, at *1 (D. Kan. Aug. 31, 2015)).
[22] *In re Fakhari*, 554 B.R. 250, 258 (Bankr. D. Kan. 2016) (*quoting Analytical Surveys, Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d Cir. 2012), *as amended* (July 13, 2012)).

The Court held a lengthy hearing at which both parties were allowed to present all arguments they wanted to make. Plaintiff stated he sought relief from the Court's November 19th Order based on the third prong of D. Kan. Rule 7.3: "the need to correct clear error or prevent manifest injustice." To succeed, Plaintiff must either show that the Court's decision was "an arbitrary, capricious, whimsical, or manifestly unreasonable judgment"[23] or that it resulted in "direct, obvious, and observable error."[24]

B. Motion for Sealing or Redacting

"Federal courts have long honored the public's common-law right of access to judicial records."[25] That said, "this right 'is not absolute,'"[26] but it is granted a "strong presumption in favor of public access"[27] that may be overcome by the party requesting sealing or redaction by demonstrating "countervailing interests."[28] Any limitation on that right "'must be viewed as an extraordinary measure,'"[29] thus, those interests must "heavily outweigh" the public's interest in access.[30]

---

[23] *Wright ex rel. Tr. Co. of Kansas v. Abbott Lab'ys, Inc.*, 259 F.3d 1226, 1235–36 (10th Cir. 2001) (citing *Brown v. Presbyterian Healthcare Serv.*, 101 F.3d 1324, 1331 (10th Cir. 1996)).
[24] *Gorenc v. Proverbs*, 447 F. Supp. 3d 1110, 1113 (D. Kan. 2020) (citing *Hadley v. Hays Med. Ctr.*, No. 14-1055-KHV, 2017 WL 748129, at *2 (D. Kan. Feb. 27, 2017) (internal quotation marks and citations omitted)).
[25] *Kesters Merch. Display, Int'l, Inc. v. SurfaceQuest, Inc.*, No. 21-CV-2300-EFM, 2024 WL 757144, at *1 (D. Kan. Feb. 23, 2024) (*quoting Mann v. Boatright*, 477 F.3d 1140, 1149 (10th Cir. 2007)).
[26] *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1241 (10th Cir. 2012) (*quoting Mann*, 477 F.3d at 1149).
[27] *Mann*, 477 F.3d at 1149.
[28] *Colony Ins.*, 698 F.3d at 1241.
[29] *In re Lopez*, 666 B.R. 555, 560 (Bankr. E.D. Mich. 2025) (*quoting* 2 Collier on Bankruptcy ¶ 107.03[1] (footnote omitted) (citing 6 Moore's Federal Practice, §§ 26.101–26.105 (Matthew Bender 3d ed.)).
[30] *Colony Ins.*, 698 F.3d at 1241 (internal quotation omitted).

The Bankruptcy Code also accounts for this strong presumption in § 107.[31] Section 107(b) grants courts discretion to seal or redact to "(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or (2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title" upon request from a party in interest.[32] Subsection (c) of § 107 also allows courts to protect individuals against identity theft to the extent a court finds cause of undue risk to the individual or their property by sealing or redacting "any means of identification" listed under 18 U.S.C. § 1028(d) that is contained in a paper filed or to be filed with a court[33] or any "other information" in those filings.[34]

As relevant here, D. Kan. Rule 5.4.2(c) requires that a motion to seal or redact analyze several factors: (1) "a description of the specific portions of the document" the proponent asks to be sealed or redacted; (2) "the confidentiality interest to be protected and why such interest outweighs the presumption of public access;" (3) the injury that would result in the absence of restricting access; (4) "why no lesser alternative is practicable or why restricting public access will adequately protect the confidentiality interest in question;" and (5) "the extent to which the motion is opposed or unopposed, if known."[35]

[31] 11 U.S.C. § 107(b); *see also Lopez*, 666 B.R. at 560.
[32] 11 U.S.C. § 107(b).
[33] 11 U.S.C. § 107(c)(A).
[34] 11 U.S.C. § 107(c)(B).
[35] D. Kan. Rule 5.4.2(c).

C. Undue Hardship

A debtor may seek discharge of a student loan debt if the Court finds repayment of those debts results in an "undue hardship" on the debtor.[36] The Tenth Circuit measures "undue hardship" using the three factors from the Second Circuit's *Brunner* test: (1) "that the debtor cannot maintain, based on current income and expenses, a 'minimal' standard of living for [himself] and [his] dependents if forced to repay the loans;" (2) "that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans;" and (3) "that the debtor has made good faith efforts to repay the loans."[37] These factors become important during the consideration of what is relevant and proportional in the discovery process of an undue hardship lawsuit.

III. Discussion

The Court first addresses Doc. 78 and its new arguments, then addresses Doc. 72, and then analyzes Doc. 94. Last, the Court issues new discovery deadlines. The Court denies in full Doc. 78, Plaintiff's Motion For Reconsideration Of The Court's November 19, 2025 Order, and Doc. 72, Plaintiff's Emergency Motion For Reconsideration And Limited Sealing Of Exhibits Containing Personal Address History And Aggregate Income Figures. The Court grants in part and denies in part Doc. 94, Plaintiff's Motion To Strike and Replace, Seal, and Redact Regarding Plaintiff Earnings Exhibits.

---

[36] 11 U.S.C. § 523(a)(8).
[37] *Educ. Credit Mgmt. Corp. v. Polleys*, 356 F.3d 1302, 1306 (10th Cir. 2004) (adopting *Brunner v. N.Y. State Higher Educ. Servs. Corp.*, 831 F.2d 395, 396 (2d Cir. 1987)).

A. Doc. 78, Plaintiff's Motion For Reconsideration Of The Court's November 19, 2025 Order is denied.

The Court addresses Doc. 78 by grouping Plaintiff's arguments under the same section headings found in the Court's November 19th Order.

1. *Section III.A – Plaintiff's Objection to Defendant's Subpoena Duces Tecum*

   Plaintiff made no request to reconsider this portion of the order.

2. *Section III.B – Plaintiff's Motion for Relief from Abusive Discovery and Defendant's Motion to Compel*

   Plaintiff argues the Court's decision was clear error or needs to be corrected to prevent manifest injustice. The Court disagrees.

   a. Plaintiff's *Oxbow* argument is erroneous.

   Plaintiff asserts "[t]he Court's Order Does Not Apply the Required Proportionality Analysis Under Rule 26(b)(1)."[38] Plaintiff then cites "six mandatory proportionality factors" to consider per Rule 26(b)(1).[39] These six factors are: 1) the importance of the issues at stake in the action, 2) the amount in controversy, 3) the parties' relative access to relevant information, 4) the parties' resources, 5) the importance of the discovery in resolving the issues, and 6) whether the burden or expense of the proposed discovery outweighs its likely benefit.[40] Plaintiff alleges here and elsewhere throughout his brief[41] that "the absence of any individualized

[38] Doc. 78, at p. 2.
[39] *Id.*
[40] *Id.*
[41] *See id.* at p. 4–9 (Section II.4 "The Order Overruling All Discovery Objections and Requiring 'Complete Responses Without Objections' Is Not Supported by the Governing Standards Under Rules 26 and 37," Section II. 5 "Proportionality Error: DOE's Request Is an Unbounded Financial Audit, Not Targeted Discovery," and Section II.6 "Clarification Is Required Regarding the Court's Characterization of Plaintiff's Financial Evidence and DOE's Resulting Discovery Scope").

analysis of the six proportionality factors constitutes legal error under Oxbow Carbon & Minerals LLC v. Union Pac. R.R. Co., 322 F.R.D. 1 (D.D.C. 2017) (requiring explicit consideration of Rule 26(b)(1)).”[42] However, *Oxbow* does not support that proposition, and is not binding on this Court even if it had.[43]

Oxbow instead noted that, in determining proportionality, courts look at the six factors listed in Rule 26 itself, and stated that no single factor outweighs other factors. It highlighted that these factors do not alter “‘the burden on the party resisting discovery to—in order to successfully resist a motion to compel—specifically object and show that . . . a discovery request would impose an undue burden or expense or is otherwise objectionable.’”[44]

The Court did perform a Rule 26 proportionality analysis when evaluating Defendant’s requests for production and interrogatories, and then included its conclusions throughout the Order:

- “The information sought by the subpoena is directly related to the issues in this case, thus the request is relevant and *proportional*.”[45]
- “Further, Defendant *has not overly burdened* Plaintiff. Defendant issued relevant interrogatories and requests for production of documents based on Plaintiff’s claims, and Plaintiff failed to respond with the required clarity and specifics.”[46]
- “Defendant’s Request for Production No. 4 seeks information tied directly to the undue-hardship question, specifically to Plaintiff’s financial history—i.e., the income he has earned and the sources of

[42] *Id.* at p. 3.
[43] *See generally Oxbow Carbon & Minerals LLC v. Union Pac. R.R. Co.*, 322 F.R.D. 1 (D.D.C. 2017).
[44] *Id.* at 6 (*quoting Mir v. L–3 Commc’ns Integrated Sys., L.P.*, 319 F.R.D. 220, 226 (N.D. Tex. 2016)).
[45] Doc. 68 at p. 7 (emphasis added).
[46] *Id.* at p. 8 (emphasis added).

that income. . . . Defendant's seeking of this information is not an abuse of discovery—it is routine discovery."[47]

- "Plaintiff's objections [including the terms 'overly broad,' 'unduly burdensome,' 'not proportional,' 'duplicative or cumulative,' or 'See, General Objection and Incorporation Statement, Supra.'] fall under the general or 'boilerplate' category; they are overruled on that basis."[48]

- " . . . Plaintiff claims Defendant's conduct places an unfair and disproportionate burden on himself as a pro se litigant with limited means; however, Defendant has sought nothing extraordinary in discovery. Defendant has made *proportional* requests relating directly to the subject matter of this case."[49]

- "The documentation of the communications between the parties indicates routine efforts by a party propounding discovery to follow up on what it considered to be incomplete discovery responses."[50]

- "Defendant's requests are normal questions in an undue-hardship adversary proceeding."[51]

Plaintiff did not provide specific and tailored objections that showed any of the disputed discovery requests would impose an undue burden or expense or was otherwise objectionable. First, Defendant has a strong interest in defending its rights in the action and cannot prepare its defense without access to the relevant information and documents, which have yet to be produced. Second, the amount of the debt at stake is significant—about $70,000. Third, Plaintiff has access to the information and admitted that repeatedly at the January 8th hearing and within Doc. 78.[52] Fourth, Plaintiff's resources are certainly sufficient for him to produce to

[47] *Id.* at p. 9.
[48] *Id*; see also *id.* at p. 9, n. 50. (emphasis added).
[49] *Id.* at p. 14. (emphasis added).
[50] *Id.*
[51] *Id.* at p. 15.
[52] Doc. 78 at p. 6.

Defendant the very information Plaintiff possesses or has in his control related to the *Brunner* factors. Fifth, the information sought is directly related to the undue-hardship inquiry under § 523(a)(8). Plaintiff's past, present, and expected future financial condition is a key and routine area of inquiry during discovery in an adversary proceeding such as this. Sixth, the burden of producing the requested material (which is comparatively minimal to the relief sought) does not outweigh the benefit of resolving the question of dischargeability.

b. Plaintiff's underlying argument is based on a fundamental misunderstanding of discovery.

Rehashing the factors considered under Rule 26, however, does not solve the root problem here: Plaintiff's fundamental misconception of discovery.

At the core of Plaintiff's contentions here and in his several other motions and objections, and again at the January 8th hearing, is his belief that he has produced enough evidence in the form of "primary source data" or "primary source documents" and therefore, the Court or Defendant has a duty to point to factual deficiencies in his limited production before he must respond to other discovery requests. In other words, Plaintiff believes he has met his burden of overall proof in support of his undue-hardship claim, and the burden has shifted to Defendant and/or the Court to accept his proof or refute it.[53] For many reasons already listed and explained in the November 19th Order, Plaintiff is mistaken in this understanding of how discovery works.

[53] *See, e.g.*, *id.* at p. 4 ("The Court Did Not Identify Any Deficiency in Plaintiff's Priory Substantive Responses."); *see also id.* at p. 5 ("A motion to compel requires the Court to determine what is deficient in the response. The absence of any identified deficiency is legal error."); *id.* at p. 7.

Plaintiff has only produced three documents in response to Defendant's requests for production: 1) Doc. 57-2, a single-page line graph summarizing what Plaintiff claims is his Internal Revenue Service (IRS) AGI data over much of his lifetime; 2) Doc. 57-3, a one-page summary of Plaintiff's QuickBooks business account from January 1, 2025 through August 16, 2025; and, 3) Doc. 56-1, a pdf of a LinkedIn page resume-like document summarizing Plaintiff's career and education. At the January 8th hearing, the Court spent extended time addressing Plaintiff's assertion that Docs. 57-2 and 57-3 somehow constitute "primary source" documents. Plaintiff refused to acknowledge that the information about his finances in the graph and QuickBooks page were not primary source documents, and the fact they were derived from other, actual primary source documents such as his tax returns, social security records, and his company's financial records did not make it so.

Plaintiff continues in his briefing to contend these summary documents are primary sources. They are not. As Plaintiff acknowledges, they are Plaintiff's "transcription[s]"[54] of information from some primary source documents—the federal and state tax returns and other income-related documents that Defendant seeks. Plaintiff did not produce primary source information filed with or created by the IRS or the Social Security Administration, or anyone else. Defendant is not required, or even expected, to rely on Plaintiff's transcription or summary of the requested documentation.

[54] Doc. 78 at p. 9.

Plaintiff's argument also continues to focus on the allegation that the Court has neither identified, nor compelled Defendant to identify deficiencies in Plaintiff's summary documents before Plaintiff is required to produce the underlying data for the summaries he did produce.[55] This is not how the discovery process works. Plaintiff's duty is to truthfully and fully respond to Defendant's relevant and proportional discovery requests and not withhold any properly requested, relevant information. For Plaintiff to argue that the Court or Defendant needs to identify deficiencies in these two, single-page summaries before the underlying source documents must be produced begs the question: how can deficiencies in the summary documents be identified without access to the underlying documents they purport to summarize? They cannot.

Plaintiff argues that because neither the Court, nor Defendant has pointed out deficiencies in his summarized data, "Plaintiff is unable to determine what additional records are required, and discovery risks proceeding untethered from Rule 26's mandatory standards."[56] Plaintiff's duty is not to independently determine what documents are ultimately needed for the trial of this case, but instead, his duty is to honestly and completely respond to Defendant's discovery requests as the Court has ruled.

[55] *Id.* at pp. 3–4, 6–9, 17–18.
[56] *Id.* at p. 9.

c. Defendant's requests do not amount to a "Unbounded Financial Audit."[57]

Plaintiff claims Defendant's Request for Production No. 4 amounts to a boundless audit and that Defendant is not entitled to *every* diary, ledger, or trust account "debtor has ever possessed."[58] Plaintiff is correct that the law does not entitle Defendant to *every* one of those documents, but it is an appropriate request for Defendant to see all such documents Plaintiff has in his possession or control "*since January 1, 2020*" that include financial or monetary information.[59]

Plaintiff's argument that these requests are duplicative because he has either already produced the information or because Defendant can find it elsewhere is itself duplicative of arguments in his initial motions. The Court already addressed this argument in the November 19th Order[60] and will not address it again.

d. Plaintiff's Fed. R. Evid. 1006 argument is misplaced.

As an addendum to his proportionality arguments Plaintiff argues his "primary source documents" are sufficient by the summary exhibit provisions of Fed. R. Evid. 1006. But Rule 1006 is a rule of evidence for use at trial, not discovery. In addition, Rule 1006 requires that the underlying documents that are the basis of the summary be available to the opposing side. Defendant is not required to wait until trial to see the underlying documents.

[57] *Id.* at pp. 5, 7.
[58] *Id.* at p. 5.
[59] *Id.* at p. 7 (*quoting* Request for Production No. 4).
[60] Doc. 68 at p. 8.

The original rulings on these issues in Doc. 68 will not be changed. Plaintiff has failed to show clear error or a need for the Court to change its ruling to prevent manifest injustice.

3. *Section III.C – Plaintiff's Motion for Sanctions for Attorney Misconduct and Response to Defendant's Motion to Compel*

a. Plaintiff's invocation of a harmful-error analysis is misplaced.

In his motion for reconsideration, Section II.12, Plaintiff contends the Court erred in ruling against him on the issue of Defendant sometimes referring to itself as the "United States" because the Court failed to conduct a harmless-error analysis under Fed. R. Civ. P. 61.[61] Plaintiff fails to point to any controlling statute, rule, or case authority that Rule 61 has any relevance or application to the present dispute.

Plaintiff emphasized in his oral argument that Defendant's self-reference as the "United States" is prejudicial and misleading. He argued this has not only affected the posture of litigation, but that this "misidentification" leaves him unable to determine who he is litigating against. He asserts this leaves him unable to hold his adversary accountable to guidelines that he believes govern the Department of Education's negotiations and handling of student-loan deferment and forgiveness claims.

Plaintiff has sued the United States Department of Education, a department of the executive branch of the United States federal government that is represented by an attorney of the United States Department of Justice, another department of

[61] Doc. 78 at p. 15.

the executive branch.[62] The Department of Justice is authorized to investigate claims on behalf of government agencies and departments—like the Department of Education—and is granted exclusive authority to represent those governmental agencies in litigation.[63] In any event, the subject matter of this adversary proceeding is whether Plaintiff qualifies for student loan discharge under § 523(a)(8)—not whether Defendant follows its internal procedures or guidelines.

Furthermore, Defendant made it clear at the end of the January 8th hearing that it would allow Plaintiff to negotiate repayment or forgiveness of his student loans directly with the Department of Education per its procedures and guidelines if he so desires. Plaintiff adamantly declined that offer. No clear error or manifest injustice has been shown by Plaintiff relating to this issue.

b. Plaintiff failed to prove a stay violation.

Plaintiff attempts to reargue his assertion that the Department of Education violated the bankruptcy stay by allegedly sending Plaintiff a form communication about the status of his debt. Plaintiff asserts the Court should have decided this issue based on a "collection-interference violation" even though Plaintiff claimed it was a stay violation. Plaintiff cited a number of cases in Section II.7 of his motion that he claims support his position. Although at the show-cause hearing the Court struck Section II.7 of the motion because many of the cases and quotes cited therein were hallucinated or non-existent, the Court allowed Plaintiff to provide oral

[62] *See* 20 U.S.C. § 3402 (establishing the U.S. Department of Education); *see also* 28 U.S.C. § 501 (establishing the U.S. Department of Justice).
[63] 28 U.S.C. §§ 514, 516.

argument using actual cases he brought with him to the hearing: *In Re Diaz*, 647 F.3d 1073 (11th Cir. 2011), *Wilmington Tr. Co. v. Behr (In re Behr)*, 42 B.R. 922 (Bankr. E.D. Pa. 1984) (*Behr I*), and *Nw. Univ. Student Loan Off. v. Behr (In re Behr)*, 80 B.R. 124 (Bankr. N.D. Iowa 1987) (*Behr II*). The Court considers that argument and those cases here.

Plaintiff provided a multi-point analysis for both the *Diaz* and *Behr I* cases that appeared to have been AI generated. Plaintiff's analyses laid out a series of compound points from the cases regarding bankruptcy court jurisdiction, nondischargeability actions, sovereign immunity, distinctions between liability and dischargeability, and prevention of creditors short-circuiting Court authority through illicit collection attempts. Plaintiff claimed these cases backed his assertion that Defendant had violated this Court's authority when the Department of Education sent Plaintiff a bulk-mail letter containing a list of optional repayment programs in late August 2025.[64] The Court does not agree with Plaintiff's interpretation of these cases. There was no violation of this Court's authority and no stay violation because no stay is in place.[65]

Ultimately, the *Diaz* and *Behr* cases have nothing to do with whether there is a legal or equitable stay in place during the pendency of this adversary proceeding. In *Diaz*, the Eleventh Circuit resolved the question of whether a bankruptcy court had jurisdiction over a contempt motion that alleged state agencies had violated the automatic stay and the discharge injunction when those agencies had attempted to

[64] Doc. 65 at p. 13–14; *see also* Doc. 65, Ex. B.
[65] *See* Doc. 68 at p. 15.

collect from the Chapter 13 debtor.[66] That issue is not before this Court because no stay is in place and Defendant has waived sovereign immunity per § 106(a). *Behr I* centered on whether sufficient evidence existed for summary judgment on a § 523(a)(6)[67] nondischargeability claim for willful or malicious injury by the debtor to another or their property and whether the court should give collateral estoppel effect to a stipulated judgment arising out of state-court litigation.[68] That court answered each question in the negative and concluded insufficient evidence existed because that plaintiff had raised bare allegations and provided no evidence to substantiate the § 523(a)(6) claim.[69] *Behr II* focused on the dischargeability of a debtor's liability for an educational loan, when the debtor signed as a non-student co-maker.[70] That case turned on Congressional intent and the scope of § 523(a)(8), as well as Iowa state law; it does not relate to any matter here. None of these cases change this Court's previous analysis or demonstrate the Court committed clear error.

4. *Section III.D – Plaintiff's Motion to Strike from the Record and Replace Plaintiff's Earnings Exhibits, and Section III.E – Plaintiff's Omnibus Motion To Maintain Provisional Seals, And For Leave To File Under Seal*

The Court allowed Plaintiff to amend his previous argument in a manner that would comply with D. Kan. Rule 5.4.2(c) by filing a new motion to seal or redact certain documents. That motion, Doc. 94, is addressed below in section C.

---

[66] *See generally In Re Diaz*, 647 F.3d 1073 (11th Cir. 2011)
[67] 11 U.S.C. § 523(a)(6).
[68] *Wilmington Tr. Co. v. Behr (In re Behr)*, 42 B.R. 922, 924 (Bankr. E.D. Pa. 1984).
[69] *Id.* at 925–26.
[70] *Nw. Univ. Student Loan Off. v. Behr (In re Behr)*, 80 B.R. 124, 125–26 (Bankr. N.D. Iowa 1987).

5. *Section III.F – Defendant's Motion to Modify Deadlines Contained in Scheduling Order*

Plaintiff argues this Court created manifest injustice because the overlapping deadlines of the November 19th Order and Fed. R. Bankr. P. 9023 prejudiced Plaintiff by forcing him to choose between complying with the Order or moving for reconsideration.[71] However, Rule 9023 does not apply to interlocutory orders.[72] Nevertheless, the Court did stay the discovery deadlines to allow time for full consideration of Doc. 72 and Doc. 78.[73]

B. Doc. 72, Emergency Motion For Reconsideration And Limited Sealing Of Exhibits Containing Personal Address History And Aggregate Income Figures is denied.

Doc. 72 asked the Court to seal documents containing Plaintiff's past residential address history and annual income/AGI information and to permit Plaintiff to upload redacted versions instead.

The Court denies Doc. 72 for several reasons. First, Plaintiff failed to follow the required motion format and procedure dictated in D. Kan. Rule 5.4.2(c). Second, Plaintiff did not raise a new argument in support of striking, redacting, and sealing these materials that he could not have raised in his initial motion,[74] and none that overcome the strong presumption of public access and the Court's need to maintain a complete record.[75] That said, the Court allowed Plaintiff to reframe his arguments

[71] Doc. 78 at p. 16. *See* Doc. 68 at p. 17–18; *see also* Fed. R. Bankr. P. 9023 (requiring the Court to stay its ruling on the discovery dispute for 14 days to allow a motion for reconsideration or appeal**).**
[72] *Sump v. Fingerhut, Inc.*, 208 F.R.D. 324, 327 (D. Kan. 2002) (ruling reconsideration under Fed. R. Civ. P. 59(e)—which Rule 9023 incorporates—is not available for interlocutory orders).
[73] Doc. 80.
[74] *See* Doc. 64; *but cf*. Doc. 94.
[75] *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1241 (10th Cir. 2012).

and supplement Doc. 72 with a motion that followed D. Kan. Rule 5.4.2(c). Plaintiff did so and filed Doc. 94, which the Court addresses now.

C. Doc. 94, Motion To Strike and Replace, Seal, and Redact Regarding Plaintiff Earnings Exhibits is granted in part and denied in part.[76]

The Court allowed Plaintiff to file Doc. 94 to give him another opportunity to comply with D. Kan. Rule 5.4.2(c)'s requirements. Plaintiff did so and included additional arguments asking to strike and replace Doc. 57-2 and to disallow usage of Doc. 57-2 by Defendant and the Court due to its alleged prejudicial effect. Plaintiff also provided the Court with several updated versions of the AGI graph, Doc. 57-2, and the QuickBooks table, Doc. 57-3, including unmarked-updated versions to replace previous documents, redacted versions for the public docket, and highlighted versions for the own Court's use.[77] The Court docketed the unmarked-updated versions of Doc. 57-2 and 57-3 as Doc. 92 and provisionally placed them under seal. The Court withheld the redacted versions from the docket pending the resolution of Doc. 94.

On January 21st, Defendant responded to Doc. 94, opposing Plaintiff's request to strike and replace Doc. 57-2.[78] Defendant argued that Plaintiff offered no legal support for the clawback of this non-privileged information, that Plaintiff repeated his original argument that this Court denied in the November 19th Order,

---

[76] It is unclear whether Doc. 94 counts as a Motion for Reconsideration as the Court intended it to supplement Doc. 72. That question is complicated by the broader scope of the motion submitted by Plaintiff. In any event, Plaintiff's arguments within Doc. 94 fail regardless of how the motion is treated.
[77] *See* Doc. 94 at p. 1–2.
[78] Doc. 99.

and that to strike and replace Doc 57-2 prejudices Defendant and effectively serves as a premature motion in limine. Defendant took no position as to Plaintiff's other requests. Plaintiff replied and argued that Defendant's argument mischaracterized his motion aimed at docket management as an attempt to clawback information in discovery, ignored the prejudice and confusion created by the current Doc. 57-2, and did not address the inherent proportionality issues created by overbroad scope of information in Doc. 57-2.[79]

Generally, the common law and the Bankruptcy Code retain strong presumptions in favor of public access to judicial information.[80] As such, a proponent of sealing or redacting information must overcome that presumption with heavy, countervailing interests.[81] "The burden is a heavy one: 'Only the most compelling reasons can justify non-disclosure of judicial records.'"[82]

Both § 107 and local D. Kan Rule 5.4.2(c) apply to the consideration of this motion. Whether Defendant opposes a motion to seal is irrelevant; the proponent of sealing bears the burden, and a motion will not prevail without the requisite detailed analysis.[83] The court must make findings of fact regarding the documents

---

[79] Doc. 100.
[80] 11 U.S.C. § 107; *Colony Ins.*, 698 F.3d at 1241; *see also Mann v. Boatright*, 477 F.3d 1140, 1149 (10th Cir. 2007).
[81] *Colony Ins.*, 698 F.3d at 1241.
[82] *In re Lopez*, 666 B.R. 555, 559 (Bankr. E.D. Mich. 2025) (*quoting In re Knoxville News–Sentinel Co.*, 723 F.2d 470, 476 (6th Cir. 1983)).
[83] *Elevate Fed. Credit Union v. Elevations Credit Union*, 67 F.4th 1058, 1085 (10th Cir. 2023) (citing *Baxter Int'l, Inc. v. Abbott Labs.*, 297 F.3d 544, 545 (7th Cir. 2002) (denying a motion to seal when the parties presented a conclusory statement that confidentiality would promote their business interests)).

to be sealed or not sealed—ultimately considering the relevant facts and circumstances of the particular case and weighing the interests of the parties.[84]

Here, Doc. 94 asks the Court to take three actions: first, strike Doc. 57-2 from the record and permit Plaintiff to substitute it with an updated version of the AGI graph (page 1 of Doc. 92); second, place an updated version of the QuickBooks table (page 2 of Doc. 92) and Doc. 57-3 under seal and allow Plaintiff to file redacted versions for public access; and third, disallow Defendant's and the Court's usage of Doc. 57-2 to prevent prejudice.[85] The Court denies Plaintiff's first and third requests regarding Doc. 57-2, and denies Plaintiff's request to seal and redact page 1 of Doc. 92. The Court grants Plaintiff's request to seal and redact Doc. 57-3 and its counterpart, the updated version of the QuickBooks table (page 2 of Doc 92).

1. Plaintiff's first request

Plaintiff first argues that Doc. 57-2 should be struck from the record and the Court should permit Plaintiff to substitute it with an updated, non-prejudicial version. This document was produced by Plaintiff to Defendant and was attached to Defendant's brief relating to a discovery dispute. The primary reason for the document's attachment to the brief was to show the Court what Plaintiff had produced in discovery. The Court denies Plaintiff's request for the reasons the Court listed in the November 19th Order[86] addressing Plaintiff's original argument in his

[84] *United States v. Bacon*, 950 F.3d 1286, 1294 (10th Cir. 2020) (citing *United States v. Hickey*, 767 F.2d 705, 708 (10th Cir. 1995)).
[85] Doc. 94 at p. 6–7.
[86] Doc. 68 at p. 15–16.

Motion To Strike From The Record and Replace Plaintiff Earnings Exhibits.[87] To replace this document would destroy the factual accuracy of the docket record. The original Doc. 57-2 is what was produced by Plaintiff during the initial phase of discovery and is what was considered by the Court in its rulings on the discovery dispute. Further, Plaintiff's request also fails to overcome the strong presumption in favor of public access to this record.[88] Doc. 57-2 will not be struck from the Court's record.

2. Plaintiff's second request

Plaintiff's second request asks the Court to keep both Doc. 57-2 and Doc. 57-3 under seal and allow Plaintiff to file redacted versions for public access. As support, Plaintiff cites § 107(b) and (c). Section 107(c)(A), in turn, references 18 U.S.C. § 1028(d), relating to "means of identification." Section 107(b) does not apply here because Plaintiff's motion does not claim there are any trade secrets or scandalous matters at issue, nor does it appear that the documents contain that kind of information. Subsection (c)(A) is irrelevant because neither Doc. 57-2, nor Doc. 57-3 contain any "means of identification" listed in 18 U.S.C. § 1028(d)(7).[89] That said, § 107(c)(B) states the bankruptcy court may protect "other information" in filings

---

[87] Doc. 64.
[88] *Colony Ins. Co. v. Burke*, 698 F.3d 1222, 1241 (10th Cir. 2012).
[89] *See* 18 U.S.C. § 1028(d)(7) ("the term "means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number; (B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; (C) unique electronic identification number, address, or routing code; or (D) telecommunication identifying information or access device (as defined in section 1029(e))[.]").

that the court considers would be harmful. The Court will proceed using that subsection.

The Court is not persuaded that disclosure of the "other information" in Doc. 57-2 (and by extension, page 1 of Doc. 92) harms Plaintiff. Plaintiff's cited confidentiality interest—"disclosure of granular personal and business financial data"[90]—does not outweigh the strong presumption of public access to judicial information because the questions involving that data form the core subject matter of this proceeding.[91] To remove or redact it from public access would rob the public of the essential information used to determine the relevancy and proportionality of the discovery requests at issue. Additionally, Plaintiff's alleged, potential injuries of "identify theft, financial fraud, misuse of tax related information, and reputational harm"[92] are speculative. There is no concrete threat that overcomes the public's countervailing interest in monitoring the workings of the judicial system.[93]

Regarding Doc. 57-3, which purports to show a snapshot in time of Plaintiff's business's finances between January 1, 2025, through August 16, 2025, the information, by itself, is limited in its scope and probative value. At this stage of the proceeding, the public's interest in this information is outweighed by the confidential nature of the business record. In another setting at another time in this adversary proceeding, the result might be different. Because of the confidential

---

[90] Doc. 94 at p. 4.
[91] *See Colony Ins.*, 698 F.3d at 1241; *see also Kesters Merch. Display, Int'l, Inc. v. SurfaceQuest, Inc.*, No. 21-CV-2300-EFM, 2024 WL 757144, at *3 (D. Kan. Feb. 23, 2024).
[92] Doc. 94. at p. 4–5.
[93] *In re Lopez*, 666 B.R. 555, 560 (Bankr. E.D. Mich. 2025) (citing 2 Collier on Bankruptcy at ¶ 107.02 (discussing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597–98 (1978)).

nature of the business records, Plaintiff has carried his burden of proof to justify the sealing of Doc. 57-3.

For the purpose of clarity for the record and the difficulty in unsealing a portion of what was filed, the Court will maintain the provisional seal in place in its entirety on Doc. 57. On the date of entry of this Order, the Court will make a new Docket Entry consisting of the contents of Doc. 57, Doc. 57-1, Doc. 57-2, and the redacted version of Doc. 57-3. Similarly, the Court will maintain the provisional seal in place on Doc. 92. On the date of entry of this order, the Court will make a second, new docket entry consisting of page 1 of Doc. 92 and the redacted version of page 2 of Doc. 92.

3. Plaintiff's third request

Third, Plaintiff argues the Court should disallow any further reference to or usage of any prior versions of Doc. 57-2 because its usage creates prejudice. The Court denies this request: Plaintiff's central argument—that this version of Plaintiff's AGI income chart is not the one he will rely on at trial or in later motions and that it is overbroad—is irrelevant at the discovery stage. A motion in limine before trial would serve as a more appropriate vehicle for these arguments regarding the admissibility of the evidence.[94] The Court will "defer rulings on relevancy and unfair prejudice objections until trial when the factual context is developed."[95] The Court denies this third request.

---

[94] *See Wilkins v. Kmart Corp.*, 487 F. Supp. 2d 1216, 1218 (D. Kan. 2007) ("[A] court is almost always better situated during the actual trial to assess the value and utility of evidence.").
[95] *Id.* at 1219 (citing *Sperberg v. Goodyear Tire & Rubber Co.*, 519 F.2d 708, 712 (6th Cir.), *cert. denied*, 423 U.S. 987 (1975)).

D. Updated Discovery Deadlines

The Court extends the discovery deadlines for cause per Fed. Bankr. R. P. 9006, and will file a separate, revised scheduling order.

IV. Conclusion

Plaintiff's motions for reconsideration are denied. No need to correct clear error or prevent manifest injustice has been shown.

Plaintiff must amend his response to Defendant's First Set of Interrogatories by April 3, 2026. If he cannot completely respond and provide requested documents, he must, without objection, clearly state the reasons why. Plaintiff must also amend his response to Defendant's First Set of Requests for Production by April 3, 2026, and produce, without objection, all responsive materials and documents in his possession or control. If he cannot produce any requested documents or materials, he must clearly state why.

To summarize, the Court:

- **Denies** Plaintiff's Motion For Reconsideration Of The Court's November 19, 2025 Order.[96]
- **Denies** Plaintiff's Emergency Motion For Reconsideration And Limited Sealing Of Exhibits Containing Personal Address History And Aggregate Income Figures.[97]
- **Grants in part** and **Denies in part** Plaintiff's Motion To Strike and Replace, Seal, and Redact Regarding Plaintiff Earnings Exhibits Filed.[98]

[96] Doc. 78.
[97] Doc. 72.
[98] Doc. 94.

- **Leaves** Doc. 57 sealed in its entirety, and instructs the Clerk's Office to make a new Docket Entry consisting of the contents of Doc. 57, Doc. 57-1, Doc. 57-2, and the redacted version of Doc. 57-3.

- **Leaves** Doc. 92 sealed in its entirety, and instructs the Clerk's Office to make a second, new Docket Entry consisting of page 1 of Doc. 92 and the redacted version of page 2 of Doc. 92.

- **Orders** Plaintiff to respond to Defendant's requests and interrogatories as directed above.

It is so ordered.

###