

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TRAFFIC INFORMATION, LLC

v.

FARMERS GROUP, INC.

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Case No. 2:14-cv-713-RWS-RSP  
LEAD CASE

**ORDER**

Before the Court is EFF's<sup>1</sup> Motion to Reconsider the Order Denying EFF's Motion for Leave to Intervene for the Limited Purpose of Moving to Unseal State Farm's Answer and Associated Exhibits. (Dkt. No. 133; "Order"); (Dkt. No. 135; "Motion to Reconsider").

Upon review of EFF's Motion, the Court is persuaded to reconsider its prior holding that EFF's Motion to Intervene for the Limited Purpose of Moving to Unseal State Farm's Answer (Dkt. No. 93; "Motion to Intervene") is moot. The Court finds that the Motion to Intervene is not moot because a portion of State Farm's answer remains sealed. Accordingly, the Court is capable (at least in principle) of providing further relief to EFF. *See Ctr. for Biological Diversity, Inc. v. BP Am. Prod. Co.*, 704 F.3d 413, 425 (5th Cir. 2013) ("Mootness applies when intervening circumstances render the court no longer capable of providing meaningful relief.").

The Court therefore turns to the merits of EFF's Motion to Intervene. "[D]espite the lack of a clear fit with the literal terms of Rule 24(b), every circuit court that has considered the question has come to the conclusion that nonparties may permissively intervene for the purpose of challenging confidentiality orders." *EEOC v. National Children's Ctr.*, 146 F.3d 1042, 1045 (D.C. Cir. 1998); *In re Beef Industry Antitrust Litigation*, 589 F.2d 786, 789 (5th Cir. Tex. 1979); *see also Davis v. East Baton Rouge Parish Sch. Bd.*, 78 F.3d 920, 926 (5th Cir. La. 1996). This

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<sup>1</sup> "EFF" is the Electronic Frontier Foundation.

permissive right to intervene to challenge confidentiality orders comports with a policy of open courts and public access. *Cf. United States v. Holy Land Found. for Relief & Dev.*, 624 F.3d 685, 690 (5th Cir. 2010) (there is a “strong presumption that all trial proceedings should be subject to scrutiny by the public.”); *Federal Sav. & Loan Ins. Corp. v. Blain*, 808 F.2d 395, 399 (5th Cir. 1987) (“The district court’s discretion to seal the record of judicial proceedings is to be exercised charily”).

For these reasons, the Court orders that EFF’s Motion to Intervene is **GRANTED**. The Court grants EFF leave to file its Motion to Unseal State Farm’s Answer (Dkt. No. 94; “Motion to Unseal”). Any party opposing EFF’s Motion to Unseal shall file its response no later than May 9, 2016. Parties may file a reply or sur-reply in compliance with the Federal Rules of Civil procedure and the Local Rules of this Court.

**SIGNED this 7th day of April, 2016.**

  
ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE