

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

ELECTRONIC PRIVACY INFORMATION
CENTER,

Plaintiff,

v.

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES, *et al.*,

Defendants.

Case No. 8:26-cv-03457-PX

**PLAINTIFF’S MOTION TO EXPEDITE CONSIDERATION
OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 6(c) and Local Rule 105.2, as well as this Court’s inherent powers to manage its own docket, Plaintiff moves for expedited consideration of its Motion for Partial Summary Judgment, specifically per the schedule laid out below. Counsel for Plaintiff have conferred with counsel for the Defendants, who indicated they oppose this request.

The interests of justice would be served by granting this request. Plaintiff challenges Defendants’ adopted course of action to implement Section 2(a) of an executive order titled *Ensuring Citizenship Verification and Integrity in Federal Elections* (the “2026 Elections EO”), Exec. Order No. 14399, 91 Fed. Reg. 17125 (March 31, 2026)—namely, compiling and distributing the sensitive personal data of millions of Americans, including Plaintiff’s members, for voter verification in federal elections, starting with the upcoming election on November 3, 2026. The formal memorandum adopting this course of action, signed by DHS Secretary Mullin,

sets a September 4, 2026 deadline for distributing this sensitive personal information to state election officials. *See* Hill Decl. ¶ 4, Ex. A at 5 (“Implementation Memo”).¹

Following the filing of this lawsuit, counsel for Defendants represented to Plaintiff’s counsel that Defendants will not meet this September 4 deadline: “The commitment we make with respect to September 4 is (a) The DHS citizenship data portal will not go live September 4 and (b) We will give plaintiffs 48 hours’ notice before it does.” Hill Decl. Ex. AA. But this “commitment” does not alleviate the harms faced by Plaintiff and it, in fact, heightens the need for expedited briefing. DHS has not rescinded the Implementation Memo, and the course of action it adopts to implement the 2026 Elections EO is still operative—merely delayed for an undisclosed amount of time. Thus, while the exact date of distribution is now unknown, what is clear is that the sensitive data of millions of Americans—including Plaintiffs’ members—will be shared pursuant to the Implementation Memo, and that this distribution will occur after a mere two days’ notice and *even closer* to the election than originally planned. One of the key statutes at issue in Plaintiff’s summary judgment motion, however, requires 30 days’ notice and the opportunity to comment before the federal government can take such action. *See* 5 U.S.C. § 552a(e)(4), (e)(11).

As the November 3 election approaches, Plaintiff’s harms become more acute. The repercussions of Defendants’ unlawful collection and distribution of data that is known to be unreliable for citizenship verification purposes will be harder to address and remediate in the crunch time leading up to the election. And Defendants’ “commitment” to provide 48 hours’ notice underscores the importance of expedition to secure meaningful review. With early and mail voting starting as soon as early September in some jurisdictions, the interests of justice are served by the Court’s expeditious consideration of Plaintiff’s motion.

¹ Citations to “Hill Decl.” refer to the Declaration of John B. Hill, filed in support of Plaintiff’s Motion for Partial Summary Judgment.

I. An expedited briefing schedule is necessary to facilitate meaningful review and mitigate Plaintiff’s ongoing and intensifying harms during the relevant time period.

Courts have “inherent” power “to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants”; the exercise of “[s]uch discretion requires a court to ‘weigh competing interests and maintain an even balance.’” *Freight Drivers & Helpers Loc. Union No. 557 Pension Funds v. Penske Logistics LLC*, No. CIV.A. ELH-12-02376, 2015 WL 4069309, at *1 (D. Md. July 2, 2015) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)).²

Expediting the briefing schedule for Plaintiff’s motion will enable the Court to mitigate Plaintiff’s ongoing harms; will not unduly prejudice Defendants due to the modest nature of the request; and is necessary to ensure resolution on the merits in a meaningful timeframe. As noted in the Complaint, an Executive Order commands that Defendants compile “State Citizenship Lists” and begin disseminating those lists to States by September 4, 2026. *See* Exec. Order No. 14399, 91 Fed. Reg. 17125, § 2 (March 31, 2026) (the “2026 Elections EO”). Interim deadlines in the 2026 Elections EO, such as the deadline for the “Commissioner of SSA [to] provide all necessary citizenship and identity data to the Secretary of Homeland Security,” have already passed. *See id.*

² Although courts deciding whether to modify a *pre-existing* scheduling order under Federal Rule of Procedure 16 often apply a “good cause” standard, that standard appears only to apply in cases where a litigant seeks *more* time or seeks to amend a pleading *after* a deadline has passed. *See, e.g., WHC MD, LLC v. Transdev N. Am., Inc.*, No. CV CJC-24-1618, 2026 WL 962020, at *2 (D. Md. Apr. 9, 2026); *Humane Soc’y of the United States v. Nat’l Union Fire Ins. Co. of Pittsburgh, PA*, No. CV DKC 13-1822, 2016 WL 3668028, at *2 (D. Md. July 11, 2016); *Tawwaab v. Va. Linen Serv., Inc.*, 729 F. Supp. 2d 757, 768–69 (D. Md. 2010). However, even if this court were to apply that standard—which asks the court to consider “the danger of prejudice to the non-moving party, the length of delay and its potential impact on judicial proceedings, the reason for the delay, and whether the movant acted in good faith,” *Humane Soc’y of the United States*, 2016 WL 3668028, at *2—Plaintiff meets this higher standard. The risk of prejudice is low due to the modest length of the expedition request; the reason for “the delay” (i.e., expedition) is to remediate harm and facilitate meaningful judicial review; and Plaintiff has acted in good faith and with due diligence.

at § 4(c) (setting June 29, 2026 as that deadline). Plaintiff’s motion for partial summary judgment seeks relief with respect to a June 8 Implementation Memo in which DHS Secretary Mullin approved a course of action authorizing “coordination” between “SSA, DOS, and USPS” to implement the EO in full, with fidelity to its deadlines, including by (1) creating a “portal” whereby States could access citizens’ sensitive information, and (2) creating the State Citizenship Lists by September 4, 2026. *See Hill Decl. Ex. A, Implementation Memo.*

Plaintiff EPIC and its members have already or will imminently be harmed by the illegal inter-agency sharing of EPIC members’ personal information in violation of their statutory privacy rights and the maintenance of such data in a centralized database. The harms will only intensify as the external distribution phase of Section 2 of the 2026 Elections EO, as laid out in the Implementation Memo, begins in earnest.

The 2026 Elections EO contemplates that, once the State Citizenship Lists are distributed, States (and perhaps the public) will access the data in an ongoing manner up until the time of the midterm elections. *See 2026 Elections EO at § 2(a)* (directing the DHS Secretary to “establish procedures to (i) allow individuals to access their individual records as well as to update or correct them in advance of elections; and (ii) enable States to routinely supplement and provide suggested modifications or amendments to the [list]”). Per the 2026 Elections EO, States have a strong incentive to engage with the State Citizenship Lists and use it to update voter rolls, as Section 2 of the EO ties failure to properly use the State Citizenship Lists with a threat of criminal investigation and prosecution of state and local officials involved in election administration. *See 2026 Elections EO at § 2* (titled “Establishment and Transmission of State Citizenship Lists *and Prioritization of Investigations and Prosecutions Related to Election Fraud*” (emphasis added)).

Thus, once distribution to the States begins as set forth in the Implementation Memo, EPIC’s members will face additional privacy, reputational, and voting-related injuries. Consistent with its core mission, EPIC’s need to educate and inform its members and the public about this effort—as well as the illegal lack of transparency surrounding Defendants’ actions—compound the need for expedition.

Plaintiff has been as diligent as possible in pursuing its claims for relief. Though the 2026 Elections EO was issued at the end of March and the Implementation Memo was approved on June 8, a federal district court on June 25 enjoined DHS from implementing Sections 2 and 3 of the EO as to twenty-three states and the District of Columbia, preventing DHS from meeting the June 30 target date for launching the Portal. *See California v. Trump*, No. 1:26-cv-11581, 2026 WL 1826490, at *17–18 (D. Mass. June 25, 2026). Thus, implementation of this part of the EO was largely paused until August 24, 2026, when the Supreme Court stayed the *California* injunction on threshold grounds. *See Trump v. California*, 609 U.S. ----, 2026 WL 2473573, at *5 (2026).

Plaintiff has diligently advanced its claims since the Supreme Court lifted the initial injunction. Indeed, the need for expedited review is underscored by this Supreme Court decision. In that opinion, the Supreme Court held that the States lacked Article III standing because, at the time they sued, implementation remained a matter of speculation: The DHS Secretary’s “eventual action will reflect both legal and practical constraints, making any prediction about future injury just that—a prediction,” and any harm depended on an “attenuated chain of inferences about whether a rule would even issue.” *See Trump v. California*, 609 U.S. ----, 2026 WL 2473573, at *4-5 (2026). The Court expressly cautioned, however, that its “disposition of this application does not mean that any measure taken by the Government to implement the Order will necessarily be lawful,” *id.* at *5, leaving the door open to review once implementation is no longer speculative.

The speculation that drove the majority’s standing analysis in *Trump v. California* is not only absent here—it underscores the urgency of the controversy before this Court. The plaintiff States in that case sued before any agency had acted, let alone before any implementing memorandum existed or had been formally adopted. *Id.* Here, Secretary Mullin has already determined that inter-agency coordination among DHS, USCIS, SSA, and DOS is feasible; has already approved the plan “as DHS’s primary means of implementing” the EO; and the Portal is already being built. *See* Hill Decl. Exs. A, Q; Appl. for a Stay at 27, *Trump v. California*, 2026 WL 2170485 (U.S. July 27, 2026). In formal representations to the Supreme Court, Defendants have indicated that they intend to follow through on implementing Section 2(a) of the EO ahead of the upcoming election. *See* Appl. for a Stay at 27, *Trump v. California*, 2026 WL 2170485 (U.S. July 27, 2026) (arguing that “[a]bsent a stay” of the injunction of Section 2(a) and other provisions of the EO—which has now been entered—“the government will be unable to obtain appellate relief from an order that bars implementation of a presidential policy that seeks to ensure voter integrity in the upcoming November 2026 election”). This is not a “chain of inferences”; it is a single, already-approved decision that Defendants have reserved the unilateral right to take at any moment before the impending election. *See* Hill Decl. Ex. AA (Defendants’ counsel representing: “The commitment we make with respect to September 4 is (a) The DHS citizenship data portal will not go live September 4 and (b) We will give plaintiffs 48 hours’ notice before it does.”). On the eve of an election, Defendants’ secretive, ever-shifting machinations risk creating exactly the kind of pre-election chaos and confusion that *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), urges courts to avoid.

An expedited briefing schedule is the best mechanism available to this Court to avoid that bind, giving the Court the chance to resolve the merits before Defendants transmit the State

Citizenship Lists—on 48 hours’ notice, at a time of their own choosing—before the election is significantly underway. The interests of justice favor resolving Plaintiff’s claims with enough runway to prevent a fait accompli on the ground, the electoral confusion it would invite, and the corresponding harms to Plaintiff and its members.

II. Plaintiff’s proposed briefing schedule is a modest adjustment that would facilitate meaningful judicial review.

Absent action on this motion, under the Local Rules, Defendants’ Opposition to the motion for partial summary judgment would be due on September 17, 2026, and Plaintiff’s Reply would be due on October 1, 2026. Plaintiff asks that the time for each responsive brief be shortened by seven days, so that Defendants’ Opposition shall be due on September 10, 2026, and Plaintiff’s Reply thereto shall be due on September 17, 2026. Plaintiff believes this is a modest proposal that would ideally allow the parties to avoid true emergency briefing while still enabling this Court to consider the merits of the dispute. Plaintiff submits that—especially because counsel for Defendants have represented that they “will give plaintiffs 48 hours’ notice before” the “DHS citizenship data portal will [] go live,” Hill Decl. Ex. AA—Plaintiff’s proposed schedule is sufficiently timely to permit meaningful judicial review of and relief from Defendants’ actions.

III. Conclusion

Plaintiff hereby requests that this Court enter the following expedited briefing schedule:

- Defendants’ Opposition to Plaintiff’s Motion for Partial Summary Judgment is due on September 10, 2026; and
- Plaintiff’s Reply to Defendants’ Opposition is due on September 17, 2026.

Dated: September 3, 2026

Respectfully submitted,

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* *Pro hac vice* motion forthcoming

** *Pro hac vice* motion filed