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Case Name: League of Women Voters of Massachusetts et al v. Trump et al

Case Number: 1:26-cv-11549-IT

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Docket Text:
Judge Indira Talwani: ELECTRONIC ORDER: On August 21, 2026, the United States Postal Service ("USPS") issued a Final Rule concerning mail-in ballots, see USPS, Ballot Mail for Federal Elections, 91 Fed. Reg. 54966 (accessible as of Aug. 21, 2026, at https://public-inspection.federalregister.gov/2026-17238.pdf), with a publication date of August 26, 2026—less than 70 days before the November 3, 2026 midterm election.

Plaintiff Organizations in this case and Plaintiff States in California v. USPS, No. 1:26-cv-13917, promptly challenged the Final Rule. This court found that the standards for a temporary restraining order ("TRO") had been met and stayed for fourteen days the mandatory requirements of the Final Rule as they apply to the November 3, 2026 election. Mem. & Order [[218]].

Defendants' and Intervenor-Defendants' Motions to Stay [[228]], [[230]] now seek to undo the fourteen-day stay preserving the status quo in place prior to the federal agency's altering of requirements applicable to State and local election officials "on the threshold of the upcoming election." DSCC v. Trump, No. 26-5193, 2026 WL 2168617, at *6 (D.C. Cir. July 28, 2026) (citing Purcell v. Gonzalez, 549 U.S. 1 (2006)). These motions are DENIED.

First, although Defendants and Intervenor-Defendants seek a stay "pending appeal," the TRO is not an appealable order under 28 U.S.C. § 1292(a)(1) where it is only in place for fourteen days, and the court has set a briefing schedule and a September 3, 2026 hearing on the pending preliminary injunction motions. See Order [[212]].

Second, as to the merits, as discussed in the court's August 27, 2026 Memorandum and Order 6–8 [[218]], it is likely that the USPS lacked authority to issue the Final Rule and that the Final Rule is substantively unconstitutional and contrary to law. Defendants' claim that they are entitled to relief because appellate review of this court's TRO "would come too late for the 2026 midterms" misconstrues the Supreme

Court's August 24, 2026 Order. Defs.' Mem. ISO Stay 7 [Doc. No. 229] (quoting Trump v. California, No. 26A124, 609 U.S. __, 2026 WL 2473573, at *4 (Aug. 24, 2026)). The Supreme Court found that review of President Donald J. Trump's Executive Order 14399, Ensuring Citizenship Verification and Integrity in Federal Elections, 91 Fed. Reg. 17125 (2026), was premature where challenges were filed before the USPS issued a Final Rule. See Trump, 609 U.S. at __, 2026 WL 2473573, at *5. A Final Rule has now issued and, contrary to Defendants' cynical interpretation, the Supreme Court has not endorsed the view that any challenge to the Final Rule is now too late.

Further, Defendants' branding the Final Rule's changes as "modest" does not alter the actual requirements of the Final Rule, which condition all use of the postal service for election mail on the USPS's sign-off on ballot envelopes and return envelopes, and which requires State and local election officials to first obtain that sign-off and then upload and certify each voter's information through the USPS Portal before being permitted to use federal mail. 91 Fed. Reg. at 54985 (the Final Rule "requires… that [S]tates that choose to use the U.S. mail as part of their elections adhere to certain standard mailpiece design and data reporting standards when sending Federal Ballot Mail.") (emphasis added). And new merits arguments omitted from the TRO briefing are appropriately raised in the parties' preliminary injunction briefing, rather than in a memorandum in support of a motion to stay.

Third, as to irreparable harm to the Plaintiff States and to the Plaintiff Organizations and their members, the court reiterates the conclusions laid out in the August 27, 2026 Memorandum and Order [[218]]. Id. at 8–9. Plaintiff States' election officials maintain that full compliance with the Final Rule is likely impossible and that the USPS' prohibition on mailing non-compliant mail ballots will likely result in substantial disenfranchisement for the midterms. Id.; see, e.g., Brunton Decl. ¶ 10, California v. USPS, No. 1:26-cv-13917 [Doc. No. 4-18] (North Carolina election official has "profound concerns that the Rule will prevent eligible voters from voting, including in the November 2026 general election. North Carolina will strive to ensure that voters have an opportunity to vote, and the Rule imposes significant burdens on doing so.").

Fourth, as to Defendants' claimed irreparable harm, the court has narrowly tailored the TRO to allow the USPS to establish the Ballot Mail Portal and communicate with States about design standards so long as States' participation is not required. See Mem. & Order 10–11 [Doc. No. 218] (Order § 1(a)–(d)); Defs.' Notice [Doc. No. 227-1] (Defense counsel's notification to USPS Defendants). Intervenor-Defendants' assertions of irreparable harm, see Hoskins Decl. ¶ 8 [Doc. No. 231-1], are

likewise unavailing where the TRO does not bar any State from seeking USPS approval of their ballot designs or uploading voter information to the Portal. See Mem. & Order 111 [Doc. No. 218] (Order § 1(e)–(g)). The TRO limits the mandatory nature of the Final Rule, not voluntary participation by States that choose to do so.

Finally, as to the public interest, the court underscores that the late timing of the changes to State election practices the federal agency seeks to impose by Final Rule are contrary to the public's need for "clear and settled" "rules of the road" for November 3, 2026 midterm elections, now only two months away. Democratic Nat'l Comm. v. Wis. State Legislature, 592 U.S. 1039, 1043 (2020) (Kavanaugh, J., concurring).

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