

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**SUPERIOR COURT CIVIL ACTION
DOCKET NO: 2684CV00477**

AMERICAN CIVIL LIBERTIES
UNION OF MASSACHUSETTS, INC.,

Plaintiff,

vs.

PLYMOUTH COUNTY
SHERIFF'S DEPARTMENT

Defendant.

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT PURSUANT TO MASS. R. CIVIL PROC. 56(F)**

Defendant, Plymouth County Sheriff's Department, ("PCSD") hereby oppose Plaintiff's motion for summary judgment pursuant to Mass. R. Civ. Proc. 56(f) as premature. Plaintiff has only recently filed its Complaint alleging violations under the Massachusetts Public Records Law, G.L. c. 66, § 10 and seeking declaratory and injunctive relief arising from portions of a public records request that were denied by the Defendant. Not only has the Defendant not even filed its Answers yet, it has also filed a motion to dismiss, which is still pending before the Court. Even if the Court resolves that motion in Plaintiff's favor, the parties have yet to commence any discovery, which does not end until February, 2028. Accordingly, Defendant respectfully requests that this Court deny Plaintiff's motion.

PROCEDURAL HISTORY

On February 13, 2026, Plaintiffs filed their Complaint against PCSD alleging violations under the Massachusetts Public Records Law, G.L. c. 66, § 10 and seeking declaratory and injunctive relief arising from portions of a public records request that were denied by the Defendant. (Doc. No. 1). Defendant served a motion to dismiss on May 1, 2026 and filed it, along

with Plaintiffs' opposition, on May 28, 2026. On the same day it served the Defendant with its opposition to the motion to dismiss, the Plaintiff served the Defendant with a motion for summary judgment. The Court has scheduled the motion to dismiss for hearing on July 13, 2026 in Suffolk Superior Court.

ARGUMENT

A. Defendants' Motion to Dismiss Must be Resolved First

The Court cannot determine whether the Defendant has violated the Public Records Law without first determining whether federal law preempts the Massachusetts Public Records Law. The gravamen of Plaintiff's motion for summary judgment is that Plaintiff is entitled to records that were withheld by the Defendant because no exemption to the Public Records Law applies to the records they sought. (Doc. No. 12 at 4). Nonetheless, Defendant had served their motion to dismiss on the grounds that the federal law preempts the Massachusetts Public Records Law and also that the Defendant followed Massachusetts Public Records Law and precedent by the Supervisor of Records when it withheld records under Massachusetts exemptions. In particular, the Defendant argued that 8 C.F.R 236.6 prevents disclosure of the records requested by the Plaintiff where the federal law clearly states its intent to displace the state public records law by direct reference to it. "Insofar as any documents or other records contain such information, such documents *shall not be public records.*" 8 C.F.R. § 236.6 (emphasis added). (Doc. No. 11 at 7). Additionally, the Defendant argued that the Massachusetts Public Records Laws provide an exception to records that are public through Exemption (a), which is supported by the precedent of the Supervisor of Records who has previously and consistently held that these records "are the type of record contemplated under 8 C.F.R § 236.6" and that the custodian "has met its burden to withhold responsive records pursuant to 8 C.F.R. § 236.6, as it operates through Exemption (a) of the Massachusetts Public Records Law." (Doc. No. 11 at 9).

Accordingly, the critical dispute between the parties at this juncture is the statutory interpretation of the Massachusetts Public Records Law. That question must first be resolved by the Court. It is well settled that statutory interpretation is a question of law solely for the Court to decide. *See, e.g., Annese Elec. Servs., Inc. v. Newton*, 431 Mass. 763, 764 n. 2, (2000) (“[S]tatutory interpretation is a question of law for the court to decide.”); *Commonwealth v. Cintolo*, 415 Mass. 358, 359 (1993) (“Statutory interpretation is a pure question of law.”)

Accordingly, the Defendant’s motion to dismiss must be resolved first before the parties can brief, and the Court can resolve, motions for summary judgment.

B. Plaintiffs’ Motion for Summary Judgment is Premature Because Discovery Has Not Even Commenced

Plaintiffs’ summary judgment motion should also be denied under Mass. Civ. Proc. Rule 56(f) as discovery has not even begun in this matter. Discovery must first be conducted into the various factual disputes that Plaintiff raises in their motion for summary judgment. Mass. R. Civ. P. 56(f) provides that the Court may deny or refuse a motion for summary judgment when material facts remain to be discovered. Mass. R. Civ. Proc. 56(f); *Alphas Co. v. Kilduff*, 72 Mass. App. Ct. 104, 107 (2008). To obtain Rule 56(f) relief, a non-movant must show that such information would raise material factual questions. *Alphas Co.*, 72 Mass. App. Ct. at 109. The rule helps ensure that the Court receives and considers summary judgment motions at the appropriate stage and with the benefit of a comprehensive record. *See, e.g., Resolution Trust Corp. v. North Bridge Associates, Inc.*, 22 F.3d 1198, 1203 (1st Cir.1994) (rule safeguards against “judges swinging the summary judgment axe too hastily”). Courts should err on the side of liberality in allowing motions under Rule 56(f). *See id.* (“Unless the movant has been dilatory, or the court reasonably concludes that the motion is a stalling tactic or an exercise in futility, it should be treated liberally.”).

Here, Plaintiff only just served their Complaint a few months ago and the Defendant has

not even filed their Answers yet. Moreover, neither party has conducted any discovery at this point and discovery does not close for nearly another two years in February, 2028. Discovery will be critical to responding to Plaintiffs' motion for summary judgment. For example, in addition to their arguments on statutory construction and preemption, Plaintiff's motion for summary judgment also quotes politicized news stories regarding medical care at ICE facilities and hearsay letters from immigration advocates and elected officials. (Document 12 at 1-2).

Since Plaintiff intends to rely on these hearsay statements to somehow support its position that the records are public, discovery must be conducted in order to determine their content, accuracy, and credibility. Additionally, the Plaintiff mischaracterizes the records withheld by incorrectly describing them as "program records" which could not be subject to privacy exemptions because they do not contain medical information. (Doc. No. 12 at 21). Yet the Defendant contests this assumption as supported by exhibit in its motion to dismiss. (Doc. No. 11 at Exhibit D). These are some of the factual assertions the Plaintiff relies on in its motion for summary judgment that require discovery.

Plaintiffs' motion is wholly premature and would only serve to unduly prejudice the Defendant and waste judicial resources. Accordingly, Plaintiff's motion for summary judgment should be denied pursuant to Rule 56(f)

CONCLUSION

For the foregoing reasons, Plaintiff's motion for summary judgment should be denied.

Respectfully submitted,
Plymouth County Sheriff's Department

/s/ Jessica L. Kenny
Jessica L. Kenny,
BBO #667738
Special Assistant Attorney General
General Counsel
Plymouth County Sheriff's Department
24 Long Pond Road
Plymouth, Ma 02360
jkenny@pcsdma.org

June 10, 2026

CERTIFICATE OF SERVICE

I, Jessica L. Kenny, certify that I have caused the attached papers to be served on the parties below via First Class mail with a courtesy copy via email:

Mackenzie R. Saunders
ACLUM
Once Center Plaza, Suite 850
Boston, Ma 02108
masunders@aclum.org

Signed under the pains and penalties of perjury this 10th day of June 2026,

/s/ Jessica L. Kenny
Jessica L. Kenny