

## Allegations of Politically Motivated Degradations of Postal Services

*Jones v. United States Postal Service* (Victor Marrero, S.D.N.Y. 1:20-cv-6516); *National Urban League v. DeJoy* (George L. Russell III, D. Md. 1:20-cv-2391); *Washington v. Trump* (Stanley A. Bastian, E.D. Wash. 1:20-cv-3127); *Pennsylvania v. DeJoy* (Gerald Austin McHugh, E.D. Pa. 2:20-cv-4096); and *Richardson v. Trump* (1:20-cv-2262), *NAACP v. United States Postal Service* (1:20-cv-2295), *New York v. Trump* (1:20-cv-2340), and *Vote Forward v. DeJoy* (1:20-cv-2405) (Emmet G. Sullivan, D.D.C.)

Lawsuits filed in five districts alleged that operation changes by the postal service during a global infectious pandemic would interfere with alternatives to risky in-person voting. Four district judges issued preliminary injunctions. The lawsuits were largely resolved following the inauguration of a new presidential administration.

*Subject:* Absentee and early voting. *Topics:* Absentee ballots; early voting; Covid-19; case assignment; enforcing orders; class action.

Federal complaints filed in late August 2020 alleged that recent changes in postal-service policy were seriously degrading mail service and endangering mail-in voting, made necessary by a global infectious pandemic. District judges in four districts issued preliminary injunctions.

### *Southern District of New York*

On Monday, August 17, 2020, fifteen plaintiffs, including candidates and voters, filed a federal class-action complaint in the Southern District of New York against the postal service, the postmaster general, and the President, alleging that “President Donald J. Trump and his newly appointed Postmaster General Louis DeJoy have set about to ensure [the postal service] cannot reliably deliver election mail.”<sup>1</sup> With their complaint, the plaintiffs filed a notice that the case was related to a July 17 case in which Judge Analisa Torres issued an injunction on August 3 concerning postmarks for absentee ballots.<sup>2</sup>

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1. Complaint at 2, *Jones v. U.S. Postal Serv.*, No. 1:20-cv-6516 (S.D.N.Y. Aug. 17, 2020), D.E. 1; *Jones v. U.S. Postal Serv.*, 488 F. Supp. 3d 103, 109, 112–13 (S.D.N.Y. 2020); see Amended Complaint, *Jones*, No. 1:20-cv-6516 (S.D.N.Y. Sept. 9, 2020), D.E. 36.

2. Notice, *Jones*, No. 1:20-cv-6516 (S.D.N.Y. Aug. 17, 2020), D.E. 3; *Gallagher v. N.Y. State Bd. of Elections*, 477 F. Supp. 3d 19, 27 (S.D.N.Y. 2020) (deciding which absentee ballots without postmarks would be counted); see *Gallagher v. N.Y. State Bd. of Elections*, 496 F. Supp. 3d 842, 845 (S.D.N.Y. 2020) (declining to extend the injunction to cover the general election); see also *Modifying the Postmark Requirement for Mailed Ballots in New York*, [www.fjc.gov/sites/default/files/materials/10/EE-NYS-1-20-cv-5504-Gallagher.pdf](http://www.fjc.gov/sites/default/files/materials/10/EE-NYS-1-20-cv-5504-Gallagher.pdf).

Judge Torres declined assignment of the case, and the court assigned it to Judge Victor Marrero.<sup>3</sup>

On August 19, the plaintiffs requested a preliminary-injunction hearing on September 3 or soon thereafter.<sup>4</sup> In the event, Judge Marrero and the parties agreed to a completion of briefing by September 9,<sup>5</sup> and Judge Marrero set the case for hearing on September 16: “Due to the ongoing COVID-19 pandemic, the hearing will take place by teleconference using [posted contact information].”<sup>6</sup>

On September 15, Judge Marrero declined to compel the postmaster general to testify at the hearing, because of the availability of his recent congressional testimony.<sup>7</sup> Finding that the defendants “have not provided trusted assurance and comfort that citizens will be able to cast ballots with full confidence that their votes would be timely collected and counted,” Judge Marrero issued a preliminary injunction on September 21.<sup>8</sup>

[B]y not later than noon on September 25, 2020 the parties shall settle an Order providing Plaintiffs appropriate relief consistent with this opinion and notify the Court of such settlement. In the event the parties fail to file such notice by that date [a list of twenty-two specific terms designed to improve mail service] shall take effect without further action by this Court . . . .<sup>9</sup>

Judge Marrero approved a settled injunction on September 25<sup>10</sup> and issued orders clarifying obligations respecting overtime pay from September 29 to October 9.<sup>11</sup>

### *District of Maryland*

One day after the New York complaint was filed, three organizations filed a federal complaint in the District of Maryland, alleging, “Defendants Louis DeJoy (the United States Postmaster General) and the United States Postal Service have made sweeping changes to the Postal Service’s policies and pro-

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3. Docket Sheet, *Jones*, No. 1:20-cv-6516 (S.D.N.Y. Aug. 17, 2020).

4. Letter, *id.* (Aug. 19, 2020), D.E. 10.

5. Endorsed Letter, *id.* (Aug. 25, 2020), D.E. 15; Endorsed Letter, *id.* (Sept. 9, 2020), D.E. 35; *see* Preliminary-Injunction Motion, *id.* (Sept. 2, 2020), D.E. 19.

6. Order, *id.* (Aug. 9, 2020, filed Aug. 10, 2020), D.E. 37; *see* Transcript, *id.* (Sept. 16, 2020, filed Sept. 22, 2020), D.E. 51.

7. Order, *id.* (Sept. 15, 2020), D.E. 43, 2020 WL 5525748.

8. *Jones v. U.S. Postal Serv.*, 488 F. Supp. 3d 103, 109, 112, 141–43 (S.D.N.Y. 2020); *see* Luke Broadwater, *Court Says Mail Votes Get Priority in Delivery*, N.Y. Times, Sept. 22, 2020, at A15; Spencer S. Hsu, *Third Federal Judge Bars Cuts to Postal Service Deliveries Before Election*, Wash. Post, Sept. 28, 2020, at A6.

9. *Jones*, 488 F. Supp. 3d at 141.

10. Settled Injunction, *Jones*, No. 1:20-cv-6516 (S.D.N.Y. Sept. 25, 2020), D.E. 57.

11. Opinion, *id.* (Oct. 9, 2020), D.E. 82; Opinion, *id.* (Oct. 8, 2020), D.E. 81, 2020 WL 5983112; Opinion, *id.* (Sept. 29, 2020), D.E. 66, 2020 WL 6554904; *see* Order, *id.* (Sept. 25, 2020), D.E. 56 (“the parties had agreed to all terms of a proposed order with the exception of one, concerning the appropriate relief with respect to overtime”).

cedures with the purpose and intent to sabotage mail-in voting in the upcoming 2020 national elections.”<sup>12</sup>

Eight days later, the plaintiffs filed a motion to conduct limited expedited discovery,<sup>13</sup> and on the following day, they filed a motion for expedited consideration of that motion.<sup>14</sup> On the next day, Judge George L. Russell III ordered briefing on the discovery motion to be completed by September 2,<sup>15</sup> on which day he granted expedited discovery.<sup>16</sup>

The plaintiffs filed a motion on September 25 for a preliminary injunction.<sup>17</sup>

#### *Eastern District of Washington*

On the same day that the Maryland complaint was filed, fourteen states—Colorado, Connecticut, Illinois, Maryland, Michigan, Minnesota, Nevada, New Mexico, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wisconsin—filed a federal complaint in the Eastern District of Washington against the President, the postmaster general, and the postal service, seeking remedies for alleged degradation of mail service at a time when the states would be relying on it among other accommodations in the operation of elections because of the Covid-19 pandemic.<sup>18</sup> Three days later, the plaintiffs filed a motion for expedited discovery<sup>19</sup> and a motion to expedite consideration of that motion.<sup>20</sup>

On August 24, Judge Stanley A. Bastian granted the second motion and set the case for a videoconference hearing on August 27.<sup>21</sup> Because of the Covid-19 pandemic, the Yakima courthouse was closed to the public; Judge Bastian’s order provided a public telephone-access number for the hearing.<sup>22</sup>

He said that he expected the next hearing to include an in-person option:

Thank you for joining me this afternoon, and I appreciate the fact that you were willing to do this by video and telephone link. . . .

I think the next hearing we have, I will make arrangements to be in the courtroom. And, of course, anybody who is appearing on that next motion or the next hearing is welcome to be in the courtroom with me, but given the pandemic, I hesitate to require anybody to expose themselves to infec-

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12. Complaint at 1, Nat’l Urban League v. DeJoy, No. 1:20-cv-2391 (D. Md. Aug. 18, 2020), D.E. 1.

13. Motion, *id.* (Aug. 26, 2020), D.E. 22.

14. Motion, *id.* (Aug. 27, 2020), D.E. 23.

15. Order, *id.* (Aug. 28, 2020), D.E. 24.

16. Order, *id.* (Sept. 3, 2020), D.E. 31, 2020 WL 8413573.

17. Preliminary-Injunction Motion, *id.* (Sept. 25, 2020), D.E. 49.

18. Complaint, Washington v. Trump, No. 1:20-cv-3127 (E.D. Wash. Aug. 18, 2020), D.E. 1.

19. Motion, *id.* (Aug. 21, 2020), D.E. 14.

20. Motion, *id.* (Aug. 21, 2020), D.E. 16.

21. Order, *id.* (Aug. 24, 2020), D.E. 23.

22. *Id.*; E.D. Wash. Gen. Order 20-101-9 (Aug. 21, 2020); see Joseph O’Sullivan, *Judge Orders Postal Service to Detail Election-Related Changes*, Seattle Times, Aug. 28, 2020, at A1.

tion by traveling. So it's completely up to you, and we will make video and telephone attendance possible then as well.<sup>23</sup>

Judge Bastian granted expedited discovery and set the case for another hearing on September 17.<sup>24</sup> At that hearing, one day after the hearing before Judge Morrero in New York, attorneys for Washington appeared in person, attorneys for other states appeared by telephone, and the attorney for the government appeared by video.<sup>25</sup> Judge Bastian also considered amicus briefs<sup>26</sup> filed by the U.S. House of Representatives,<sup>27</sup> a group of local and tribal governments,<sup>28</sup> and an organization dedicated to reducing gun violence.<sup>29</sup>

On the day of the hearing, Judge Bastian issued a preliminary injunction.<sup>30</sup>

[T]he fact that fourteen States, members of the United States House of Representatives, members of the United States Senate, and various local and tribal governments have asked this Court to intervene to prevent the Postal Service and others from disenfranchising citizens from participating in federal, state, and local elections suggest that the Postal Service's actions are not the result of any legitimate business concerns. . . .

In addition, these parties have demonstrated that the recent changes implemented by [Postmaster General Louis] DeJoy and the Postal Service have the unintended but very serious consequences of interfering with other essential government functions such as collecting fees and taxes, sending pension payments, and enforcing local ordinances, as well as interfering with the provision of critical health care services such as prescription refills, [contact] tracing, sexually-transmitted infection testing and opioid overdose prevention.<sup>31</sup>

The injunction ordered the postal service to discontinue recent changes in operation that degraded mail service.<sup>32</sup>

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23. Transcript at 4, *Washington v. Trump*, No. 1:20-cv-3127 (E.D. Wash. Aug. 27, 2020, filed Sept. 4, 2020), D.E. 51.

24. Order, *id.* (Aug. 27, 2020), D.E. 38, 2020 WL 7220828 (“Plaintiffs indicate they plan on filing a preliminary injunction or seek a writ of mandamus shortly.”); Minutes, *id.* (Aug. 27, 2020), D.E. 37; Order, *id.* (Sept. 1, 2020), D.E. 48.

25. Transcript at 2–3, *id.* (Sept. 17, 2020, filed Sept. 24, 2020), D.E. 85; Minutes, *id.* (Sept. 17, 2020), D.E. 82.

26. *Washington v. Trump*, 487 F. Supp. 3d 977, 979 (E.D. Wash. 2020).

27. Amicus Brief, *Washington v. Trump*, No. 1:20-cv-3127 (E.D. Wash. Sept. 11, 2020), D.E. 57.

28. Amicus Brief, *id.* (Sept. 16, 2020), D.E. 63, 78.

29. Amicus Brief, *id.* (Sept. 11, 2020), D.E. 66.

30. *Washington v. Trump*, 487 F. Supp. 3d 977; see Preliminary-Injunction Motion, *Washington v. Trump*, No. 1:20-cv-3127 (E.D. Wash. Sept. 9, 2020), D.E. 54; see also Hsu, *supra* note 8; Joseph O’Sullivan, *Federal Judge: USPS Must Halt Changes That Slow Mail*, Seattle Times, Sept. 18, 2020, at A5; *Ruling Blocks Postal Changes*, L.A. Times, Sept. 18, 2020, at A1; Elise Viebeck & Jacob Bogage, *Judge Blocks USPS Changes That Could Slow Ballots*, Wash. Post, Sept. 18, 2020, at A1.

31. *Washington v. Trump*, 487 F. Supp. 3d at 983.

32. *Id.* at 984–85; see Clarification Order, *Washington v. Trump*, No. 1:20-cv-3127 (E.D. Wash. Oct. 2, 2020), D.E. 90, 2020 WL 6588502.

*Eastern District of Pennsylvania*

Six other states—California, Delaware, Maine, Massachusetts, North Carolina, and Pennsylvania—and the District of Columbia filed their own action against the postmaster general and the postal service in the Eastern District of Pennsylvania on August 21, 2020, alleging “unlawful actions designed to undermine the effective operation of the United States Postal Service . . . and impede the efforts of the Plaintiff States to conduct free and fair elections in the manner Plaintiff States have chosen.”<sup>33</sup> The plaintiffs filed a motion for expedited discovery one week later,<sup>34</sup> and they filed a motion for a preliminary injunction five days after that.<sup>35</sup>

Finding that “the litigation in other districts does not address all the issues raised by this case,” Judge Gerald Austin McHugh granted expedited discovery on September 4.<sup>36</sup> On September 11, he set the case for an in-person preliminary-injunction hearing on September 22,<sup>37</sup> later rescheduling it for September 24.<sup>38</sup>

Judge McHugh issued a preliminary injunction on September 28, eleven days after Judge Bastian’s and three days after Judge Marrero’s, essentially adopting Judge Marrero’s decision.<sup>39</sup>

On September 24, the court had reassigned to Judge McHugh as a related case a voter’s August 19 class action seeking an order to count absentee ballots received late because of “mail delivery delays or disruptions.”<sup>40</sup> This case was resolved by stipulation on November 25.<sup>41</sup>

*District of Columbia*

On the same day that the complaint in New York was filed, four voters filed a federal complaint in the district court for the District of Columbia against the President, the postmaster general, and the postal service for “making false statements about widespread mail-in voter fraud when such fraud is virtually

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33. Complaint at 1, *Pennsylvania v. DeJoy*, No. 2:20-cv-4096 (E.D. Pa. Aug. 21, 2020), D.E. 1; see *Pennsylvania v. DeJoy*, 490 F. Supp. 3d 833, 843–44 (E.D. Pa. 2020).

34. Motion, *Pennsylvania v. DeJoy*, No. 2:20-cv-4096 (E.D. Pa. Aug. 28, 2020), D.E. 14.

35. Preliminary-Injunction Motion, *id.* (Sept. 2, 2020), D.E. 18.

36. Order, *id.* (Sept. 4, 2020), D.E. 22; see Order, *id.* (Aug. 31, 2020), D.E. 16 (granting expedited consideration of the discovery motion); Motion, *id.* (Aug. 28, 2020), D.E. 15 (unopposed motion for expedited consideration of the motion for expedited discovery).

37. Order, *id.* (Sept. 11, 2020), D.E. 35; see Motion, *id.* (Sept. 2, 2020), D.E. 19 (unopposed motion for expedited consideration of the preliminary-injunction motion).

38. Order, *id.* (Sept. 21, 2020), D.E. 57; see Transcript, *id.* (Sept. 24, 2020, filed Sept. 30, 2020), D.E. 64.

39. *Pennsylvania v. DeJoy*, 490 F. Supp. 3d 833, 893 (E.D. Pa. 2020); Order, *Pennsylvania v. DeJoy*, No. 2:20-cv-4096 (E.D. Pa. Sept. 28, 2020), D.E. 63; see Order, *id.* (Oct. 9, 2020), D.E. 70, 2020 WL 6580463 (clarifying the injunction); see also Erin Cox, *Pa. Federal Judge Joins Chorus of Courts Barring USPS from Delivery Cuts*, Wash. Post, Sept. 29, 2020, at A18; Ellie Rushing, *Postal Changes Blocked*, Phila. Inquirer, Sept. 29, 2020, at B1.

40. Reassignment Notice, *Johnakin v. U.S. Postal Serv.*, No. 2:20-cv-4055 (E.D. Pa. Sept. 24, 2020), D.E. 13; Complaint at 9, *id.* (Aug. 19, 2020), D.E. 1; see Preliminary-Injunction Motion, *id.* (Sept. 18, 2020), D.E. 5.

41. Order, *id.* (Nov. 25, 2020), D.E. 21; Stipulation, *id.* (Nov. 25, 2020), D.E. 20.

non-existent (Trump) and by significantly slowing down mail delivery of flat mail like absentee and mail-in ballots (Trump and DeJoy).<sup>42</sup>

On the following day, Judge Emmet G. Sullivan issued an order to show cause why the plaintiffs should not be held in contempt for redacting their addresses from the complaint and for seeking preliminary injunctive relief in the complaint without also seeking such relief by separate motion.<sup>43</sup> Two days later, the plaintiffs filed an application for a preliminary injunction.<sup>44</sup> In response to the show-cause order, the plaintiffs stated that they wished to withhold from public disclosure “information that could cause Plaintiffs to suffer physical harm or harassment.”<sup>45</sup> On August 27, 2020, the case’s eleventh day, Judge Sullivan granted the plaintiffs limited redaction privileges.<sup>46</sup> Also on that day, the plaintiffs filed a motion for expedited discovery.<sup>47</sup>

On September 1, Judge Sullivan directed the parties to show cause why the case should not be consolidated as related to three other cases pending in the district court.<sup>48</sup>

The first of the other cases was filed on August 20 by the NAACP against the postal service and the postmaster general.<sup>49</sup> The complaint alleged that “the Postal Service made clear that ballots sent by marketing mail would not be accorded first-class mail treatment, and thus take longer to deliver, even though the Postal Service had previously trained its employees to give first-class treatment to ballots and other election-related materials sent as marketing mail.”<sup>50</sup> The NAACP filed a motion for a preliminary injunction on September 1.<sup>51</sup>

The second other case was filed by three states—Hawaii, New Jersey, and New York—and two cities—New York and San Francisco—on August 25 against the President, the postmaster general, and the postal service.<sup>52</sup> “[The plaintiffs] all have plans to provide voters with safe alternatives to in-person voting in the middle of the country’s unprecedented public health crisis.

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42. Complaint at 2, *Richardson v. Trump*, No. 1:20-cv-2262 (D.D.C. Aug. 17, 2020, re-filed Aug. 18, 2020), D.E. 4-1; *Richardson v. Trump*, 496 F. Supp. 3d 165, 171, 176 (D.D.C. 2020).

43. Docket Sheet, *Richardson*, No. 1:20-cv-2262 (D.D.C. Aug. 17, 2020) [hereinafter *Richardson* Docket Sheet].

44. Preliminary-Injunction Application, *id.* (Aug. 20, 2020), D.E. 14.

45. Motion at 2, *id.* (Aug. 20, 2020), D.E. 8.

46. *Richardson* Docket Sheet, *supra* note 43.

47. Motion, *Richardson*, No. 1:20-cv-2262 (D.D.C. Aug. 27, 2020), D.E. 26.

48. *Richardson* Docket Sheet, *supra* note 43.

49. Complaint, *NAACP v. U.S. Postal Serv.*, No. 1:20-cv-2295 (D.D.C. Aug. 20, 2020), D.E. 1.

50. *Id.* at 3.

51. Preliminary-Injunction Motion, *id.* (Sept. 1, 2020), D.E. 8.

52. Complaint, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Aug. 25, 2020), D.E. 1 [hereinafter *New York v. Trump* Complaint]; *New York v. Biden*, 636 F. Supp. 3d 1, 11 (D.D.C. 2022); *New York v. Trump*, 490 F. Supp. 3d 225, 231, 235 (D.D.C. 2020); see Deanna Paul, *Lawsuit Is Filed to Stop Postal-Service Changes*, Wall St. J., Aug. 26, 2020, at A8A.

[Mail d]elays disrupt those plans, forcing voters to risk either disenfranchisement by voting by mail or their health by voting in person.”<sup>53</sup>

Four organizations and a voter filed the third other case on August 28 against the postmaster general and the postal service.<sup>54</sup>

The defendants<sup>55</sup> and the plaintiffs in the voter case<sup>56</sup> and the states-and-cities case<sup>57</sup> agreed that the four cases could be consolidated, but the NAACP<sup>58</sup> and the organizations-and-voter plaintiffs<sup>59</sup> stated that their preliminary-injunction motions should be resolved without consolidation.

The plaintiffs in the states-and-cities case filed a preliminary-injunction motion on September 2.<sup>60</sup> On September 27, Judge Sullivan issued a preliminary injunction against the postal service’s summer policy changes.<sup>61</sup>

On September 8, the organizations-and-voter plaintiffs filed an amended complaint—with ten additional voters as plaintiffs<sup>62</sup>—and a motion for a preliminary injunction.<sup>63</sup> Six days later, they filed a motion for expedited discovery.<sup>64</sup> On September 28, Judge Sullivan granted them a preliminary injunction against changes made to rules governing late and extra trips by mail carriers.<sup>65</sup>

The plaintiffs in the voter case filed an amended complaint on September 11.<sup>66</sup> Judge Sullivan issued a preliminary injunction on October 8 against changes made to rules governing late and extra trips by mail carriers and re-

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53. *New York v. Trump* Complaint, *supra* note 52, at 3–4.

54. Complaint, *Vote Forward v. DeJoy*, No. 1:20-cv-2405 (D.D.C. Aug. 28, 2020), D.E. 1; *Vote Forward v. DeJoy*, 540 F. Supp. 3d 15, 21 (D.D.C. 2021); *Vote Forward v. DeJoy*, 490 F. Supp. 3d 110, 117 (D.D.C. 2020).

55. Response, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Sept. 4, 2020), D.E. 17; Response, *NAACP*, No. 1:20-cv-2295 (D.D.C. Sept. 4, 2020), D.E. 13; Response, *Richardson v. Trump*, No. 1:20-cv-2262 (D.D.C. Sept. 4, 2020), D.E. 42.

56. Response, *Richardson*, No. 1:20-cv-2262 (D.D.C. Sept. 2, 2020), D.E. 39.

57. Response, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Sept. 4, 2020), D.E. 15.

58. Response, *NAACP*, No. 1:20-cv-2295 (D.D.C. Sept. 4, 2020), D.E. 11.

59. Response, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Sept. 4, 2020), D.E. 11.

60. Preliminary-Injunction Motion, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Sept. 2, 2020), D.E. 12; *New York v. Biden*, 636 F. Supp. 3d 1, 11 (D.D.C. 2022); *New York v. Trump*, 490 F. Supp. 3d 225, 235 (D.D.C. 2020).

61. *New York v. Trump*, 490 F. Supp. 3d 225; Order, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Sept. 27, 2020), D.E. 51; *New York v. Biden*, 636 F. Supp. 3d at 11; *see* Opinion, *New York v. Trump*, No. 1:20-cv-2340 (D.D.C. Aug. 23, 2021), D.E. 98, 2021 WL 7908124 (clarification order); Opinion, *id.* (Apr. 3, 2021), D.E. 88, 2021 WL 7908123 (same); Opinion, *id.* (Oct. 22, 2020), D.E. 62, 2020 WL 6572675 (same); *see also* Hsu, *supra* note 8.

62. Amended Complaint, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Sept. 8, 2020), D.E. 15; *Vote Forward v. DeJoy*, 490 F. Supp. 3d 110, 117 (D.D.C. 2020).

63. Preliminary-Injunction Motion, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Sept. 8, 2020), D.E. 16; *Vote Forward v. DeJoy*, 540 F. Supp. 3d 15, 18 (D.D.C. 2021); *Vote Forward*, 490 F. Supp. 3d at 117.

64. Motion, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Sept. 14, 2020), D.E. 20.

65. *Vote Forward*, 490 F. Supp. 3d 110; Order, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Sept. 28, 2020), D.E. 31; *Vote Forward*, 540 F. Supp. 3d at 18, 21.

66. Amended Complaint, *Richardson v. Trump*, No. 1:02-cv-2262 (D.D.C. Sept. 11, 2020), D.E. 49.

quiring “all overtime necessary to ensure the timely delivery of Election Mail.”<sup>67</sup>

In the NAACP case, Judge Sullivan issued a preliminary injunction on October 10 against recent changes in transportation policies.<sup>68</sup>

To supervise the injunctions and the cases, Judge Sullivan conducted additional proceedings each day from Tuesday, October 27, through Friday, November 6, including weekend days, and on Monday, November 9, in three cases: the voter case, the NAACP case, and the organizations-and-voter case.<sup>69</sup>

### *Judge Russell*

On October 29, Judge Russell denied the organizational defendants in his Maryland case a preliminary injunction:

In light of the evidence proffered by Defendants, and in the absence of any clear explanation from Plaintiffs regarding why the current injunctions imposed on Defendants are insufficient to address the harm caused by decommissioned sorting machines, the Court cannot conclude that it is “in-disputably clear” that the absence of additional sorting machines is likely to cause irreparable harm to Plaintiffs.

Finally, to the extent that Plaintiffs truly view any remaining deficiencies in [the postal service’s] ability or intent to timely deliver Election Mail as perils to our democracy, they have litigated this case in a manner inconsistent with that concern. Unlike the plaintiffs in every one of the Related Actions, Plaintiffs here waited over five weeks from the time they filed their Complaint to file their Motion for Preliminary Injunction.<sup>70</sup>

The plaintiffs voluntarily dismissed their action on December 15.<sup>71</sup>

### *The New President’s Administration*

In early 2021, most of the remaining lawsuits were dismissed as settled by the new President’s administration.<sup>72</sup>

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67. *Richardson v. Trump*, 496 F. Supp. 3d 165 (D.D.C. 2020); Order, *Richardson*, No. 1:02-cv-2262 (D.D.C. Oct. 8, 2020), D.E. 64.

68. *NAACP v. U.S. Postal Serv.*, 496 F. Supp. 3d 1 (D.D.C. 2020); Order, *NAACP v. U.S. Postal Serv.*, No. 1:20-cv-2295 (D.D.C. Oct. 10, 2020), D.E. 31.

69. Transcripts, *Vote Forward*, No. 1:20-2405 (D.D.C. Oct. 28 to Nov. 6 and Nov. 9, 2020, filed Oct. 29 and Dec. 1, 2020), D.E. 44, 130 to 140; Transcript, *Richardson*, No. 1:20-cv-2262 (D.D.C. Oct. 27, 2020, filed Dec. 17, 2020), D.E. 165; Docket Sheet, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Aug. 28, 2020); Docket Sheet, *NAACP*, No. 1:10-cv-2295 (Aug. 20, 2020); *Richardson* Docket Sheet, *supra* note 43; see Luke Broadwater & Hailey Fuchs, *Mail Votes: Postal Service Finishes Court-Ordered Search*, N.Y. Times, Nov. 5, 2020, at P10; Rebecca Smith, Byron Tau & Rob Barry, *Judge Orders USPS to Search for Ballots*, Wall St. J., Nov. 6, 2020, at A4; Byron Tau, *Judge’s USPS Order Isn’t Met in Time*, Wall St. J., Nov. 4, 2020, at A6.

70. Opinion at 23–24, *Nat’l Urban League v. DeJoy*, No. 1:20-cv-2391 (D. Md. Oct. 29, 2020), D.E. 76, 2020 WL 6363959.

71. Notice, *id.* (Dec. 15, 2020), D.E. 83.

72. Stipulated Dismissal, *Pennsylvania v. DeJoy*, No. 2:20-cv-4096 (E.D. Pa. May 17, 2022), D.E. 192; Stipulated Dismissal, *Jones v. U.S. Postal Serv.*, No. 1:20-cv-6516 (S.D.N.Y. May 13, 2021), D.E. 124; Order, *Washington v. Trump*, No. 1:20-cv-3127 (E.D. Wash. Feb.



On May 18, Judge Sullivan denied the organizations-and-voter plaintiffs a new preliminary injunction in light of postal service improvements,<sup>73</sup> and the case was voluntarily dismissed six days later.<sup>74</sup> In the NAACP case, Judge Sullivan clarified the injunction on August 23,<sup>75</sup> and the parties stipulated settlement on December 17.<sup>76</sup>

Resolving summary-judgment motions in the states-and-cities case, Judge Sullivan decided on September 30, 2022, that the postal service wrongfully implemented policy changes without first seeking an advisory opinion from its postal regulatory commission, but that other claims by the plaintiffs of ultra vires actions were without merit.<sup>77</sup> Judge Sullivan agreed to delay final judgment to allow for settlement talks.<sup>78</sup>

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17, 2021), D.E. 131; Order, NAACP v. U.S. Postal Serv., No. 20-5375 (D.C. Cir. Feb. 10, 2021), 2021 WL 672392 (appeal in the District of Columbia NAACP case); Order, Vote Forward v. DeJoy, No. 20-5353 (D.C. Cir. Feb. 10, 2021), 2021 WL 672395 (appeal in the District of Columbia organizations-and-voters case); Order, Richardson v. Biden, No. 20-5367 (D.C. Cir. Feb. 8, 2021), 2021 WL 672397 (appeal in the District of Columbia voter case); Order, Washington v. Trump, No. 20-36047 (9th Cir. Jan. 26, 2021), D.E. 15 (appeal in the Washington case); Voluntary Dismissal, *Richardson*, No. 1:20-cv-2262 (D.D.C. Jan. 21, 2021), D.E. 174; Order, Pennsylvania v. U.S. Postmaster Gen., No. 20-3419 (3d Cir. Jan. 20, 2021), D.E. 16 (appeal in the Pennsylvania case); see Stipulated Order, *Jones*, No. 1:20-cv-6516 (S.D.N.Y. Oct. 31, 2022), D.E. 152 (approving a payment of \$79,900 for attorney fees and expenses).

73. *Vote Forward v. DeJoy*, 540 F. Supp. 3d 15 (D.D.C. 2021); see Second Amended Complaint, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. Mar. 9, 2021), D.E. 173.

74. Voluntary Dismissal, *Vote Forward*, No. 1:20-cv-2405 (D.D.C. May 24, 2021), D.E. 184.

75. Opinion, NAACP v. U.S. Postal Serv., No. 1:20-cv-2295 (D.D.C. Aug. 23, 2021), D.E. 163; see Amended Complaint, *id.* (Mar. 5, 2021), D.E. 149.

76. Stipulation, *id.* (Dec. 17, 2021), D.E. 170.

77. *New York v. Biden*, 636 F. Supp. 3d 1 (D.D.C. 2022); Order, *New York v. Biden*, No. 1:20-cv-2340 (D.D.C. Sept. 30, 2022), D.E. 106; see Order, *id.* (Mar. 6, 2023), D.E. 114, 2023 WL 3311788 (clarifying the injunction).

78. Docket Sheet, *New York v. Biden*, No. 1:20-cv-2340 (D.D.C. Aug. 25, 2020) (minute order, Nov. 8, 2023); see Status Report, *id.* (Sept. 29, 2023), D.E. 123; Order, *New York v. Biden*, No. 23-5103 (June 8, 2023) (holding a precautionary appeal in abeyance).