

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02711-DLF**

ELECTRONIC PRIVACY INFORMATION CENTER v.
UNITED STATES DEPARTMENT OF COMMERCE et al
Assigned to: Judge Dabney L. Friedrich
Case in other court: 19-05031
Cause: 05:702 Administrative Procedure Act

Date Filed: 11/20/2018
Date Terminated: 10/03/2019
Jury Demand: None
Nature of Suit: 899 Administrative
Procedure Act/Review or Appeal of
Agency Decision
Jurisdiction: U.S. Government Defendant

Plaintiff

**ELECTRONIC PRIVACY
INFORMATION CENTER**

represented by **Alan Jay Butler**
ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Ave, NW
Washington, DC 20036
(202) 483-1140 ext 103
Fax: (202) 483-1248
Email: butler@epic.org
ATTORNEY TO BE NOTICED

Marc Rotenberg
ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Avenue, N.W.
Washington, DC 20036
(202) 483-1140, ext 106
Fax: (202) 483-1248
Email: rotenberg@epic.org
ATTORNEY TO BE NOTICED

John L. Davisson
ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Ave, NW
Washington, DC 20036
(202) 483-1140 ext. 120
Email: davisson@epic.org
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
COMMERCE**

represented by **Joseph Evan Borson**
U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
(202) 514-1944
Fax: (202) 616-8460
Email: joseph.borson@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kristina Ann Wolfe
U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
P.O. Box 883
Ben Franklin Station

Washington, DC 20044
(202) 353-4519
Email: kristina.wolfe@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

BUREAU OF THE CENSUS

represented by **Joseph Evan Borson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kristina Ann Wolfe
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/20/2018	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-5802923) filed by ELECTRONIC PRIVACY INFORMATION CENTER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons United States Attorney for the District of Columbia, # <u>3</u> Summons Attorney General of the United States, # <u>4</u> Summons United States Department of Commerce, # <u>5</u> Summons Bureau of the Census)(Davisson, John) (Entered: 11/20/2018)
11/21/2018	<u>2</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by ELECTRONIC PRIVACY INFORMATION CENTER (Davisson, John) (Entered: 11/21/2018)
11/21/2018		Case Assigned to Judge Dabney L. Friedrich. (zrdj) (Entered: 11/21/2018)
11/21/2018	<u>3</u>	SUMMONS (4) Issued Electronically as to BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zrdj) (Entered: 11/21/2018)
12/03/2018	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 11/26/2018. Answer due for ALL FEDERAL DEFENDANTS by 1/25/2019. (Davisson, John) (Entered: 12/03/2018)
12/03/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF COMMERCE served on 11/29/2018 (Davisson, John) (Entered: 12/03/2018)
12/03/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. BUREAU OF THE CENSUS served on 12/3/2018 (Davisson, John) (Entered: 12/03/2018)
12/03/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/30/18. (Davisson, John) (Entered: 12/03/2018)
01/18/2019	<u>8</u>	MOTION for Preliminary Injunction by ELECTRONIC PRIVACY INFORMATION CENTER (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order, # <u>3</u> Exhibit List, # <u>4</u> Exhibit Nos. 1-4, # <u>5</u> Exhibit Nos. 5-9, # <u>6</u> Exhibit Nos. 10-14, # <u>7</u> Exhibit Nos. 15-19)(Davisson, John) (Entered: 01/18/2019)
01/18/2019		MINUTE ORDER. Having reviewed the plaintiff's <u>8</u> Motion for Preliminary Injunction, it is ORDERED that the parties shall appear for a preliminary injunction hearing on February 8, 2019 at 11:00 A.M. in Courtroom 12. See LCvR 65.1(d). In accordance with Local Civil Rule 65.1(c), the defendants' opposition, if any, shall be filed within 7 days after service of the motion. Signed by Judge Dabney L. Friedrich on January 18, 2019. (lcllf1) Modified on 1/22/2019 to reflect updated hearing start time (jl). (Entered: 01/18/2019)

01/22/2019		Set/Reset Deadlines/Hearings: Preliminary Injunction Hearing set for 2/8/2019 at 11:00 AM in Courtroom 12 before Judge Dabney L. Friedrich. (jl). (Entered: 01/22/2019)
01/22/2019	<u>9</u>	NOTICE of Appearance by Kristina Ann Wolfe on behalf of BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE (Wolfe, Kristina) (Entered: 01/22/2019)
01/22/2019	<u>10</u>	MOTION to Stay <i>in Light of the Lapse of Appropriations or, in the Alternative,,</i> MOTION for Extension of Time to <i>File a Response to Plaintiff's Motion for a Preliminary Injunction and to Respond to the Complaint</i> by BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE (Attachments: # <u>1</u> Text of Proposed Order #1, # <u>2</u> Text of Proposed Order #2)(Wolfe, Kristina) (Entered: 01/22/2019)
01/23/2019	<u>11</u>	NOTICE of Appearance by Joseph Evan Borson on behalf of BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE (Borson, Joseph) (Entered: 01/23/2019)
01/23/2019		MINUTE ORDER granting in part and denying in part the defendant's <u>10</u> Motion for a Stay in Light of the Lapse of Appropriations or, in the Alternative, an Extension of Time to File a Response to Plaintiff's Motion for a Preliminary Injunction and to Respond to the Complaint. Accordingly, it is ORDERED that the defendant's request for a stay is DENIED. It is further ORDERED that (1) the defendant shall file its response to the plaintiff's motion on or before January 30, 2019, (2) the plaintiff shall file its reply on or before February 5, 2019, and (3) the defendant shall file its answer or other response to the plaintiff's complaint within 30 days after the Court's resolution of the plaintiff's motion for a preliminary injunction. The preliminary injunction hearing will take place as scheduled on February 8, 2019 at 11:00 A.M. Signed by Judge Dabney L. Friedrich on January 23, 2019. (lcldlf1) (Entered: 01/23/2019)
01/23/2019		Set/Reset Deadlines/Hearings: Defendant's response to plaintiff's motion due by 1/30/2019. Plaintiff's reply due by 2/5/2019. (jl) (Entered: 01/23/2019)
01/30/2019	<u>12</u>	Memorandum in opposition to re <u>8</u> MOTION for Preliminary Injunction filed by BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE. (Attachments: # <u>1</u> Declaration of Robin J. Bachman, # <u>2</u> Exhibit A to Bachman Decl., # <u>3</u> Exhibit B to Bachman Decl., # <u>4</u> Text of Proposed Order)(Borson, Joseph) (Entered: 01/30/2019)
02/05/2019	<u>13</u>	REPLY to opposition to motion re <u>8</u> MOTION for Preliminary Injunction filed by ELECTRONIC PRIVACY INFORMATION CENTER. (Davisson, John) (Entered: 02/05/2019)
02/06/2019		MINUTE ORDER. Local Civil Rule 65.1(d) requires the Court to hold a hearing within 21 days of an application for a preliminary injunction upon the request of the moving party "unless the Court earlier decides the motion on the papers." LCvR 65.1(d). Having reviewed the parties' briefs, the Court intends to decide the plaintiff's <u>8</u> Motion for Preliminary Injunction on the papers and issue a decision on or before February 8, 2019. Accordingly, it is ORDERED that the preliminary injunction hearing currently set for February 8, 2019 is VACATED. Signed by Judge Dabney L. Friedrich on February 6, 2019. (lcldlf1) (Entered: 02/06/2019)
02/06/2019	<u>14</u>	NOTICE of Appearance by Marc Rotenberg on behalf of ELECTRONIC PRIVACY INFORMATION CENTER (Rotenberg, Marc) (Entered: 02/06/2019)
02/06/2019	<u>15</u>	NOTICE of Appearance by Alan Jay Butler on behalf of ELECTRONIC PRIVACY INFORMATION CENTER (Butler, Alan) (Entered: 02/06/2019)
02/08/2019	<u>16</u>	ORDER denying the plaintiff's <u>8</u> Motion for a Preliminary Injunction. See text for details. Signed by Judge Dabney L. Friedrich on February 8, 2019. (lcldlf1) (Entered: 02/08/2019)
02/08/2019	<u>17</u>	MEMORANDUM OPINION regarding the plaintiff's <u>8</u> Motion for a Preliminary Injunction. See text for details. Signed by Judge Dabney L. Friedrich on February 8, 2019. (lcldlf1) (Entered: 02/08/2019)

02/12/2019	<u>18</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>16</u> Order on Motion for Preliminary Injunction by ELECTRONIC PRIVACY INFORMATION CENTER. Filing fee \$ 505, receipt number 0090-5942771. Fee Status: Fee Paid. Parties have been notified. (Davisson, John) (Entered: 02/12/2019)
02/13/2019	<u>19</u>	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid this date 2/12/19 re <u>18</u> Notice of Appeal to DC Circuit Court,. (ztd) (Entered: 02/13/2019)
02/21/2019		USCA Case Number 19-5031 for <u>18</u> Notice of Appeal to DC Circuit Court, filed by ELECTRONIC PRIVACY INFORMATION CENTER. (zvt) (Entered: 02/25/2019)
03/11/2019	<u>20</u>	MOTION to Dismiss by BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Wolfe, Kristina) (Entered: 03/11/2019)
03/14/2019	<u>21</u>	Unopposed MOTION to Modify <i>Briefing Schedule</i> by BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE (Attachments: # <u>1</u> Text of Proposed Order)(Borson, Joseph) (Entered: 03/14/2019)
03/14/2019		MINUTE ORDER granting the defendants' <u>21</u> Unopposed Motion to Modify Briefing Schedule. Accordingly, it is ORDERED that the plaintiff shall file its response to the defendants' motion to dismiss on or before April 1, 2019 and the defendants shall file their reply on or before April 11, 2019. Signed by Judge Dabney L. Friedrich on April 14, 2019. (lcldf1) (Entered: 03/14/2019)
03/14/2019		Set/Reset Deadlines/Hearings: Response due by 4/1/2019. Reply due by 4/11/2019. (zcdw) (Entered: 03/18/2019)
04/01/2019	<u>22</u>	Memorandum in opposition to re <u>20</u> MOTION to Dismiss filed by ELECTRONIC PRIVACY INFORMATION CENTER. (Attachments: # <u>1</u> Text of Proposed Order)(Davisson, John) (Entered: 04/01/2019)
04/11/2019	<u>23</u>	REPLY to opposition to motion re <u>20</u> MOTION to Dismiss filed by BUREAU OF THE CENSUS, UNITED STATES DEPARTMENT OF COMMERCE. (Wolfe, Kristina) (Entered: 04/11/2019)
09/03/2019	<u>24</u>	NOTICE of Change of Address by John L. Davisson (Davisson, John) (Entered: 09/03/2019)
10/02/2019	<u>25</u>	MANDATE of USCA as to <u>18</u> Notice of Appeal to DC Circuit Court, filed by ELECTRONIC PRIVACY INFORMATION CENTER ; USCA Case Number 19-5031. (Attachments: # <u>1</u> USCA Judgment)(zrdj) (Entered: 10/04/2019)
10/03/2019		MINUTE ORDER. On June 28, 2019, the U.S. Court of Appeals for the D.C. Circuit reviewed this Court's denial of Epic's motion for a preliminary injunction. <i>See Elec. Privacy Info. Ctr. v. U.S. Dep't of Commerce and Bureau of the Census</i> , 928 F.3d 95 (D.C. Cir. 2019). The Circuit held "that EPIC lacks standing as a matter of law." <i>Id.</i> at 104. On that ground, it vacated this Court's denial of the preliminary injunction and remanded "for the purpose of dismissal." <i>Id.</i> at 105. On October 2, 2019, the mandate from the Circuit issued. As such, this case is DISMISSED for lack of jurisdiction. The Clerk of Courts is directed to close this case. So Ordered by Judge Dabney L. Friedrich on October 3, 2019. (lcldf1) (Entered: 10/03/2019)