

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Informed Consent Action Network v. Food and Drug Administration

ICAN v. FDA · No. 25-cv-827 (JMC); consolidated with 25-cv-828 (JMC) · Decided April 10, 2026

SUMMARY

The United States District Court for the District of Columbia stayed the consolidated FOIA litigation until November 6, 2026, based on the FDA's showing of exceptional circumstances and due diligence under the Open America doctrine. The court denied the plaintiff's request for discovery concerning the FDA's multitrack FOIA processing and directed the parties to file a joint status report by the stay's end date.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Jia M. Cobb
JURISDICTION	United States District Court for the District of Columbia
DECIDED	April 10, 2026
DOCKET	25-cv-827 (JMC); consolidated with 25-cv-828 (JMC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a FOIA action concerning the FDA's processing of its records request. The Court considered the FDA's request for an Open America stay and Plaintiff's request for discovery concerning the FDA's multitrack processing system.
STANDARD OF REVIEW	The Court applied the FOIA exceptional-circumstances and due-diligence standard for retaining jurisdiction and allowing an agency additional time to process records, and considered whether discovery was warranted in the absence of evidence of bad faith.
PRECEDENTIAL VALUE	Published district court order
PARTIES	Informed Consent Action Network v. Food and Drug Administration, et al.

TOPICS

- administrative law
- administrative procedure act
- discovery dispute
- civil procedure

PRACTICE AREAS

administrative law

civil procedure

health law

QUESTIONS PRESENTED

1. Whether the FDA demonstrated exceptional circumstances and due diligence sufficient to justify an Open America stay of the FOIA proceedings.
2. Whether Plaintiff was entitled to discovery concerning the FDA's multitrack FOIA processing system.

HOLDINGS

1. The FDA demonstrated both exceptional circumstances and due diligence, and therefore was entitled to a stay of the FOIA proceedings through November 6, 2026.
2. Plaintiff's request for discovery was denied because the proposed discovery would increase the burden on the FDA and there was no evidence of bad faith warranting further disclosure of the agency's internal processes.

KEY QUOTATIONS

“An agency may obtain a stay of proceedings if it “is deluged with a volume of requests for information vastly in excess of that anticipated by Congress, when the existing resources are inadequate to deal with the volume of such requests within the time limits of subsection (6)(A), and when the agency can show that it ‘is exercising due diligence’ in processing the requests.”” (at 1)

“The FDA has shown both exceptional circumstances and due diligence justifying an Open America stay.” (at 1)

“The Court also DENIES Plaintiff’s request for discovery on the agency’s multitrack process because such discovery would simply heighten the burdens on the agency, forcing the agency to expend resources to reconstruct the state of a queue from nearly three years ago.” (at 2)

FACTUAL BACKGROUND

The FDA was subject to an October 1, 2026, deadline to produce approximately 9.1 million pages in litigation referred to as the PHPMT II matter. The relevant FDA department, CBER, processes FOIA requests through six queues based on volume, complexity, or subject matter, generally processing requests in submission order. The FDA asserted that these extraordinary demands affected its ability to complete Plaintiff's request, while Plaintiff sought discovery into the agency's multitrack process.

PROCEDURAL HISTORY

The case was before the United States District Court for the District of Columbia on the FDA's request for a stay and Plaintiff's request for discovery. The Court found exceptional circumstances and due diligence sufficient to justify a seven-month stay, denied discovery, and ordered the parties to file a joint status report by November 6, 2026.

DISPOSITION

other

CASES CITED

- Open Am. v. Watergate Special Prosecution Force, 547 F.2d 605, 616 (D.C. Cir. 1976)
- ICAN v. FDA, No. 25-cv-826, 2026 WL 799634, at *1-*2 (D.D.C. Mar. 23, 2026)

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