

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA,” *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 1:25-cv-244-JL-AJ

**PLAINTIFFS’ ASSENTED-TO MOTION FOR LEAVE TO FILE A SUPPLEMENTAL
COMPLAINT PURSUANT TO FED. R. CIV. P. 15(d)**

Plaintiffs move for leave to file a Supplemental Complaint pursuant to Federal Rule of Civil Procedure 15(d). The proposed Supplemental Complaint is attached as Exhibit A. Plaintiffs seek to add (1) plaintiffs and (2) claims and allegations arising from a second Executive Order issued by the President on August 6, 2026, as well as associated agency actions. *See* Exec. Order No. 14,418, *Continuing to Protect the Meaning and Value of American Citizenship*, 91 Fed. Reg. 51,991 (2026) (“EO2”). The second Executive Order is a post-complaint event that could not have been included within Plaintiffs’ operative Complaint. Plaintiffs have conferred with Defendants regarding this Motion and Defendants have indicated that they do not oppose Plaintiffs’ request for leave.

BACKGROUND

Plaintiffs filed the present action on June 27, 2025. The Complaint alleges four causes of action: one under the Fourteenth Amendment to the U.S. Constitution; one under 8 U.S.C. § 1401; and two under the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(B)-(C), alleging that the actions permitted by Exec. Order No. 14,160, *Protecting the Meaning and Value of American Citizenship*, 90 Fed. Reg. 8449 (2025) (“EO1”), were contrary to the U.S. Constitution and § 1401. *See* ECF No. 1 ¶¶ 73-83.

This Court certified a nationwide class and enjoined the enforcement of EO1. *See* ECF Nos. 64, 65. The Supreme Court affirmed this Court’s injunction, confirming that the only exceptions to universal citizenship are those recognized in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898). *See Trump v. Barbara*, 146 S. Ct. 2438 (2026).

Undeterred, the President issued EO2, which purports to identify “certain categories of children of aliens” that “do not fall within the rule of birthright citizenship as announced by the Supreme Court.” EO2 § 1. In particular, it strips citizenship from any persons born in the United

States when “neither parent of that person is a citizen” and:

- a) “either parent of that person is an alien enemy, defined to include” a member of certain designated terrorist organizations;
- b) “either parent of that person is a foreign government employee,” including not only ambassadors but various other employees of foreign governments or international organizations;
- c) “either parent of that person engaged in a commercial transaction to purchase or access birthright citizenship for the person, or engaged in fraudulent activity to obtain citizenship”; or
- d) “the person is born in a territory or territorial waters of the United States where citizenship is not conferred by Federal statute.”

EO2 § 2.

Following the issuance of EO2, Plaintiffs moved to lift the stay of proceedings in this Court and moved the Court to clarify the existing preliminary injunction, to modify it, or to issue a new injunction making clear that, as to the existing class of children subject to EO1, Defendants are “enjoined and restrained from taking any actions to deny or infringe on the citizenship of class members,” ECF No. 80, at 6; *see also* ECF Nos. 79, 87-1, at 7 n.1. While that motion was pending, the court in the parallel *CASA v. Trump* litigation issued a preliminary injunction barring enforcement of EO2 as to the class of children subject to EO1 certified in that case. No. 25-cv-201, 2026 WL 2592706, at *1 (D. Md. Sept. 2, 2026). Defendants then issued an Interim Final Rule and agency guidance on September 4.

Plaintiffs now move to supplement the operative Complaint under Rule 15(d) and add additional plaintiffs, allegations, and claims with reference to EO2. In particular, Plaintiffs seek to include Plaintiffs Clara, Edward, Nathan, Beatrice, and Patricia as named class members to represent (alongside plaintiff Barbara) a class of all persons born in the United States, and the parents (including expectant parents) of those persons, who are subjected to the citizenship-stripping provisions of EO2. *See* Ex. A ¶¶ 88-91, 113. Plaintiffs reassert the same four causes

of action against EO2 as those that were alleged against the enforcement of EO1, and assert a new Notice and Comment claim. *See id.* ¶¶ 122-39.

LEGAL STANDARD

“On motion and reasonable notice” the Court may “permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.” Fed. R. Civ. P. 15(d). Motions under Rule 15(d) are treated “liberally,” *U.S. ex rel. Gadbois v. PharMerica Corp.*, 809 F.3d 1, 7 (1st Cir. 2015), and should be “freely granted” in the absence of “undue delay, bad faith, dilatory tactics, undue prejudice to the party to be served with the proposed pleading, or futility[.]” *Tavares v. Macomber*, No. 18-cv-606, 2019 WL 2502933, at *2 (D.R.I. June 17, 2019) (citation modified).

ARGUMENT

This Court should grant Plaintiffs’ request to supplement the Complaint. The liberal policy guiding supplementation and each of the Rule 15(d) factors support granting this unopposed motion for leave to file a supplemental complaint.

The Supplemental Complaint is premised only on factual events that “happened after the date of” the original Complaint. Fed. R. Civ. P. 15(d). EO2 was issued “after the prior complaint was filed,” *Doe v. Comm’r, N.H. Dep’t of Health & Hum. Servs.*, 344 F.R.D. 57, 66 (D.N.H. 2023), and refers to the Supreme Court’s ruling in this case, *see* EO2 § 1 (stating that EO2 “identifies, non-exhaustively, and prescribes action concerning certain categories of children of aliens who[.]” in the President’s view, “do not fall within the rule of birthright citizenship as announced by the Supreme Court” in *Barbara*); *see also* 6A Wright & Miller, *Federal Practice and Procedure* § 1510 (3d ed. 2010) (stating that a supplemental pleading is proper when the supplemented materials could not have been included “before the filing of the original

pleading”).

Supplementation is also proper because the new allegations are deeply intertwined with issues presented by the original Complaint, such that litigating them in this action provides a “more efficient mechanism” for their resolution. *Gadbois*, 809 F.3d at 4. EO2 is a second “attempt[] by Defendants to effectuate the [same] polic[y] Plaintiffs have been challenging since filing their original complaint,” *Doe v. Noem*, No. 25-cv-10495, 2026 WL 686483, at *6 (D. Mass. Mar. 11, 2026)—namely, the President’s “efforts to abolish birthright citizenship for many Americans.” *CASA*, 2026 WL 2592706, at *1; *see also Doe*, 2026 WL 686483, at *4, 17 (granting motion for leave to supplement in light of “two new [executive] actions” that “affect[ed] grants of parole and the adjudication of immigration benefits requests in a similar manner” as actions challenged by the original complaint); *Comm’r, N.H. Dep’t of Health & Hum. Servs.*, 344 F.R.D. at 67-68 (granting leave to supplement to add plaintiffs to challenge the defendant’s implementation of “new procedures”).

Both EO1 and EO2 represent efforts to narrow the well-settled meaning of the Citizenship Clause’s language, namely “subject to the jurisdiction,” in order to strip U.S.-born children of citizenship beyond the exceptions set out in *Wong Kim Ark* and reiterated in *Barbara*. The original Complaint explained that the only exceptions to birthright citizenship are those elaborated in *Wong Kim Ark*: “children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes.” 169 U.S. at 693; *see also* ECF No. 1 ¶¶ 28-32, 34. EO1 added “categories of people” that “do not fit into those exceptions[,]” *N.H. Indonesian Cmty. Support v. Trump*, 765 F. Supp. 3d 102, 109 (D.N.H. 2025), and EO2 does exactly the same thing, *see*

CASA, 2026 WL 2592706, at *1. EO2 attacks the citizenship of children born to alleged “alien enem[ies],” *see* EO2 § 2(a), “foreign government employee[s],” *id.* § 2(b), and to parents assertedly “engaged in a commercial transaction to purchase or access birthright citizenship,” “or engaged in fraudulent activity to obtain citizenship,” *id.* § 2(c)—all of which “bear little to no resemblance to the ‘narrow exceptions’ to the rule of citizenship by birth recognized by the Supreme Court in *Barbara*, 146 S. Ct. at 2450, and *United States v. Wong Kim Ark*, 169 U.S. 649, 693 (1898).” *CASA*, 2026 WL 2592706, at *1.

None of the factors weighing against supplementation are present here. Plaintiffs moved to clarify or modify this Court’s injunction (or issue a new injunction) on August 11, less than one week after the President’s issuance of EO2. In response, Defendants asserted that the meaning of EO2 could not be adjudicated until guidance was issued. *See* ECF No. 87-1, at 3, 10-12. Plaintiffs now move to supplement within days of the issuance of that guidance—foreclosing any assertion of undue delay or dilatory tactics. *See Gadbois*, 809 F.3d at 4. Nor will Defendants face any undue prejudice from the Supplemental Complaint. *See id.* Defendants have not filed an Answer or other responsive filing, and the parties agreed that their response date should remain stayed. *See* ECF No. 86, at 1; ECF No. 87-1, at 7 n.1; ECF No. 89, at 9 n.5.

Indeed, supplementation is in the interest of judicial economy. This Court has already addressed the meaning of “subject to the jurisdiction,” and its analysis has been affirmed by the First Circuit and Supreme Court. The causes of action alleged and the ultimate ruling requested in the Supplemental Complaint are essentially the same as those alleged and sought in the earlier Complaint (with the single addition of a new Notice and Comment claim), and the fundamental issues being litigated in this case are the same.

For similar reasons, supplementation is far from futile here. *See Glassman v. Computervision Corp.*, 90 F.3d 617, 623 (1st Cir. 1996) (explaining that a proposed supplemental complaint is considered futile only if it “would fail to state a claim upon which relief could be granted”). This Court and the Supreme Court have already rejected this Executive’s attempt to rewrite the Citizenship Clause, and Plaintiffs’ challenge to Defendants’ continuing attempt to accomplish the same result through a new order is far from futile.

CONCLUSION

This Court should grant Plaintiffs’ Motion for Leave to Supplement the Complaint pursuant to Rule 15(d).

Dated: September 9, 2026

Respectfully submitted,

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

“BARBARA;” “SARAH,” by guardian, parent,
and next friend “SUSAN;” “MATTHEW,” by
guardian, parent, and next friend “MARK;”
“NATHAN,” by guardian, parent, and next
friend “CLARA”; “PATRICIA”; “EDWARD;”
and “BEATRICE,” by guardian, parent, and
next friend Barbara, on behalf of themselves
and all those similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity; U.S.
DEPARTMENT OF HOMELAND
SECURITY; SECRETARY OF HOMELAND
SECURITY, in their official capacity; U.S.
DEPARTMENT OF STATE; SECRETARY
OF STATE, in their official capacity; U.S.
DEPARTMENT OF AGRICULTURE;
SECRETARY OF AGRICULTURE, in their
official capacity; CENTERS FOR MEDICARE
AND MEDICAID SERVICES;
ADMINISTRATOR OF THE CENTERS FOR
MEDICARE AND MEDICAID SERVICES, in
their official capacity,

Defendants.

Case No. 1:25-cv-244-JL-AJ

**[PROPOSED] SUPPLEMENTAL COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF;
CLASS ACTION LR 23.1**

Plaintiffs supplement their Complaint, ECF No. 1, pursuant to Federal Rule of Civil Procedure 15(d). This Supplemental Complaint is filed in addition to, and does not replace, Plaintiffs’ Complaint.

85. On June 30, 2026, the Supreme Court affirmed this Court’s preliminary injunction of Executive Order No. 14,160, 90 Fed. Reg. 8449 (Jan. 29, 2025), entitled “Protecting the Meaning and Value of American Citizenship” (“EO1”). The Court confirmed that the only exceptions to universal birthright citizenship are those described in *Wong Kim Ark*, 169 U.S. 649 (1898). *See Trump v. Barbara*, 146 S. Ct. 2438 (2026).

86. Undeterred, the President issued a second executive order on August 6, 2026, that—like EO1—seeks to carve out new exceptions to the Citizenship Clause. *See* Exec. Order No. 14,418, *Continuing to Protect the Meaning and Value of American Citizenship*, 91 Fed. Reg. 51,991 (2026) (“EO2”).

87. Both orders straightforwardly violate the Citizenship Clause, as well as the birthright citizenship statute, and should be enjoined.

SUPPLEMENTAL STATEMENT OF PARTIES

88. Plaintiff “Barbara” gave birth to “Beatrice” in New Hampshire in October 2025.¹ Barbara engaged in certain commercial transactions to come to the United States, including fares for public transportation between Honduras and Mexico, as well as food for the journey. She came to this country knowing that her future children would be U.S. citizens, and wanted them to have the protections and opportunities that go hand-in-hand with citizenship in this country.

89. Plaintiff “Clara” is a citizen of France. She resides in Washington, DC. She has lived in the United States for more than ten years, and has established strong ties to her community. Clara gave birth to her child, Plaintiff “Nathan,” in Washington, DC, in August 2026, after the issuance of EO2. Neither Clara nor her husband, Nathan’s father, is a U.S. citizen. Both are

¹ The newly joined Plaintiffs wish to proceed under pseudonym, and a motion is forthcoming.

employed by international organizations that possess international-organization immunity and are listed in 8 C.F.R. § 316.20(c), and both are present in the United States on G-4 visas.

90. Plaintiff “Edward” is a citizen of Australia. He currently resides in Australia with his wife, a cardiologist with whom he operates cardiology clinics, and his older daughter, a U.S. citizen born via surrogacy in the United States in 2021. He and his wife are currently expecting their second child through surrogacy to be born in the United States in October 2026. Edward and his wife engaged in a commercial transaction with a surrogate present in the United States to give birth.

91. Plaintiff “Patricia” is a citizen of a country in western Europe. She currently resides in the United States with her husband, “Robert.” Neither Patricia nor Robert are U.S. citizens. They are expecting a child, due around April 2027. They are both employed by international organizations that possess international-organization immunity and are listed in 8 C.F.R. § 316.20(c), and both are present in the United States on G-4 visas.

92. As with EO1, Defendants each have responsibility for overseeing enforcement and implementation of EO2.

SUPPLEMENTAL STATEMENT OF FACTS

93. On Plaintiffs’ motion, this Court provisionally certified a class of children subject to EO1. *Barbara v. Trump*, 790 F. Supp. 3d 80, 105 (D.N.H. 2025). The Court also issued an order providing that Defendants “are enjoined and restrained from enforcing” EO1. ECF No. 64.

94. Defendants sought certiorari before judgment in the U.S. Supreme Court, and the Supreme Court affirmed this Court’s injunction. *Trump v. Barbara*, 146 S. Ct. 2438 (2026).

95. In its ruling, the Supreme Court confirmed that the only exceptions to the *jus soli* rule are those listed in *Wong Kim Ark*: “children of foreign sovereigns or their ministers, or born

on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes[,]” 169 U.S. at 693. *See Barbara*, 146 S. Ct. at 2452-53.

96. On August 6, 2026, after the Court’s mandate, the President issued EO2.

97. Purporting to exercise “authority vested” “as President by the Constitution and the laws of the United States of America,” EO2 purports to “identif[y], non-exhaustively,” and prescribe “action concerning certain categories of children of aliens who,” the President opined, “do not fall within the rule of birthright citizenship as announced by the Supreme Court.” EO2 § 1.

98. EO2 directs executive agencies not to recognize the citizenship of an individual “when neither parent of that person is a citizen” and: a) “either parent of that person is an alien enemy, defined to include” a member of certain designated terrorist organizations; b) “either parent of that person is a foreign government employee,” including not only ambassadors but various other employees of foreign governments or international organizations; c) “either parent of that person engaged in a commercial transaction to purchase or access birthright citizenship for the person, or engaged in fraudulent activity to obtain citizenship”; or d) “the person is born in a territory or territorial waters of the United States where citizenship is not conferred by Federal statute.” EO2 § 2.

99. EO2 does not identify any temporal limit on its purported restriction of birthright citizenship. In contrast, EO1 provides that its statement of “policy” as to exclusion of individuals from birthright citizenship “shall apply only to persons who are born within the United States after 30 days from the date of this order.” EO1 § 2(b).

100. EO2 does not specify an effective date for the Order itself. EO2 directs agency heads to “take all appropriate measures” to implement EO2, and to issue public guidance within 30 days. EO2 § 3.

101. On September 4, 2026, the Department of Homeland Security issued an Interim Final Rule “amending its regulations to permit children born in the United States to ‘foreign government employees’ who are not U.S. citizens to register for permanent residence.” *Registration of Lawful Permanent Residence for Children Born to Foreign Government Employees in the United States* *7, DHS Doc. No. USCIS-2026-0496 (Sept. 9, 2026) (to be codified at 8 C.F.R. pts. 101, 264), <https://public-inspection.federalregister.gov/2026-18345.pdf> (“IFR”).

102. The IFR modifies the regulation published at 8 C.F.R. § 101.3, which previously reflected and recognized the principle that the only children excluded from birthright citizenship are those born to “a foreign diplomatic officer accredited to the United States,” meaning “a person listed in the State Department Diplomatic List, also known as the Blue List,” of those foreign ministers afforded full diplomatic immunity. 8 C.F.R. § 101.3(a) (2025); *see id.* § 101.3(b) (child of other government officials is a citizen).

103. The IFR, tracking EO2 § 2(b), states that the children of other employees of foreign governments are excluded from birthright citizenship. It adds several exceptions to this exclusion not enumerated in EO2 itself, including “[p]ersonal employees” of foreign officials, “[t]hird-country nationals working for a foreign government,” and “[f]oreign government employees visiting the United States in a personal rather than an official capacity.” IFR at *9-10. The IFR indicates that the parents of children excluded from birthright citizenship under EO2 “must

register” their children with federal authorities pursuant to 8 U.S.C. § 1302 or face criminal liability. *Id.* at *11.

104. The IFR was immediately effective. *Id.* at *1. To justify not engaging in Notice and Comment rulemaking, the IFR invokes the foreign affairs and good cause exceptions. *Id.* at *13-16. Both invocations are predicated on the assumption that the IFR “governs the registration of permanent resident status.” *Id.* at *13; *see id.* at *16. The IFR does not assert that, to the extent the IFR purports to strip birthright citizenship from any person, either the foreign affairs or good cause exception would excuse Notice and Comment rulemaking for such alteration of longstanding citizenship rules.

105. The IFR states that “[t]he IFR applies prospectively to children born in the United States on or after the effective date of the IFR,” and that “[c]hildren born in the United States before the effective date of this IFR are not subject to the requirements of this IFR.” *Id.* at *7. It does not identify or rely on any temporal limitation in EO2 itself. It further notes that “DHS will not take actions to implement the rule specifically to any member of the certified class [in *CASA v. Trump*], or otherwise conflict with the preliminary injunction, unless and until the government obtains relief from the injunction.” *Id.*

106. Also on September 4, the Department of State issued a “proposed Implementation Plan” for EO2. U.S. Dep’t of State, *Executive Order 14418: Continuing to Protect the Meaning and Value of American Citizenship* *1 (2026), <https://perma.cc/8JJJ-XD94>. The document does not explain who the plan is proposed to, or who will decide whether to approve it.

107. The State Department plan largely repeats the terms of EO2, while adding the same exceptions to EO2 § 2(b) as are set out in the IFR, “subject to individualized assessments of employment status, purpose of travel, and visa class[.]” *Id.* at *2.

108. It states that “[i]f neither parent of a minor applicant is a U.S. citizen, an attestation from each parent, under penalty of perjury, must be submitted as part of the determination whether either parent meets any of the EO conditions. Any misrepresentations made under penalty of perjury could subject the individual(s) to legal liability, including potential federal criminal prosecution.” *Id.*

109. It states: “NOTE: Because the EO is prospective only, this guidance is prospective only and will become effective upon publication subject to any legal obligations.” *Id.* at *1. It does not explain its assertion that “the EO is prospective only,” nor does it identify any particular date on which the EO takes effect.

110. Several other agencies issued guidance related to their programs. *See* Ctrs. for Medicare & Medicaid Servs., U.S. Dep’t of Health & Hum. Servs., *CMS Guidance on Continuing to Protect the Meaning and Value of American Citizenship (Executive Order 14418) for Medicaid and Children’s Health Insurance Program (CHIP) Verification Requirements Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Other Federal Statutes* (Sept. 4, 2026), <https://perma.cc/94AH-PYKQ>; Admin. for Child. & Fams., U.S. Dep’t of Health & Hum. Servs., *ACF Guidance on Continuing to Protect the Meaning and Value of American Citizenship (Executive Order 14418) for Program Verification Requirements* (Sept. 4, 2026), <https://perma.cc/R3PG-LCEB>; Food & Nutrition Admin., U.S. Dep’t of Agric., *Guidance on Continuing to Protect the Meaning and Value of American Citizenship (Executive Order 14418) for Verification Requirements Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (Sept. 4, 2026), <https://perma.cc/ZDW2-XQZP>. Each likewise asserts that “the EO is prospective only” without further elaboration. *See id.*

111. Unlike EO1, neither EO2 nor the agency documents issued on September 4 exempts the children of lawful permanent residents. *See* EO1 § 2(c).

112. In Plaintiffs’ challenge to EO1, this Court provisionally certified a class of children subject to EO1 (the “EO1 Class”), represented by Sarah, by her guardian, parent, and next friend Susan; and Matthew, by his guardian, parent, and next friend Mark.

113. In Plaintiffs’ challenge to EO2, Plaintiffs Barbara, Beatrice, Clara, Nathan, Edward, and Patricia (together, “EO2 Class Representative Plaintiffs”), seek to certify a Class (the “EO2 Class”) of all persons, and the parents (including expectant parents) of those persons:

- (1) who are born in the United States as defined in 8 U.S.C. § 1101(a)(38);
- (2) who are not born to a foreign diplomatic officer accredited to the United States;
- (3) for whom neither parent is a U.S. Citizen; and
- (4) for whom either parent is or will be categorized by the government as falling within §§ 2(a)-(c) of Exec. Order No. 14,418, *Continuing to Protect the Meaning and Value of American Citizenship*, 91 Fed. Reg. 51,991 (2026).

114. There is overlap between the EO1 Class and EO2 Class. The EO2 Class contains individuals not in the EO1 class, including those subject to EO2 whose parents are lawful permanent residents.

115. As with the EO1 Class, the EO2 Class satisfies the prerequisites of Rule 23(a) and the requirements of Rule 23(b)(2).

116. The EO2 Class satisfies the numerosity requirements of Fed. R. Civ. P. 23(a)(1) because the proposed class is so numerous that joinder of all members is impracticable. Relevant here, EO2 denies birthright citizenship to people born in the United States to parents who fall in any one of three different categories, and which individually and collectively contain sufficiently

numerous class members. In 2020 alone, for example, some 4,713 intending parents who are not U.S. residents utilized gestational surrogates in the United States. And the State Department “Office of Foreign Missions reports that the United States hosts more than 124,000 foreign mission members and dependents.” IFR at *18. Joinder is also impracticable because EO2 Class members are geographically dispersed across the country, and because membership in the EO2 Class will be constantly changing as more children are born every day under the conditions set forth in EO2.

117. The members of the EO2 Class are subject to a common practice, as required by Fed. R. Civ. P. 23(a)(2): the categorical denial of U.S. citizenship at birth under the terms of EO2. This suit also raises questions of law common to the proposed Class, including whether the Defendants’ attempt to create new exceptions to birthright citizenship violates the Citizenship Clause of the Fourteenth Amendment, 8 U.S.C. § 1401 *et seq.*, and the Administrative Procedure Act.

118. The EO2 Class meets the typicality requirements of Fed. R. Civ. P. 23(a)(3) because the claims of the EO2 Class Representative Plaintiffs are typical of the claims of the class. Each child and parent faces the same principal injury (denial of birthright citizenship), based on the same government practice (EO2’s categorical denial of citizenship), which is unlawful as to the entire class because it violates constitutional and statutory protections.

119. The EO2 Class meets the adequacy requirements of Fed. R. Civ. P. 23(a)(4). The EO2 Class Representative Plaintiffs seek the same relief as the other members of the class—among other things, a declaratory judgment that Defendants’ policy of denying birthright citizenship is unlawful and an injunction against that policy. In defending their rights, EO2 Class Representative Plaintiffs will defend the rights of all proposed class members fairly and adequately. The EO2

Class Representative Plaintiffs are members of the class, and their interests do not conflict with those of the other class members.

120. The EO2 Class is represented by the same experienced attorneys the Court determined were adequate as to the EO1 Class.

121. The extreme impacts of denial of citizenship are the same, whether under EO1, EO2, or any future executive effort to strip birthright citizenship.

SUPPLEMENTAL CLAIMS FOR RELIEF

FIFTH CLAIM FOR RELIEF Fourteenth Amendment to the United States Constitution (All Defendants)

122. All of the foregoing allegations, including in Plaintiffs' Complaint, are repeated and realleged as if fully set forth herein.

123. Like EO1, EO2 violates the Fourteenth Amendment's Citizenship Clause because it denies citizenship to the children of noncitizens who are born in the United States and subject to the jurisdiction of the United States.

124. Defendants are engaged in an ongoing, unlawful effort to carve out new exceptions to the Citizenship Clause that began with EO1 and continues with EO2. All actions that Defendants take to deny the rights, benefits, and privileges attendant on U.S. citizenship to people who would otherwise receive citizenship under the Clause are unlawful.

SIXTH CLAIM FOR RELIEF 8 U.S.C. § 1401 *et seq.* (All Defendants)

125. All of the foregoing allegations, including in Plaintiffs' Complaint, are repeated and realleged as if fully set forth herein.

126. Like EO1, EO2 violates 8 U.S.C. § 1401 *et seq.* because it denies citizenship to the children of noncitizens who are born in the United States and subject to the jurisdiction of the United States.

127. Defendants are engaged in an ongoing, unlawful effort to carve out new exceptions to 8 U.S.C. § 1401 that includes EO1 and EO2. All actions that Defendants take to deny the rights, benefits, and privileges attendant on U.S. citizenship to people who would otherwise receive citizenship under § 1401 are unlawful.

SEVENTH CLAIM FOR RELIEF
Administrative Procedure Act
(All Defendants except Defendant Trump)

128. All of the foregoing allegations, including in Plaintiffs' Complaint, are repeated and realleged as if fully set forth herein.

129. Like EO1, the actions of Defendants that are required or permitted by EO2, as set forth above, are contrary to constitutional right, power, privilege, or immunity, including rights protected by the Fourteenth Amendment to the U.S. Constitution, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(B).

130. Defendants are engaged in an ongoing, unlawful effort to carve out new exceptions to the Citizenship Clause that includes EO1 and EO2. All actions that Defendants take to deny the rights, benefits, and privileges attendant on U.S. citizenship to people who would otherwise receive citizenship under the Clause are unlawful.

EIGHTH CLAIM FOR RELIEF
Administrative Procedure Act
(All Defendants except Defendant Trump)

131. All of the foregoing allegations, including in Plaintiffs' Complaint, are repeated and realleged as if fully set forth herein.

132. Like EO1, the actions of Defendants that are required or permitted by EO2, as set forth above, violate 8 U.S.C. § 1401 *et seq.* and are in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C).

133. Defendants are engaged in an ongoing, unlawful effort to carve out new exceptions to 8 U.S.C. § 1401 that includes EO1 and EO2. All actions that Defendants take to deny the rights, benefits, and privileges attendant on U.S. citizenship to people who would otherwise receive citizenship under § 1401 are unlawful.

NINTH CLAIM FOR RELIEF
Notice and Comment
(All Defendants except Defendant Trump)

134. All of the foregoing allegations, including in Plaintiffs' Complaint, are repeated and realleged as if fully set forth herein.

135. The Administrative Procedure Act, 5 U.S.C. § 553, requires that agencies provide public notice of, and opportunity to comment on, legislative rules before their promulgation. *See* 5 U.S.C. §§ 553(b), (c).

136. The IFR and guidance Defendants have issued in connection with EO2 are legislative rules within the meaning of the APA.

137. Defendants issued the IFR and guidance without prior notice and an opportunity for comment as required by the APA.

138. To the extent that the IFR and guidance purport to deny citizenship to any person, no "foreign affairs function of the United States" is involved that would excuse notice and comment. 5 U.S.C. § 553(a). And to the extent the IFR and guidance purport to deny citizenship

to any person, there is no good cause to excuse notice and comment because “delay caused by notice and comment would do [no] real harm.” IFR at *15.

139. Defendants’ failure to provide for notice and comment violates 5 U.S.C. §§ 553(b) and (c), 706(2)(D).

SUPPLEMENTAL PRAYER FOR RELIEF

WHEREFORE Plaintiffs request that the Court grant the following relief:

- a. Certify this matter as a Class Action, appoint the EO2 Class Representative Plaintiffs as Class Representatives for the EO2 class, and appoint the Class Representative Plaintiffs’ Counsel as Class Counsel for the EO2 class;
- b. Declare that EO2 is unconstitutional and unlawful as to the EO2 class, and that Defendants may not deny or infringe on the citizenship of members of the EO1 or EO2 classes;
- c. Preliminarily and permanently enjoin Defendants from enforcing EO2, and from taking any actions to deny or infringe on the citizenship of members of the EO1 or EO2 classes;
- d. Vacate and set aside the IFR and all guidance or implementation documents Defendants issue in connection with EO2;
- e. Require Defendants to pay reasonable attorneys’ fees and costs;
- f. Grant any other and further relief that this Court may deem just and proper.

Dated: September 9, 2026

/s/ SangYeob Kim

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