



U.S. Department of Justice
Civil Division, Federal Programs Branch

Joshua Kolsky
Trial Attorney

Tel.: (202) 305-7664
E-mail: joshua.kolsky@usdoj.gov

September 13, 2019

Hon. George B. Daniels
United States District Court
Southern District of New York
500 Pearl Street, Room 1310
New York, NY 10007

Re: Request for Extension of Time to Respond to Plaintiffs' Motion for a Preliminary Injunction (*State of New York, et al. v. United States Department of Homeland Security, et al.*, No. 19-cv-7777)

Dear Judge Daniels,

I represent Defendants in the above-captioned matter. Plaintiffs in this matter, and plaintiffs in the companion matter,¹ filed Motions for a Preliminary Injunction ("PI Motions") on September 9, 2019. Defendants' Responses to the PI Motions are currently due on September 23, 2019, pursuant to S.D.N.Y. Local Rule 6.1(b).

Defendants respectfully request a modest one-week extension—to September 30, 2019—to file their Response to Plaintiffs' PI Motion in the above-captioned matter. There is good cause for the extension. First, Plaintiffs in this matter, and Plaintiffs in the companion matter, each filed 40-page PI Motions. Although the motions raise some similar issues, they differ in several important respects and each raises unique arguments. Defendants will thus have to address multiple complex issues of law and fact dispersed across 80 pages of briefing. In addition, Defendants are currently responding to four other preliminary injunction motions filed in similar cases pending in the Northern District of California and the Eastern District of Washington.² Oppositions to two such motions are due today and have occupied much of Defendants' counsel's time over the past two weeks. Another opposition is due on September 16, 2019 and another on September 20, 2019—just days before Defendants must respond to Plaintiffs' PI Motion under the current schedule.

¹ *Make the Road New York, et al. v. Cuccinelli, et al.*, No. 19-cv-7993.

² *California, et al. v. U.S. Dept. of Homeland Security, et al.*, No. 19-cv-4975 (N.D. Cal.); *San Francisco, et al. v. U.S. Citizenship and Immigration Services, et al.*, No. 19-cv-4717 (N.D. Cal.); *La Clinica de la Raza, et al. v. Trump, et al.*, Docket No. 19-cv-4980 (N.D. Cal.); *Washington, et al. v. U.S. Dept. of Homeland Security, et al.*, No. 19-cv-5210 (E.D. Wa.).

The requested extension, if granted, will allow Defendants to better address the issues raised in Plaintiffs' PI Motion, to the Court's benefit. Defendants have not previously sought an extension of time in the above-captioned matter. Pursuant to Your Honor's Rule II(C), Defendants have conferred with Plaintiffs, who oppose this request, citing the proximity of the current briefing schedule to the effective date of the Final Rule. That is a function, however, of *Plaintiffs'* decision to move for preliminary injunctive relief just weeks before the effective date. Specifically, Plaintiffs waited until September 9 to file their motion, almost a month after the Final Rule was issued. Notably, plaintiffs in the four other similar cases pending in other jurisdictions were all able to file their motions sooner than Plaintiffs here, specifically, they did so on August 26, August 28, September 4, and September 6. Plaintiffs' delay in seeking relief from this Court is no reason to deny adequate time to Defendants. If necessary to accommodate any scheduling concerns, the amount of time reserved for Plaintiffs' reply should be shortened.

Defendants will file a similar Motion in the companion case.

Respectfully submitted,

/s/

Joshua M. Kolsky

CC: All Counsel of record via ECF.