

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, CITY OF
NEW YORK, STATE OF
CONNECTICUT, and STATE OF
VERMONT,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; KEVIN K.
McALEENAN, *in his official capacity as
Acting Secretary of the United States
Department of Homeland Security*;
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES;
KENNETH T. CUCCINELLI II, *in his
official capacity as Acting Director of
United States Citizenship and
Immigration Services*; and UNITED
STATES OF AMERICA,

Defendants.

19 Civ. 7777 (GBD)

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

WHEREAS on September 9, 2019, the State of New York, the City of New York, the State of Connecticut, and the State of Vermont (the "State Plaintiffs") filed a Motion for Preliminary Injunction in Case No. 19-cv-7777 (GBD) (S.D.N.Y.) (the "State Action") to enjoin defendants from implementing or enforcing the Final Rule of the Department of Homeland Security titled "Inadmissibility on Public Charge Grounds," 84 Fed. Reg. 41,292 (the "Rule") pursuant to Federal Rule of Civil Procedure 65, or to postpone the effective date of the Rule pursuant to 5 U.S.C. § 705;

WHEREAS also on September 9, 2019, Make the Road New York, African Services Committee, Asian American Federation, Catholic Charities Community

Services, and Catholic Legal Immigration Network, Inc. (the “Organizational Plaintiffs,” and, together with the State Plaintiffs, “Plaintiffs”) similarly filed a Motion for Preliminary Injunction in Case No. 19-cv-7993 (GBD) (S.D.N.Y.) (the “Organizational Action,” and, together with the State Action, the “Actions”) to enjoin defendants from implementing or enforcing the Rule pursuant to Federal Rule of Civil Procedure 65, or to postpone the effective date of the Rule pursuant to 5 U.S.C. § 705 (together with the State Plaintiffs’ motion, the “Motions”);

WHEREAS on September 27, 2019, Ken Cuccinelli, United States Citizenship & Immigration Services, Kevin K. McAleenan, Department of Homeland Security, and the United States of America (as to the State Action only) (“Defendants”) submitted briefs in opposition to the Motions;

WHEREAS on October 4, 2019, Plaintiffs filed replies in further support of the Motions;

WHEREAS amici have filed briefs in support of or opposition to the Motions;

WHEREAS on October 7, 2019, this Court held a hearing on the Motions at which counsel for all parties presented oral argument;

WHEREAS this Court, having considered the Motion and the documents filed therewith, as well as all other papers filed in the Actions, and having heard oral arguments from the parties, finds good cause to grant Plaintiffs’ motion because:

- (1) Plaintiffs are likely to succeed on the merits of their claims under the Administrative Procedure Act, and, with respect to

the Organizational Plaintiffs, under the United States
Constitution;

- (2) Plaintiffs will suffer irreparable harm if the Rule becomes effective; and
- (3) The balance of equities and the interests of justice favor issuance of a preliminary injunction;

It is hereby ORDERED that, pursuant to Federal Rule of Civil Procedure 65(a), Defendants are RESTRAINED AND ENJOINED from:

- (1) Enforcing, applying or treating as effective, or allowing persons under their control to enforce, apply, or treat as effective, the Rule; and
- (2) Implementing, considering in connection with any application, or requiring the use of any new or updated forms whose submission would be required under the Rule, including the new Form I-944, titled “Declaration of Self Sufficiency”; and the updated Form I-485, titled “Application to Register Permanent Residence of Adjust Status”; and,

It is hereby FURTHER ORDERED that, pursuant to 5 U.S.C. § 705, the effective date of the Rule is POSTPONED *sine die* pending further Order of the Court such that, if this Order is later terminated and the Rule goes into effect, the Rule’s stated effective date of October 15, 2019, as well as any references in the Rule to October 15, 2019, including but not limited those contained in proposed 8 CFR §§ 212.20, 212.22(b)(4)(i)(E), 212.22(b)(4)(ii)(E)(1), 212.22(b)(4)(ii)(E)(2), 212.22(b)(4)(ii)(F),

212.22(c)(1)(ii), 212.22(d), 214.1, 248.1(a), and 248.1(c)(4), shall be deemed to be replaced with a date equal to sixty days after this Order is terminated.

IT IS SO ORDERED,

Hon. George B. Daniels, U.S.D.J.

Dated: New York, New York
October __, 2019