

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

CASA de Maryland, Inc., *et al.*

Plaintiffs,

v.

Donald J. Trump, in his official capacity as  
President of the United States, *et al.*

Defendants.

No. 8:19-cv-2715-PWG

**MOTION FOR STAY PENDING APPEAL**

Defendants respectfully request that the Court stay this matter until the U.S. Court of Appeals for the Fourth Circuit has resolved Defendants’ appeal of the Court’s October 14, 2019 Order preliminarily enjoining implementation of the Department of Homeland Security final rule, Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292 (Aug. 14, 2019) (the “Rule”). *See* Revised Order (ECF No. 68); Notice of Appeal (ECF No. 74).<sup>1</sup>

**INTRODUCTION**

On September 16, 2019, Plaintiffs brought suit against Defendants, asserting a number of claims against implementation of the Rule. Plaintiffs’ claims fall into four categories: (i) the Rule contravenes the Immigration and Nationality Act (“INA”), (ii) the Rule violates the Fifth Amendment under the equal-protection doctrine, (iii) the Rule violates the Fifth Amendment under the due-process doctrine, and (iv) the Rule is arbitrary and capricious. On September 16, 2019, Plaintiffs moved for a preliminary injunction based on the foregoing claims. *See* ECF No.

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<sup>1</sup> The Court authorized Defendants to file this motion in the Court’s November 18, 2019 Minute Order. *See* ECF No. 81. Therefore, Defendants did not file a pre-motion letter pursuant to the Court’s Letter Order Regarding the Filing of Motions, ECF No. 16.

6. The Court granted Plaintiffs' motion on October 14, 2019, issuing a preliminary injunction against implementation of the Rule. *See* ECF No. 65. Defendants have appealed the Court's preliminary injunction order, *see* ECF No. 74, and filed a motion to stay the Court's preliminary injunction pending appeal, *see* ECF No. 69. The Court denied the stay motion on November 14, 2019, *see* ECF No. 79. Defendants have sought a stay of the injunction before the U.S. Court of Appeals for the Fourth Circuit, and are currently scheduled to file their opening brief on December 16, 2019.

The decision on Defendants' appeal of the Court's preliminary injunction order will have implications for any subsequent briefing in this case. Because Plaintiffs will suffer no alleged harm from operation of the Rule in the meantime, due to this and other courts' preliminary injunctions, Defendants respectfully request that the Court stay proceedings in this case until the Fourth Circuit has rendered a decision in Defendants' appeal.

### **ARGUMENT**

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). A stay is especially appropriate “in cases of extraordinarily public moment.” *Id.* at 256. “In deciding whether to grant a stay, courts will “balance the various factors relevant to the expeditious and comprehensive disposition of the causes of action on the court's docket.” *Maryland v. Universal Elections, Inc.*, 729 F.3d 370, 375 (4th Cir. 2013) (quoting *United States v. Ga. Pac. Corp.*, 562 F.2d 294, 296 (4th Cir. 1977)). “The party seeking a stay must justify it by clear and convincing circumstances outweighing potential harm to the party against whom it is operative.” *Williford v. Armstrong World Indus., Inc.*, 715 F.2d 124, 127 (4th Cir. 1983). The district court “must

weigh competing interests and maintain an even balance.” *Id.* (quoting *Landis*, 299 U.S. at 254-55).

“Specifically, a district court should consider three factors: ‘(1) the interests of judicial economy; (2) hardship and equity to the moving party if the action is not stayed; [and,] (3) potential prejudice to the non-moving party.’” *Gibbs v. Plain Green LLC*, 331 F. Supp. 3d 518, 525 (E.D. Va. 2018) (quoting *Buzzell v. JP Morgan Chase Bank*, No. 3:13-CV-668, 2015 WL 5254768, at \*2 (E.D. Va. Sept. 9, 2015) (alterations in original)). Each factor counsels in favor of staying the proceedings here.

First, judicial economy is best served by staying a case that may be obviated, in whole or in part, by an impending ruling from an appellate court. For example, if the Fourth Circuit holds that Plaintiffs are not the appropriate parties to challenge the Rule, that could obviate the need to consider Plaintiffs’ claims altogether. If the Fourth Circuit agrees with Defendants that the Rule’s formulation of “public charge” is consistent with the historical meaning of the term, along with Congress’ clear intent in adopting and sustaining the public charge ground of inadmissibility, that conclusion would significantly undermine the merits of Plaintiffs’ claim that the Rule contravenes the INA—the only claim on which this Court found Plaintiffs likely to succeed. There can be no doubt that “resolution of these [issues] will guide the future of this litigation before this Court, narrow the issues, or potentially terminate this case [and it] is therefore in the interest of efficiency and judicial economy” to stay the summary judgment and trial proceedings. *Wilt v. Household Life Ins. Co.*, No. 2:14-cv-31400, 2015 WL 5501751, at \*2 (S.D. W.Va. Sept. 16, 2015).

Second, a stay would alleviate potentially undue hardships on Defendants, Plaintiffs, and the Court.<sup>2</sup> The parties are poised to engage in a months-long briefing process over Defendants' motion to dismiss Plaintiffs' forthcoming amended complaint. *See* Paperless Order (Nov. 18, 2019). Some or all of that briefing, and the Court's consideration of it, could be obviated by the Fourth Circuit's ruling.

Third, a stay of proceedings will not prejudice Plaintiffs. Four other courts have also issued injunctions that prevent enforcement of the Rule in Maryland. *See San Francisco v. USCIS*, Nos. 19-cv-04717, 19-cv-4975, 19-cv-4980 (N.D. Cal. Oct. 11, 2019), ECF No. 131; *New York v. DHS*, 19-cv-7777 (S.D.N.Y. Oct. 11, 2019), ECF No. 109; *Make the Road N.Y. v. Cuccinelli*, No. 1:19-cv-7993 (S.D.N.Y. Oct. 11, 2019), ECF No. 146; *Washington v. DHS*, 19-cv-5210 (E.D. Wa. Oct. 11, 2019), ECF No. 162. Thus, Plaintiffs need not fear any alleged harm from the Rule's operation during Defendants' appeal.<sup>3</sup> In a recent decision by another court in this district, even where Plaintiffs had been separated from their family members by operation of a presidential proclamation, the court nonetheless granted a stay to permit appellate review of the preliminary injunction. *IRAP v. Trump*, 323 F. Supp. 3d 726, 731 (D. Md. 2018) (collecting cases for the proposition that courts frequently "stay[] proceedings for reasons of judicial

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<sup>2</sup> Although Plaintiffs have not yet sought discovery outside the administrative record, any such request would only heighten the hardship to be avoided by a stay. The discovery process would consume a significant amount of resources from all parties. The Supreme Court has cautioned that "such inquiry into the mental processes of administrative decisionmakers is usually to be avoided." *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971). Even if the Court allowed only limited supplemental discovery, the requisite steps for any additional discovery—*e.g.*, negotiations over custodians, search terms, etc.—are costly and burdensome. Additional discovery disputes may arise throughout the process, requiring judicial intervention. A stay could ensure that the parties and the Court do not expend resources on discovery that may ultimately be rendered irrelevant by a decision from the Fourth Circuit.

<sup>3</sup> The Court has already denied Defendants' request for a stay of the injunction. If the Fourth Circuit issues a stay of the injunction, Plaintiffs could return to the Court and seek a lifting of the stay of the proceedings, and the parties could brief the issue in light of those new circumstances.

economy” when “the validity of a preliminary injunction [is] before the circuit court or the Supreme Court.”). That is all Defendants seek here.

For the foregoing reasons, Defendants respectfully request that the Court stay this case pending resolution of Defendants’ appeal from the Court’s entry of a preliminary injunction.

Dated: November 26, 2019

Respectfully submitted,

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