



**U.S. Department of Justice**  
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January 10, 2020

VIA CM/ECF

Patricia S. Connor, Clerk  
U.S. Court of Appeals for the Fourth Circuit  
1100 East Main Street, Suite 501  
Richmond, VA 23219

RE: *CASA de Maryland v. Trump*, No. 19-2222 (4th Cir.)

Dear Ms. Connor:

We write in response to plaintiffs' letter regarding the Second Circuit's recent denial of the government's motions for a stay of two nationwide injunctions against the Rule at issue here. The Second Circuit's decision ensures that the Rule at issue will not go into effect unless the Second Circuit issues a new order or the Supreme Court issues a stay.

Plaintiffs urge that en banc review is nonetheless warranted, disclaiming any reliance on "the degree of harm being suffered by the petitioning party" and instead urging that rehearing is needed because the "motions panel's order in this case threatens the uniformity of this Court's decisions by setting a precedent for the grant of stays that disrupt rather than preserve the status quo and in the absence of proof that a preliminary injunction irreparably harms the movant." Letter 1. The motions panel issued an unpublished summary order, which does not set "precedent," and the order certainly does not suggest that the panel was relieving the government of its obligation to demonstrate irreparable harm, as opposed to accepting the government's argument on that score. *See* Opp. to Pet. for Reh'g 6-8.

The government anticipates filing a motion for a stay in the Supreme Court. The likelihood that the Supreme Court will soon weigh in on the appropriateness of a stay further undermines plaintiffs' argument that en banc review is warranted at this time.

Sincerely,

s/ Daniel Tenny  
Daniel Tenny  
Attorney for the United States

cc (via CM/ECF): Counsel of Record