



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

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January 28, 2020

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 Complaint (*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. Defendants' response to Plaintiffs' complaint is currently due on January 31, 2020, and Defendants respectfully seek an extension of that deadline until after one week after the Court's ruling on Defendants' Motion to Stay Proceedings Pending Appeal, ECF No. 121. The Court previously granted an extension of the response date to December 9, 2019, ECF No. 115, and a second extension to January 31, 2020, ECF No. 124. I have conferred with Plaintiffs' counsel about the relief sought herein, who stated that Plaintiffs will oppose the request.

Good cause supports the requested extension. Defendants' Motion to Stay Proceedings Pending Appeal remains pending at the time of this request. If the Court grants Defendants' motion, it will be unnecessary for Defendants to respond until after the resolution of the Preliminary Injunction appeal, which is on an expedited briefing schedule and will be fully briefed as of February 14, 2020. *See* Order of USCA, ECF No. 132.¹ Because Defendants intend to file a motion to dismiss as opposed to an answer, the issues to be addressed may be different if that motion is filed after the resolution of the appeal. For the reasons stated in Defendants' pending motion, a stay of proceedings will be beneficial to the Court as well as to both parties, and extending the deadline for Defendants' motion to dismiss until the motion to stay is decided will be beneficial for the same reasons. Defendants submit that their proposed schedule is reasonable and not requested for the purpose of undue delay.

¹ On January 27, 2020, the Supreme Court stayed the nationwide injunction in this case. *Department of Homeland Security, et al. vs. State of New York, et al.*, 589 U.S. __ (2020). The stay of injunction does not impact the schedule for the appeal of the preliminary injunction before the Second Circuit.

If the Court denies this request, in the alternative Defendants respectfully request the Court to extend the deadline until one week from the date of the Court's order so that Defendants may prepare their responsive pleading.

For these reasons, Defendants respectfully request the Court order the relief sought herein.

Respectfully submitted,

/s/

Keri L. Berman

CC: All Counsel of record via ECF.