



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

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March 15, 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 to Postpone March 17, 2020, Oral Argument on Defendants' Motions to Dismiss in *New York v. U.S. Department of Homeland Security*, No. 19-7777, and *Make the Road New York v. Cuccinelli*, No. 19-7993, or to Conduct Proceedings Telephonically

Dear Judge Daniels:

I represent the defendants in the above-captioned cases. In light of the exigent circumstances associated with coronavirus disease 2019 (COVID-19), the Government requests that the Court postpone the oral argument on the defendants' motions to dismiss currently scheduled for March 17, 2020, at 10:30 a.m. In the alternative, the defendants request that the Court conduct the oral argument telephonically. The Government is making a similar request in *Make the Road New York v. Pompeo*, No. 19-11633, in which oral argument on the Government's motion to dismiss is set for the same time.

On March 13, 2020, Chief Judge McMahon of this Court entered a standing order, *In re Coronavirus/COVID-19 Pandemic*, No. 20-mc-154a (S.D.N.Y. Mar. 13, 2020), in which the Court cited interests of public health, reducing the size of public gatherings, and avoiding unnecessary travel, and provided that currently scheduled hearings and conferences would proceed at the discretion of individual judges.

On March 14, 2020, the White House Office of Management and Budget issued updated travel guidance recommending that federal agencies limit official travel to "mission-critical" travel. Office of Mgmt. & Budget, Exec. Office of the President, Updated Federal Travel Guidance in Response to Coronavirus, M-20-14 (Mar. 14, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-14-travel-guidance-OMB-1.pdf>. The guidance states in part, "Travel by any Federal employee to or within areas where there is community spread of COVID-19 should only be undertaken when there is an urgent need, such as to protect life and property."

If oral argument were to proceed as currently scheduled, the Government's principal counsel would need to travel from Washington, D.C., to New York. In light of these circumstances, the Government requests that the Court postpone the currently scheduled oral argument. In the alternative, the Government requests that the Court conduct the proceedings telephonically.

The defendants conferred with the plaintiffs about this request. The plaintiffs indicated that they oppose the Government's request to postpone oral argument but do not oppose the alternative request to conduct the proceedings telephonically.

Respectfully submitted,

/s/

Keri L. Berman

CC: All Counsel of record via ECF.