



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

Joshua Kolsky
Trial Attorney

Tel.: (202) 305-7664
E-mail: joshua.kolsky@usdoj.gov

August 10, 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 file answers in *State of New York, et al. v. United States Department of Homeland Security, et al.*, No. 19-cv-7777; *Make the Road New York v. Cuccinelli*, No. 19-7993 (S.D.N.Y.)

Dear Judge Daniels,

I represent Defendants in the above-referenced matters. On July 29, 2020, the Court entered a Memorandum Decision and Order, resolving Plaintiffs' motion for a preliminary injunction and Defendants' motions to dismiss. Under Rule 12(a)(4)(A) of the Federal Rules of Civil Procedure, Defendants' answer to Plaintiffs' complaints is due August 12, 2020. Defendants respectfully request that the Court extend the deadline for Defendants' answers by 47 days, to September 28, 2020.

Defendants require additional time to prepare their answers because Plaintiffs' complaints are extremely long. The complaint in *New York* contains 300 paragraphs, and many of those paragraphs are lengthy and contain multiple allegations. Likewise, the complaint in *Make the Road New York* is 115 pages long and contains 298 paragraphs. Defendants' answers must therefore respond to nearly 600 paragraphs of dense allegations. Moreover, Defendants' counsel are currently managing numerous other litigation commitments, including discovery in other cases challenging the public charge rule. Accordingly, Defendants respectfully request an extension of time until September 28, 2020 to file their answers in these cases.

I contacted Plaintiffs' counsel to ask Plaintiffs' position on the relief sought herein. Given that these two cases have been consolidated, I also requested that Plaintiffs agree to dispense with at least one of the answers in these cases. Plaintiffs insisted that Defendants prepare answers to both complaints.¹ Plaintiffs' counsel also stated as follows:

¹ When Plaintiffs moved to consolidate these cases, they stated that "[c]oordination will conserve substantial time and resources for the Court and the parties." Pls' Letter to the Ct. dated Feb. 14, 2020, *New York*, ECF No. 142. By insisting that Defendants file answers in both of the

Given (1) that Defendants have been in possession of Plaintiffs' complaint for nearly a year, (2) that Defendants have already answered a substantially similar complaint in the Northern District of Illinois, and (3) the substantial overlap between these complaints, Plaintiffs will consent to a 30 day extension. To the extent that Defendants seek leave from the Court for a longer extension, we request that you include the bases for our objection to an extension longer than 30 days and our request that if the Court grants any extension, it should not consider that extension as a basis to justify delay of discovery.

In these cases, Defendants previously requested an extension of time to respond to Plaintiffs' first motion for preliminary injunction, which the Court granted in part, *New York*, ECF No. 85, *Make the Road New York*, ECF No. 114. Defendants also filed three motions for extension of time to respond to the complaint, which the Court granted, *New York*, ECF Nos. 115, 124, 136, *Make the Road New York*, ECF Nos. 154, 161, 173.

Accordingly, Defendants respectfully request that the Court extend the time for filing of Defendants' answers.

Respectfully submitted,

/s/

Joshua Kolsky

CC: All Counsel of record via ECF.

consolidated cases, Plaintiffs are denying Defendants certain of the expected benefits of consolidation, and Plaintiffs should not be heard to complain about the time necessary to respond to both of Plaintiffs' prolix complaints.