



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

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February 19, 2020

Hon. George B. Daniels
United States District Court
Southern District of New York
500 Pearl Street, Room 1310
New York, NY 10007

Re: Presidential Action Pertinent to *New York v. U.S. Department of Homeland Security*, No. 19-7777, and *Make the Road New York v. Renaud*¹, No. 19-7993

Dear Judge Daniels:

We represent the parties in the above-captioned case. As Defendants reported previously, on February 2, 2021, the President issued an Executive Order addressing issues pertinent to this action, titled Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans. The Executive Order directs heads of relevant agencies, including the Secretary of Homeland Security, to review agency actions related to implementation of the public charge ground of inadmissibility, 8 U.S.C. § 1182(a)(4)(A), in light of the policy set forth in the Executive Order and certain other considerations. The order gives the Secretary of Homeland Security 60 days, or until April 3, 2021, to report any appropriate agency actions that can be taken, or have been taken, to address concerns about the current public charge policies' effect on the integrity of the Nation's immigration system and public health. In Defendants' prior letter, Defendants proposed filing a joint status report by February 19, after conferring with Plaintiffs about the Executive Order.

Defendants report that, pursuant to the Executive Order, the Department of Homeland Security is currently reviewing the rule that is the subject of this lawsuit. In Defendants' view a time-limited stay of this litigation would be appropriate to allow Defendants to direct their resources toward reviewing the Rule within the period required by the Executive Order.

In view of the fact that the challenged public charge rule remains in effect, and the harm to Plaintiffs that this Court has found is continuing, Plaintiffs believe that the litigation should

¹ Tracy Renaud, Senior Official Performing the Duties of the Director of USCIS, is substituted as defendant under Rule 25(d) of the Federal Rules of Civil Procedure.

move forward at this time. Plaintiffs accordingly oppose any stay of the litigation pending the agency review process called for by the President's Executive Order. In that regard, Plaintiffs are available at the Court's convenience if the Court wishes to hear argument on the parties' pending motions for partial summary judgment and to dismiss plaintiff's claims under the Federal Vacancies Reform Act and the Administrative Procedure Act.

The parties will promptly notify the Court of any decisions arising from Defendants' review of the Rule that may impact this litigation.

Respectfully submitted,

/s/

Keri L. Berman

CC: All Counsel of record via ECF.