

May 21, 2021

Hon. Ona T. Wang  
United States Magistrate Judge  
United States District Court  
Southern District of New York  
500 Pearl St., Courtroom 20D  
New York, NY 10007

RE: *Make the Road New York, et al. v. Tracy Renaud, et al.*, 19-cv-7993 (“MRNY”);  
*State of New York, et al. v. U.S. Dep’t of Homeland Security, et al.*, 19-cv-7777  
 (“*State of New York*”)

Dear Judge Wang:

Pursuant to the Court’s April 29, 2021 Order, MRNY ECF No. 313; *State of New York* ECF No. 291, the parties, by and through their respective counsel, hereby submit this joint status letter.

On February 19, 2021, the parties filed a joint letter in which defendants requested a “time-limited stay” of this litigation. MRNY ECF No. 297; *State of New York* ECF No. 275. On February 22, the Court ordered that “Defendants’ request that this Court enter a stay of proceedings in this action will be granted for up to 90 days, upon agreement that no agency action will be taken during that period of time to enforce or apply the public charge rule.” MRNY ECF No. 298; *State of New York* ECF No. 276. On March 10, defendants notified the Court that the public charge rule<sup>1</sup> (the “Rule”) would no longer be enforced or applied and that the Court’s condition for entering a stay had been met. MRNY ECF No. 305; *State of New York* ECF No. 283. On March 11, the Court granted defendants’ request for a stay but did not specify whether the stay was indefinite or 90 days in duration. MRNY ECF No. 308; *State of New York* ECF No. 286. Thus, these consolidated actions are currently stayed.

If the stay is time-limited and is therefore set to expire on June 9, 2021, the parties request that the Court extend the stay for 60 days, i.e., until August 8, 2021, and direct the parties to file a joint status letter by July 25, 2021 to update the Court and, if warranted, request a further extension of the stay. Extending the stay until August 8 is warranted given the ongoing proceedings discussed below. If the stay is presently indefinite, the parties request that the Court direct them to file a joint status letter by July 25, 2021 to update the Court about the ongoing proceedings described below.

The parties also provide the following updates regarding developments in related cases challenging the Rule.

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<sup>1</sup> Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019).

Ninth Circuit

On April 8, 2021, the Ninth Circuit denied a motion filed by several States, led by Arizona, seeking to intervene in order to defend the Rule and argue in favor of its validity. *City & County of S.F., et al v. USCIS, et al*, 19-17213, ECF No. 157. On April 30, those States filed a motion in the Supreme Court requesting leave to intervene and file a petition for a writ of certiorari to the Ninth Circuit. *Arizona, et al., Petitioners v. City and County of San Francisco, California, et al.*, No. 20M81. On May 17, the plaintiffs and defendants in the Ninth Circuit proceeding each filed briefs opposing the motion to intervene. The motion remains pending.

Seventh Circuit

On April 26, 2021, the Supreme Court denied a motion filed by several States, led by Texas, seeking to intervene in litigation challenging the Rule and to stay a district court's judgment vacating the Rule. *Texas, et al., Applicants v. Cook County, Illinois, et al.*, No. 20A150. The Supreme Court's order was without prejudice to those States "raising these and other arguments before the District Court, whether in a motion for intervention or otherwise." *Id.* On May 12, 2021, the same States filed in the U.S. District Court for the Northern District of Illinois (i) a motion to intervene, (ii) an "answer in intervention" to the allegations in the operative complaint, and (iii) a motion for relief from the court's grant of partial summary judgment in favor of plaintiffs pursuant to Fed. R. Civ. P. 60(b). *Cook County, Illinois et al v. Wolf et al*, 1:19-cv-06334 ("Cook County"). *Cook County* ECF Nos. 256, 258, 259. The motions remain pending, and a hearing on the motions is scheduled to take place on July 9, 2021.

Dated: New York, New York  
May 21, 2021

Respectfully,

By: /s/ Jonathan H. Hurwitz

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