

November 17, 2021

Hon. Ona T. Wang
United States Magistrate Judge
United States Courthouse
Southern District of New York
500 Pearl St., Courtroom 20D
New York, NY 10007-1312

Re: *State of New York, et al. v. U.S. Department of Homeland Security, et al.*, 19 Civ. 7777 (GBD) (OTW) (“*State of New York*”); *Make the Road New York, et al. v. Tracy Renaud, et al.*, No. 19-cv-7993 (GBD)(OTW) (“*MRNY*”)

Dear Judge Wang,

Pursuant to the Court’s August 23, 2021 Order, *State of New York* ECF No. 305, *MRNY* ECF No. 326, the parties, by and through their respective counsel, hereby submit this joint status letter.

On March 10, 2021, defendants notified the Court that the public charge rule¹ (the “Rule”) would no longer be enforced or applied. *State of New York* ECF No. 283, *MRNY* ECF No. 305. On March 11, the Court granted defendants’ request for a stay. *State of New York* ECF No. 286, *MRNY* ECF No. 308. On May 21, 2021, the parties submitted a joint status letter requesting an extension of the stay given the ongoing proceedings related to the Rule in the Ninth Circuit and the Seventh Circuit. *State of New York* ECF No. 296, *MRNY* ECF No. 317. On May 24, the Court extended the stay until August 23, 2021. *State of New York* ECF No. 298, *MRNY* ECF No. 319. On August 18, 2021, the parties submitted a joint status letter again requesting an extension of the stay given the ongoing proceedings related to the Rule, *State of New York* ECF No. 304, *MRNY* ECF No. 325, and the Court extended the stay until November 22, 2021, *State of New York* ECF No. 305, *MRNY* ECF No. 326. Thus, these consolidated actions are currently stayed.

The parties request that the Court further extend the stay for 120 days, i.e. until March 22, 2022, and direct the parties to file a joint status letter by March 16, 2022 to update the Court, and, if warranted, request a further extension of the stay. Extending the stay until March 22 is warranted given the ongoing proceedings discussed below.

Ninth Circuit

On June 18, 2021, several States, led by Arizona, filed a petition for a writ of certiorari in the Supreme Court with respect to the Ninth Circuit’s denial of their motion for leave to intervene to defend the Rule and argue in favor of its validity. *Arizona, et al., Petitioners v. City and County of San Francisco, et al.*, No. 20-1775. On October 29, 2021, the Supreme Court granted certiorari limited to Question 1 presented by the petition—i.e. “[w]hether States with interests should be permitted to intervene to defend a rule when the United States ceases to

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

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defend.” Per Supreme Court Rule 25, Petitioners’ brief is due December 13, 2021, Respondents’ brief is due January 12, 2022, and Petitioners’ reply brief is due on February 11, 2022. Oral argument will likely be held in March 2022, and a decision will likely be issued by late June 2022.

Seventh Circuit

On July 22, 2021, the U.S. District Court for the Northern District of Illinois held a hearing on the motions of several States, led by Texas, (i) to intervene in litigation challenging the Rule, and (ii) 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.*, 19-cv-6334 (“*Cook County*”). *Cook County* ECF No. 280. On August 17, 2021, the Court denied the motions. *Cook County* ECF Nos. 284, 285.

On August 20, 2021, the purported intervenors filed an appeal of the decision to the Seventh Circuit. *Cook County* ECF Nos. 284, 285. Appellants filed their opening brief on November 3, 2021. *Cook County, Illinois, et al. v. State of Texas, et al.*, No. 21-2561. Appellees’ responses are due on December 3, 2021, and Appellants’ reply is due on December 27, 2021.

Respectfully submitted,

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