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16 **UNITED STATES DISTRICT COURT
17 EASTERN DISTRICT OF WASHINGTON
18 AT SPOKANE**

19 STATE OF WASHINGTON, et al.,

20 NO. 4:19-cv-05210-RMP

21 Plaintiffs,

22 PLAINTIFF STATES'
OPPOSITION TO DEFENDANTS'
MOTION FOR EXPEDITED
HEARING

v.

UNITED STATES DEPARTMENT
OF HOMELAND SECURITY, a
federal agency, et al.

NOTED FOR: November 8, 2019
Without Oral Argument

Defendants.

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I. INTRODUCTION

2 Defendants' one-paragraph motion to expedite (ECF No. 173) fails to cite
3 the relevant standard and does not establish good cause for expedited treatment
4 of Defendants' motion to stay this Court's October 11 Order. In addition to this
5 Court, four other federal district courts have issued similar injunctions preventing
6 the Rule from taking effect, with each court independently concluding the
7 plaintiffs were likely to succeed on the merits and would suffer irreparable harm
8 if the Rule were implemented. Although Defendants argue they will be
9 irreparably harmed without expedited treatment, their argument is at odds with
10 their failure to request similarly expedited treatment in other cases involving
11 injunctions of the Rule. In light of the other injunctions, not only will Defendants
12 not be irreparably harmed by denial of expedition, but expedition will not hasten
13 any change in their ability to enforce the Rule. Further, Defendants' vague and
14 superficial claim they will be irreparably harmed from being unable to implement
15 a rule that never took effect in the first place fails to establish good cause.
16 Defendants' request for expedited treatment is also undermined by their own
17 two-week delay in filing a motion to stay and their still further delay in filing a
18 one-paragraph motion for expedited treatment.

19 While Defendants' motion to stay lacks merit, it is nevertheless an
20 important request that should be briefed and considered with care—indeed, it is
21 important enough that Defendants requested additional pages to brief it. This

1 Court's ruling on the motion will become a part of the record on appeal, and it
 2 should not be artificially or needlessly rushed. Defendants' motion to expedite
 3 should be denied.

4 **II. BACKGROUND**

5 On October 11, this Court issued an Order Granting the Plaintiff States'
 6 Motion for Section 705 Stay and Preliminary Injunction. ECF No. 162. Two
 7 weeks later, on October 25, the Defendants filed a motion to stay the Court's
 8 order pending appeal. ECF No. 169. Defendants requested additional pages to
 9 brief the motion, a request which the Plaintiff States consented to and which the
 10 Court granted. ECF Nos. 168 and 171. Pursuant to Local Civil Rule 7(i)(2)(A),
 11 Defendants noted their motion to stay for hearing on November 25. *Id.* Five days
 12 later, on October 30, Defendants filed a motion to expedite consideration of their
 13 motion to stay, requesting that the Court advance the hearing date for the motion
 14 to stay to November 8. ECF No. 173. Defendants claimed they would suffer
 15 irreparable harm if the Court's Order were not stayed "as soon as reasonably
 16 possible" "pending [their] appeal to the Ninth Circuit Court of Appeals." *Id.* Later
 17 that same day, Defendants filed a Notice of Appeal. ECF No. 174.

18 In addition to this Court's Order, four other federal district courts have
 19 independently issued similar orders preventing the Rule from taking effect, with
 20 two courts issuing nationwide stays and injunctions and two courts issuing more
 21 limited injunctive relief. *See State of New York v. U.S. Dep't of Homeland Sec.,*
 22

1 Case No. 19-7777, Dkt. No. 110 (S.D.N.Y. Oct. 11, 2019) (“[T]his Court grants
 2 a nationwide injunction, as well as a stay postponing the effective date of the
 3 Rule pending a final ruling on the merits, or further order of the Court.”); *Casa*
 4 *De Maryland, Inc. v. Trump*, Case No. 19-2715, Dkt. No. 65 (D. Md. Oct. 14,
 5 2019) (“DHS is enjoined from enforcing the Public Charge Rule and the effective
 6 date of the Rule is postponed on a nationwide basis during the pendency of this
 7 case.”); *California v. U.S. Dep’t of Homeland Sec.*, Case No. 19-4975, Dkt. No.
 8 120 (N.D. Cal. Oct. 11, 2019) (enjoining the Rule from taking effect in
 9 “California, Oregon, the District of Columbia, Maine, [and] Pennsylvania); *Cook*
 10 *County v. McAleenan*, Case No. 19-6334, Dkt. No. 86 (N.D. Ill. Oct. 14, 2019)
 11 (holding plaintiffs had satisfied all requirements for a preliminary injunction and
 12 prohibiting Defendants from implementing the Rule “in the State of Illinois”). In
 13 each case, the courts found the respective plaintiffs were likely to succeed on the
 14 merits and would suffer irreparable harm if the Rule were allowed to take effect.

15 **III. ARGUMENT**

16 Local Civil Rule 7(i)(2)(C) provides that the Court may grant expedited
 17 hearing of a matter upon a showing of “good cause.” Here, the Court’s ruling on
 18 Defendants’ Motion to Stay will be made a part of the record on appeal, and
 19 Defendants have failed to demonstrate any good cause to justify artificially
 20 rushing that decision.

1 **A. Defendants Have Not Filed Requests to Expedite Consideration of**
2 **Similar Motions to Stay in Related Cases**

3 Defendants argue their motion to stay must be considered on an expedited
4 basis to avoid irreparable harm, but the argument is at odds with their failure to
5 seek similarly expedited treatment in other cases where courts have issued
6 injunctions and stays of the Rule. For example, in cases filed in the Northern
7 District of California by a combination of states, cities, counties, and private
8 parties, the presiding court granted the plaintiffs' requests to stay the Rule and
9 enjoined Defendants from implementing it. *See California v. U.S. Dep't of*
10 *Homeland Sec.*, Case No. 19-4975, Dkt. No. 120 (N.D. Cal. Oct. 11, 2019)
11 (preventing the Rule from taking effect in "California, Oregon, the District of
12 Columbia, Maine, [and] Pennsylvania); *City & County of San Francisco v. U.S.*
13 *Citizenship & Immigration Servs.*, Case No. 19-4717, Dkt. No. 115 (N.D. Cal.
14 Oct. 11, 2019) (same). Defendants filed motions to stay those orders pending
15 appeal, and the motions are currently set for hearing on December 4, 2019—more
16 than a week *after* the current noting date for Defendants' motion in the instant
17 case. *See California v. U.S. Dep't of Homeland Sec.*, Case No. 19-4975, Dkt. No.
18 125 (N.D. Cal. Oct. 25, 2019) (Motion filed 10/25; Response due 11/8; Reply
19 due 11/15; Hearing date 12/4); *City & County of San Francisco v. U.S.*
20 *Citizenship & Immigration Servs.*, Case No. 19-4717, Dkt. No. 120 (N.D. Cal.
21 Oct. 25, 2019) (same). As of today's date, however, Defendants have not filed
22 any motions seeking expedited treatment for the motions to stay the injunctions

1 in those cases. *See id.*¹ Given their failure to seek expedited review of other
 2 injunctions also preventing the Rule from taking effect, Defendants' assertions
 3 here of urgency and potentially irreparable harm are demonstrably false.

4 **B. Defendants Have Failed to Allege Any Potential Harm Justifying
 5 Expedited Treatment**

6 Defendants' one-paragraph Motion to Expedite does not go into detail
 7 about the reasons why such treatment is necessary. Instead, Defendants simply
 8 refer to their Motion to Stay, in which they allege they will suffer irreparable
 9 harm if the injunction is not lifted "as soon as reasonably possible" because (1)
 10 they will have to continue processing applications for adjustment of status
 11 consistent with the longstanding, historical framework already in place for many
 12 years; and (2) they might later have to re-hire some unspecified number of
 13 contract employees to perform data entry tasks. *See* ECF No. 169 at 9–11. Neither
 14 allegation rises anywhere near the level of good cause, however, particularly
 15 where *five* separate federal district courts have now independently ruled the

17 ¹ *See also State of New York v. U.S. Dep't of Homeland Sec.*, Case No. 19-
 18 7777, Dkt. Nos. 111, 112 (S.D.N.Y. Oct. 25, 2019) (under local rules, response
 19 to motion to stay due 11/8; reply due 11/15; no motion to shorten time or expedite
 20 filed); *Casa De Maryland v. Trump*, Case No. 19-2715, Dkt. Nos. 69, 73 (D. Ma.
 21 Oct. 25 and 30, 2019) (response to motion to stay due 11/8; reply due 11/15; no
 22 motion to shorten time or expedite filed).

1 Defendants are unlikely to prevail on the merits and that the plaintiffs in each
2 case will suffer irreparable harm from the Rule's implementation. *See supra* at 2.

3 **IV. CONCLUSION**

4 For the foregoing reasons, the Plaintiff States respectfully request that
5 Defendants' Motion to Expedite be denied.

6 **RESPECTFULLY SUBMITTED** this 6th day of November, 2019.

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 6th day of November, 2019, at Seattle, Washington.

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