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January 28, 2020

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

Re: *Make the Road New York, et al. v. Kenneth Cuccinelli, et al.*, No. 19-cv-7993 (GBD) (“MRNY”); *State of New York, et al. v. U.S. Dep’t of Homeland Security, et al.*, 19-cv-7777 (GBD) (“State of New York”)

Dear Judge Daniels:

Plaintiffs in these matters respectfully submit this letter in opposition to defendants’ third Request for Extension of Time to Respond to Complaint, *MRNY* Dkt. 170; *State of New York* Dkt. 133.¹ Contrary to defendants’ contention that “a stay of proceedings will be beneficial to . . . both parties,” *id.* at 1, any further delay will severely prejudice the interests of plaintiffs and the public in resolving this matter expeditiously.

In granting plaintiffs’ preliminary injunction motions, the Court found that plaintiffs and the public will suffer irreparable harm if the Rule is implemented. *MRNY* Op. at 21–22, Dkt. 147; *State of New York* Op. at 19–20, Dkt. 110. While the Supreme Court yesterday stayed this Court’s preliminary injunction, *Dep’t of Homeland Security v. New York*, __ S.Ct. __, 2020 WL 413786 (Mem.) (Jan. 27, 2020), there remains no serious dispute that the Rule will result in substantial and irreparable harm to plaintiffs and the public. Each day that passes without an adjudication of this matter on the merits magnifies this ultimate harm.

For the same reasons, plaintiffs oppose defendants’ alternative request that the Court extend the deadline to respond until one week from the date of the Court’s order. *MRNY* Dkt. 170 at 2; *State of New York* Dkt. 133 at 2. The complaints in these matters were filed five months ago. As defendants acknowledge, the current deadline to respond to those complaints was set nearly eight weeks ago, as a result of defendants’ previous request to extend an earlier deadline. Plaintiffs respectfully submit that a final adjudication should not be further delayed.

¹ The Court previously granted an extension of the response date to December 9, 2019, *MRNY* Dkt. 154; *State of New York* Dkt. 115, and a second extension to January 31, 2020, *MRNY* Dkt. 161; *State of New York* Dkt. 124.

As a final note, on December 6, 2019, plaintiffs submitted a letter motion to the Court requesting a pre-motion conference pursuant to Local Rule 37.2. *MRNY* Dkt. 162; *State of New York* Dkt. 125. Regardless of whether the Court grants defendants' request for an extension of time to respond, plaintiffs respectfully renew their request for such a conference. As described in the December 6 letter, plaintiffs are entitled to discovery to support their allegation that the Rule is motivated by animus against nonwhite immigrants in violation of the Equal Protection guarantee of the Fifth Amendment. Plaintiffs may also seek to raise at that conference issues related to the completeness of the administrative record.

Respectfully submitted,

By: /s/ Jonathan H. Hurwitz

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cc: All Counsel of record via ECF