

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COOK COUNTY, ILLINOIS et al.,

Plaintiffs,

v.

No. 1:19-cv-06334

CHAD F. WOLFE, et al.,

Defendants.

STATE INTERVENORS' ANSWER IN INTERVENTION

Under Rule 24(c) of the Federal Rules of Civil Procedure, the States of Texas, Alabama, Arizona, Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, Ohio, Oklahoma, South Carolina, and West Virginia (the “State Intervenors”) respectfully submit this Answer in Intervention to Plaintiffs’ Complaint.

1. This paragraph contains an allegation purporting to describe or quote from an external source, which speaks for itself. The remainder of this paragraph contains legal conclusions to which no response is necessary. To the extent that a response is required, such allegations are denied.

2. State Intervenors admit that DHS promulgated a rule titled Inadmissibility on Public Charge Grounds, set forth in 84 Fed. Reg. 41292 (Aug. 14, 2019) (hereinafter, the “Final Rule”). State Intervenors deny that the Final Rule will undermine our national identity and discriminate against racial minorities and people with disabilities. State Intervenors deny that the Final Rule “radically changes” any long-settled understanding of the term “public charge.” The remaining allegations in this paragraph contain legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

3. Denied.

4. Denied.

5. State Intervenors lack sufficient knowledge or information to form a belief about the truth of whether the Final Rule will necessarily have a chilling effect upon immigrant communities or cause individuals to forgo critical public benefits. State Intervenors deny that the Final Rule will cause devastating, irreparable harm to children, families, and public health in Cook County and throughout Illinois. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent a response is required, such allegations are denied.

6. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations set forth in this paragraph.

7. Denied.

8. The allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

9. State Intervenors deny that Defendants have engaged in unlawful and/or discriminatory conduct. State Intervenors lack sufficient knowledge or information to form a belief about the truth the remaining allegations set forth in this paragraph.

10. Admitted.

11. Admitted.

12. Admitted.

13. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations set forth in this paragraph.

14. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations set forth in this paragraph.

15. State Intervenors admit that when this lawsuit was filed, Kevin K. McAleenan was the Acting Secretary of Homeland Security. State Intervenors admit that in his capacity as the Acting Secretary of Homeland Security, McAleenan issued the Final Rule. The remaining

allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

16. State Intervenors admit that the United States Department of Homeland Security is a cabinet-level department of the United States federal government. State Intervenors admit that DHS is comprised of many components, which include without limitation U.S. Citizenship and Immigration Services (“USCIS”), U.S. Customs and Border Protection (“CBP”), and U.S. Immigration and Customs Enforcement (“ICE”).

17. State Intervenors admit that, when the lawsuit was filed, Kenneth T. Cuccinelli was the Acting Director of USCIS. The remaining allegation in this paragraph is a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

18. State Intervenors admit that USCIS is a component of DHS. State Intervenors further admit that USCIS is primarily responsible for adjudicating requests for immigration benefits, including without limitation applications for adjustment of status to that of a lawful permanent resident, and applications and petitions to extend or change nonimmigrant status. State Intervenors deny that USCIS adjudicates immigrant and nonimmigrant visas, and they deny all other allegations in this paragraph.

19. State Intervenors deny that the Final Rule was instituted in an attempt to deter immigrants, particularly those from majority non-white countries, from gaining admission to the U.S. and from seeking help to assure their families’ basic health, nutrition, and housing needs are met. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

20. Admitted.

21. The allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

22. Denied.

23. State Intervenors admit that the term “public charge” first appeared in federal immigration law in the 1882 Immigration Act in a provision that barred admission to “any convict,

lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge.” State Intervenors deny the remaining allegations in this paragraph.

24. This paragraph purports to quote from a statute, which speaks for itself.

25. State Intervenors admit that Congress amended the Immigration Act of 1907 in 1910 and maintained the use of the term “public charge.” State Intervenors deny that these statutes consistently affirmed a prevailing understanding of a public charge as someone who needed to rely primarily and permanently on the government to live and was unable to work, i.e., someone who is a charge of the public.

26. This paragraph purports to characterize the Supreme Court’s decision in *Gegiow v. Uhl*, 239 U.S. 3 (1915), which speaks for itself. To the extent a response is required, State Intervenors deny this paragraph’s characterization of *Gegiow v. Uhl*.

27. This paragraph purports to characterize the Supreme Court’s decision in *Gegiow v. Uhl*, which speaks for itself. To the extent a response is required, State Intervenors deny this paragraph’s characterization of *Gegiow v. Uhl*. The remaining allegations in this paragraph consists of an abstract characterization to which no response is required.

28. State Intervenors agree that in 1952, Congress passed the INA, which includes a provision identifying public charge as a ground of inadmissibility. The remainder of the paragraph quotes from a statutory provision which speaks for itself.

29. State Intervenors admit the allegations in sentence 1 of this paragraph. State Intervenors deny that the long-standing legal definition of public charge is someone primarily and permanently dependent on government resources. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

30. State Intervenors deny that Congress has consistently affirmed a narrow meaning of public charge, or that Congress has consistently maintained the same public charge “test.” The remainder of this paragraph purports to describe certain historical statutes, which speak for themselves.

31. This paragraph purports to describe a piece of legislation proposed in 1996, the Immigration Control and Financial Responsibility Act (“ICFRA”), which speaks for itself. State Intervenors admit that the ICFRA was not enacted. To the extent that this paragraph characterizes the ICFRA, or assert the existence of a supposedly well-established the meaning of “public charge,” this paragraph if denied.

32. This paragraph purports to describe the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), and a statement by Senator Kyl reflecting certain legislative history, both of which speak for themselves. State Intervenors deny that either of these sources reflect Congress’ intent that a person should not be considered a public charge simply because he or she uses public benefits.

33. This paragraph purports to quote from and describe a report of the Judiciary Committee concerning a proposed amendment to the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, which speaks for itself. To the extent that this paragraph characterizes a supposedly pre-existing statutory or otherwise well-established definition of “public charge,” State Intervenors deny this allegation.

34. State Intervenors admit that certain federal agencies and divisions responsible for implementing federal immigration law have previously issued guidance concerning the term “public charge.” Certain allegations in this paragraph purport to quote from a prior INS regulation, which speaks for itself. The remaining allegation in this paragraph consists of a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

35. This paragraph purports to describe and quote from the Department of State’s Foreign Affairs Manual, which speaks for itself.

36. This paragraph purports to quote from an INS memorandum, which speaks for itself.

37. State Intervenors deny that federal agencies have expressly acknowledged that federal law presumes that all individuals can and will find work upon entry into the United States.

The remainder of this paragraph purports to quote from a State Department publication, which speaks for itself.

38. This paragraph purports to quote from two Board of Immigration Appeals decisions, and a written submission from then-Attorney General Robert F. Kennedy, all of which speak for themselves. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

39. This paragraph purports to quote from a regulation, which speaks for itself. Additionally, the allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

40. This paragraph purports to quote from a U.S. Department of Justice regulation, which speaks for itself.

41. State Intervenors deny that there was or is an “understanding” that a public charge is a person permanently and primarily dependent on the government for survival.

42. State Intervenors admit that in 1996, Congress passed the PRWORA. The remaining allegations in this paragraph purport to describe the PRWORA statutory language, which speaks for itself.

43. This paragraph purports to describe the Farm Security and Rural Investment Act of 2002, which speaks for itself. State Intervenors admit that Congress has taken certain steps to ensure that certain immigrant households have access to food and nutrition programs.

44. This paragraph purports to describe the Children’s Health Insurance Program Reauthorization Bill, which speaks for itself.

45. State Intervenors deny that there is an established statutory meaning of “public charge” that Congress declined to alter. State Intervenors deny that there has been an understanding that any particular benefits, including the benefits referenced in paragraphs 42–44, are not included in the auspices of the term “public charge.” The remaining allegations in this paragraph purport to describe certain proposed Congressional bills, which speak for themselves.

46. State Intervenors admit that in 1999, INS proposed a rule and issued field guidance. The remaining allegations in this paragraph purport to describe and quote from an INS notice of proposed rulemaking and subsequent regulation, both of which speak for themselves.

47. This paragraph purports to describe and quote from INS Field Guidance and a 1999 Notice of Proposed Rulemaking, both of which speak for themselves. To the extent that this paragraph implies that the term “public charge” had an accepted, pre-existing definition, State Intervenors deny this allegation.

48. This paragraph purports to describe and quote from a 1999 NPRM, which speaks for itself. State Intervenors deny that this NPRM has “guided DOJ—and later, DHS—policy ever since,” as the Final Rule has diverged from this guidance.

49. This paragraph purports to describe and quote from a DOJ Public Charge Fact Sheet, which speaks for itself.

50. Denied.

51. Admitted.

52. State Intervenors admit that more than 250,000 comments were submitted in response to the Proposed Rule. The remaining allegations in this paragraph purport to quote from and describe the Final Rule and public comments submitted in response to the Final Rule’s preceding notice of proposed rulemaking, all of which speak for themselves.

53. This paragraph purports to describe certain comments submitted in response to the Rule’s preceding notice of proposed rulemaking, which speak for themselves.

54. State Intervenors admit that on August 14, 2019, DHS published the Final Rule in the Federal Register. State Intervenors deny that the Final Rule expands the definition of public charge so radically and unreasonably that approximately one-third of all U.S. born citizens would necessarily be deemed a public charge. The remaining allegations in this paragraph purport to describe and quote from the Final Rule, which speaks for itself.

55. This paragraph purports to describe and/or quote from the Final Rule, which speaks for itself.

56. State Intervenors deny that there is any long-established and narrow definition of “public charge,” and that Congress clearly intended that a person is a public charge only if he or she is primarily, and permanently, dependent on government support for subsistence. This paragraph also purports to quote from the Final Rule, which speaks for itself. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

57. This paragraph purports to describe the Final Rule, which speaks for itself.

58. State Intervenors deny that DHS offers no evidence that limited use of public benefits indicates long-term dependence, that is, whether the recipient will likely become a charge of the public. The remaining allegation in this paragraph consists of a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

59. This paragraph purports to describe and quote from the Final Rule and the Field Guidance, both of which speak for themselves.

60. State Intervenors admit that Congress has previously considered changing the statutory definition of public-charge inadmissibility to consider non-cash benefits like SNAP, Medicaid, and housing assistance, but denies that its failure to do so conveys Congress’s understanding that a statutory change would be necessary for a different construction of “public charge.” State Intervenors deny that the Final Rule “radically revises” the immigration laws, or that the term “public charge” has any “plain meaning” in the statute Congress enacted. The remainder of this paragraph consists of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

61. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

62. State Intervenors deny that the Final Rule dictates that certain specific factors be afforded “great, functionally prescriptive weight” and that there is a “statutory mandate of a totality of the circumstances analysis.” The remainder of this paragraph purports to describe and quote from the Final Rule, which speaks for itself.

63. This paragraph purports to describe the Final Rule, which speaks for itself.

64. This paragraph purports to describe the Final Rule, which speaks for itself.

65. State Intervenors deny that, all combined, the weighted factors in the Final Rule will create a web of complexities that in many cases will lead to inconsistent and arbitrary enforcement. The remaining allegations in this paragraph purport to describe the Final Rule, which speaks for itself.

66. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

67. State Intervenors deny that the Final Rule gives no consideration to the fact that people with disabilities successfully work and attend school with reasonable accommodations. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

68. State Intervenors deny that the Final Rule discriminates against people with disabilities. State Intervenors deny that consideration of disability and the use of Medicaid will necessarily make a finding of inadmissibility highly likely for all people with disabilities. State Intervenors lack sufficient knowledge or information to form a belief about the truth of whether, for many people with disabilities, Medicaid is essential because it is the *only* insurance that provides sufficient coverage for certain forms of vital care and medical equipment. The remaining allegation in this paragraph is a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

69. State Intervenors deny that the Final Rule is contradictory and complex, and invites arbitrary and discriminatory enforcement by immigration officials. State Intervenors lack sufficient knowledge or information to form a belief about the truth of remaining allegations in this paragraph.

70. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

71. State Intervenors deny that DHS believes the Final Rule will have a substantial chilling effect on enrollment in benefits programs. The remaining allegations in this paragraph purport to describe and quote from the Final Rule, which speaks for itself.

72. State Intervenors deny the allegations in sentence 1. This paragraph describes an October 18, 2018 report, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

73. State Intervenors deny that “it is simply too hard to ascertain the risk of using public benefits from the plain reading of the Final Rule.” State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegation in this paragraph.

74. This paragraph purports to describe a comment letter submitted in response to the Notice of Proposed Rulemaking preceding the Final Rule, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegation in this paragraph.

75. This paragraph purports to describe a series of press reports, which speak for themselves.

76. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

77. State Intervenors deny that the Final Rule will cause significant harm to the public health. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

78. State Intervenors deny that the Final Rule will decrease preventative primary care access among immigrant communities. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

79. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

80. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

81. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

82. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

83. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

84. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

85. This paragraph purports to describe and quote from an ordinance, which speaks for itself.

86. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

87. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

88. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

89. State Intervenors deny that the application of the Final Rule will be “frightening, confusing, and unpredictable.” State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

90. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

91. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

92. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

93. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

94. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

95. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

96. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

97. This paragraph purports to describe certain external sources, which speak for themselves.

98. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

99. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

100. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

101. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

102. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

103. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

104. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

105. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

106. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

107. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

108. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

109. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

110. State Intervenors deny that the Final Rule will have “destructive” and “discriminatory” consequences. lack sufficient knowledge or information to form a belief about the truth of whether the Final Rule will frustrate ICIRR’s and its member organizations’ missions to provide health and social services to immigrant Illinoisans.

111. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

112. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

113. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

114. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

115. State Intervenors deny that ICIRR staff *had* to re-direct their work planning, budgets, and staff time away from their mission and towards defensive PIL-IL activities. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

116. State Intervenors deny that the Final Rule has or will *force* ICIRR and its members to divert resources from planned work, or abandon planned activities and divert those resources to educating immigrant communities about the Final Rule and ensuring that immigrant households do not unduly forgo critical services. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

117. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

118. State Intervenors deny that the Final Rule is designed to have a broad chilling effect on public benefits enrollment. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

119. State Intervenors deny that the Final Rule provides “virtually no guidance” on the considerations enumerated in this paragraph. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

120. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

121. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

122. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

123. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR, or any of its member organizations, were or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

124. State Intervenors deny the allegations in the paragraph to the extent they suggest that YWCA was or will be forced to divert or expend resources as a result of the Final Rule. State

Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

125. State Intervenors deny the allegations in the paragraph to the extent they suggest that Erie Neighborhood House was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

126. State Intervenors deny the allegations in the paragraph to the extent they suggest that HANA Center was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

127. State Intervenors deny the allegations in the paragraph to the extent they suggest that Hispanic American Community Education and Services was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

128. State Intervenors deny that the Final Rule directly restricts the number of immigrants from majority non-white countries who will be able to adjust to lawful permanent resident status or maintain or change their non-immigrant immigration status. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

129. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

130. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

131. State Intervenors deny the allegations in the paragraph to the extent they suggest that ICIRR was or will be forced to divert or expend resources as a result of the Final Rule. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

132. This paragraph includes allegations which purport to describe certain external sources, which speak for themselves. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

133. This paragraph includes an allegation purporting to describe DHS Field Guidance, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

134. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

135. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

136. State Intervenors deny that the Final Rule's weighted circumstances test favors white immigrants, and thus disfavors non-white immigrants. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

137. Denied.

138. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

139. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

140. This paragraph repeats and incorporates by reference each allegation contained in the preceding paragraphs of this Complaint. State Intervenors repeat and incorporate by reference the response to each of these allegations contained in the preceding paragraphs of this Answer.

141. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

142. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

143. Denied.

144. Denied.

145. Denied.

146. Denied.

147. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

148. This paragraph repeats and incorporates by reference each allegation contained in the preceding paragraphs of this Complaint. State Intervenors repeat and incorporate by reference the response to each of these allegations contained in the preceding paragraphs of this Answer.

149. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

150. State Intervenors deny that the Final Rule contravenes the Rehabilitation Act of 1973. This remainder of the paragraph quotes from a statue, which speaks for itself.

151. State Intervenors deny that the Final Rule contains a “novel” public charge definition and deny that the definition contravenes PRWORA. This remainder of the paragraph quotes from a statue, which speaks for itself.

152. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

153. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

154. State Intervenors deny that the “original meaning of the term” public charge is “one who is ‘primarily dependent’ on the government for subsistence.” The remaining allegations in

this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

155. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

156. This paragraph repeats and incorporates by reference each allegation contained in the preceding paragraphs of this Complaint. State Intervenors repeat and incorporate by reference the response to each of these allegations contained in the preceding paragraphs of this Answer.

157. This paragraph contains a legal conclusion to which no response is required. To the extent that a response is required, such allegations are denied.

158. State Intervenors deny that the Final Rule's definition of Public Charge departs from decades of prior law and settled practice. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

159. State Intervenors deny that, for the Final Rule, Defendants have not provided a reasoned response to public comments regarding public health and economic harms. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

160. State Intervenors deny that the Final Rule does not quantify harm to public health, state or local economies, or other administrative burdens. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

161. State Intervenors deny that Defendants failed to make any changes to the Final Rule that would reduce disenrollment of individuals who are not subject to the Final Rule including citizens and humanitarian immigrants. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

162. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

163. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

164. State Intervenors deny that the Final Rule discriminates against individuals with disabilities. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

165. State Intervenors deny that the Final Rule's 'weighted factors' are vague, arbitrary, unsupported by the evidence, and will inevitably lead to inconsistent, arbitrary and discriminatory public charge determinations. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied

166. State Intervenors admit that the Final Rule governs public charge inadmissibility determinations. State Intervenors deny that the Final Rule is pretext for discrimination, that its factors bear no reasonable relationship to the public charge inquiry, and that State Intervenors intend to reduce immigration by immigrants of color. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

167. State Intervenors deny that Defendants have failed to consider the alleged racially disparate impact of the Regulation. The remaining allegations in this paragraph consist of legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

168. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

169. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

170. This paragraph repeats and incorporates by reference each allegation contained in the preceding paragraphs of this Complaint. State Intervenors repeat and incorporate by reference the response to each of these allegations contained in the preceding paragraphs of this Answer.

171. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, such allegations are denied.

172. State Intervenors deny that Defendants were motivated by “discriminatory purpose” to disparately impact immigrants of color and Latinos when Defendants promulgated the Final Rule.

173. This paragraph contains allegations which purport to quote from or describe a number of external sources, which speak for themselves. State Intervenors deny the remaining allegations in this paragraph.

174. This paragraph purports to quote from or describe an external source, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

175. This paragraph purports to quote from or describe an external source, which speaks for itself.

176. This paragraph purports to quote from or describe certain segments from an oral or written statement, which speaks for itself.

177. Denied.

178. This paragraph purports to quote from or describe certain segments from an oral or written statement, which speaks for itself. State Intervenors deny the remaining allegation in this paragraph.

179. This paragraph purports to quote from or describe certain segments from an oral or written statement, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

180. This paragraph purports to quote from or describe certain segments from an oral or written statement, which speaks for itself. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

181. State Intervenors deny that Defendants have adopted a long list of policies aimed at discriminating against and excluding immigrants of color and Latino immigrants. To the extent these allegations consist of legal conclusions, no response is required. To the extent that a response is required, such allegations are denied.

182. Denied.

183. State Intervenors deny the allegations in the first sentence of this paragraph. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

184. Denied.

185. Denied.

186. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph.

187. State Intervenors deny the allegations in the first sentence of this paragraph. State Intervenors lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph.

188. Denied.

To the extent State Intervenors have not specifically referenced and addressed any other allegations in the Complaint, including allegations in footnotes, State Intervenors deny those allegations.

The remainder of the Complaint consists of a jury demand and prayer for relief, to which no response is required. To the extent a response is required, State Intervenors deny that a jury trial is necessary and deny that Plaintiffs are entitled to the relief requested or any relief at all.

Defenses

1. The Court lacks Article III jurisdiction over the subject matter of this lawsuit.

2. Plaintiffs are not the proper plaintiffs for their claims, since, among other things, they do not fall within the zone-of-interests of the relevant legal provisions and lack third-party standing.

3. Plaintiffs have failed to state a claim for which relief can be granted.

4. Defendants' actions or inactions are not arbitrary and capricious or contrary to law under the Administrative Procedure Act.

5. Defendants' actions or inactions do not contravene the Immigration or Nationality Act, or any other Act of Congress.

6. Defendants' actions or inactions did not violate the equal protection component of the Fifth Amendment's Due Process Clause.

State Intervenors respectfully reserve the right to plead any and all other defenses that State Intervenors determine are or may be applicable. State Intervenors respectfully reserve the right to file an amended answer, if necessary.

WHEREFORE, having fully answered Plaintiffs' Complaint, State Intervenors respectfully request that the Court enter judgment dismissing this action for lack of subject-matter jurisdiction or alternatively on its merits, and awarding State Intervenors costs and such other relief as the Court may deem just and appropriate.

Dated: May 12, 2021

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¹ Pursuant to Local Rule 83.12, Counsel for State Intervenors are excepted from the requirement that they hold membership in the Northern District of Illinois trial bar.

Certificate of Service

On May 12, 2021, this Answer was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court.

/s/ Mindy Wetzel
Mindy Wetzel