

2019 WL 5589072

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United States District Court, S.D. New York.

MAKE THE ROAD NEW YORK, African Services Committee, [Asian American Federation](#), Catholic Charities Community Services (Archdiocese of New York), and Catholic Legal Immigration Network, Inc., Plaintiffs,

v.

[Ken CUCCINELLI](#), in his official capacity as Acting Director of United States Citizenship and Immigration Services; United States Citizenship & Immigration Services; Kevin K. McAleenan, in his official capacity as Acting Secretary of Homeland Security; and United States Department of Homeland Security, Defendants.

19 Civ. 7993 (GBD)

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Signed 10/11/2019

Attorneys and Law Firms

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[Joshua Kolsky](#), Eric Soskin, [Ethan Price Davis](#), Department of Justice, Washington, DC, for Defendants.

ORDER GRANTING PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

[GEORGE B. DANIELS](#), United States District Judge:

*1 WHEREAS on September 9, 2019, Make the Road New York, African Services Committee, Asian American Federation, Catholic Charities Community Services, and Catholic Legal Immigration Network, Inc. (the "Organizational Plaintiffs") filed a Motion for Preliminary Injunction in Case No. 19 Civ. 7993 (GBD) (S.D.N.Y.) (the "Organizational Action") to enjoin defendants from

implementing or enforcing the Final Rule of the Department of Homeland Security titled "[Inadmissibility on Public Charge Grounds](#)," 84 Fed. Reg. 41,292 (the "Rule") pursuant to [Federal Rule of Civil Procedure 65](#), or to postpone the effective date of the Rule pursuant to [5 U.S.C. § 705](#);

WHEREAS also on September 9, 2019, the State of New York, the City of New York, the State of Connecticut, and the State of Vermont (the "State Plaintiffs," and, together with the Organizational Plaintiffs, "Plaintiffs") similarly filed a Motion for Preliminary Injunction in Case No. 19 Civ. 7777 (GBD) (S.D.N.Y.) (the "State Action," and, together with the Organizational Action, the "Actions") to enjoin defendants from implementing or enforcing the Rule pursuant to [Federal Rule of Civil Procedure 65](#), or to postpone the effective date of the Rule pursuant to [5 U.S.C. § 705](#) (together with the Organizational Plaintiffs' motion, the "Motions");

WHEREAS on September 27, 2019, Kenneth T. Cuccinelli II, United States Citizenship & Immigration Services, Kevin K. McAleenan, Department of Homeland Security, and the United States of America (as to the State Action only) ("Defendants") submitted briefs in opposition to the Motions;

WHEREAS on October 4, 2019, Plaintiffs filed replies in further support of the Motions;

WHEREAS *amid* have filed briefs in support of or opposition to the Motions;

WHEREAS on October 7, 2019, this Court held a hearing on the Motions at which counsel for all parties presented oral argument;

WHEREAS this Court, having considered the Motion and the documents filed therewith, as well as all other papers filed in the Actions, and having heard oral arguments from the parties, finds good cause to grant the Motions because:

1. Plaintiffs are likely to succeed on the merits of their claims under the Administrative Procedure Act, and, with respect to the Organizational Plaintiffs, under the United States Constitution;
2. Plaintiffs will suffer irreparable harm if the Rule becomes effective; and
3. The balance of equities and the interests of justice favor issuance of a preliminary injunction;

It is hereby ORDERED that, pursuant to [Federal Rule of Civil Procedure 65\(a\)](#), Defendants are RESTRAINED AND ENJOINED from:

1. Enforcing, applying or treating as effective, or allowing persons under their control to enforce, apply, or treat as effective, the Rule; and
2. Implementing, considering in connection with any application, or requiring the use of any new or updated forms whose submission would be required under the Rule, including the new Form I-944, titled “Declaration of Self Sufficiency,” and the updated Form I-485, titled “Application to Register Permanent Residence of Adjust Status”; and,

*2 It is hereby FURTHER ORDERED that, pursuant to [5 U.S.C. § 705](#), the effective date of the Rule is STAYED and

POSTPONED *sine die* pending further Order of the Court such that, if this Order is later terminated and the Rule goes into effect, the Rule’s stated effective date of October 15, 2019, as well as any references in the Rule to October 15, 2019, including but not limited those contained in proposed [8 CFR §§ 212.20, 212.22\(b\)\(4\)\(i\)\(E\), 212.22\(b\)\(4\)\(ii\)\(E\)\(1\), 212.22\(b\)\(4\)\(ii\)\(E\)\(2\), 212.22\(b\)\(4\)\(ii\)\(F\), 212.22\(c\)\(1\)\(ii\), 212.22\(d\), 214.1, 248.1\(a\), and 248.1\(c\)\(4\)](#), shall be replaced with a date after this Order is terminated.

SO ORDERED.

All Citations

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