

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MAKE THE ROAD NEW YORK, *et al.*,

Plaintiffs,

V.

CHAD F. WOLF, Acting Secretary of Homeland Security, in his official capacity, *et al.*,

Defendants.

No. 19-cv-02369-KBJ

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Plaintiffs Make The Road New York and La Unión del Pueblo Entero hereby move for a preliminary injunction to enjoin Defendants Chad F. Wolf, Acting Secretary of the Department of Homeland Security, Tony H. Pham, Senior Official Performing the Duties of the Director of United States Immigration and Customs Enforcement, Kenneth T. Cuccinelli, Acting Director of the United States Citizenship and Immigration Services, Mark A. Morgan, Acting Commissioner of the United States Customs and Border Protection, and William P. Barr, Attorney General of the United States, from applying the Notice Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019) or subsequent written implementation documents.

As further explained in the accompanying Memorandum, Defendants' new Rule and implementation documents subject Plaintiffs' members to expedited removal, a summary deportation process in which a single immigration officer can order a person removed without any meaningful opportunity to challenge their removal and without access to counsel. The Rule was issued illegally because then-Acting Secretary of Homeland Security Kevin McAleenan lacked authority. The Rule and its implementation create an unacceptably high risk of wrongful

removal, fail to provide adequate procedures to ensure the fair and accurate administration of the expedited removal system, and improperly authorize individuals in the interior of the United States who lack valid documents to be subject to expedited removal.

For these and the additional reasons set forth in the accompanying Memorandum, the Rule violates the Immigration and Nationality Act, the Administrative Procedure Act, the Homeland Security Act, the Federal Vacancies Reform Act, and the Appointments Clause of the Constitution. A preliminary injunction is warranted to prevent severe and irreparable harm to Plaintiffs.

In support of this Motion, Plaintiffs rely upon the accompanying Memorandum, declarations, and exhibits. A proposed order is attached for the Court's convenience.

CONFERENCE WITH OPPOSING COUNSEL PURSUANT TO LOCAL RULE 7(m)

Pursuant to Local Rule 7(m), Plaintiffs' counsel conferred with counsel for Defendants, Erez Reuveni, Assistant Director, Office of Immigration Litigation, to determine if Defendants would consent to the relief requested in this motion. Defendants do not consent.

Dated: October 19, 2020

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Respectfully submitted,

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***Filing pursuant to LCvR 83.2(c)*