

July 3, 2019

The Honorable Jesse M. Furman
Thurgood Marshall U.S. Courthouse
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Request for immediate status conference in *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-2921 (JMF).

Dear Judge Furman,

Plaintiffs write pursuant to this Court's Rule 1.A to request that the Court schedule an immediate status conference in this action. On June 27, 2019, the Supreme Court affirmed this Court's judgment that Secretary Ross's decision to add a citizenship question to the 2020 decennial census should be set aside and remanded because it rested on a pretextual basis. *Dep't of Commerce v. New York*, No. 18-966, slip op. 23-29 (June 27, 2019). That day, the Department's counsel conceded that this Court's injunction remained in place. Ex. 1.

On Monday, July 1, Plaintiffs sought confirmation from Defendants that the census questionnaire had been finalized without a citizenship question in light of Defendants' many representations to this Court and the Supreme Court that "the Census Bureau needs to finalize the 2020 questionnaire by June of this year." Ex. 2; Ex. 3. Defendants' counsel responded that "the decision has been made to print the 2020 Decennial Census questionnaire without a citizenship question, and . . . the printer has been instructed to begin the printing process." Ex. 3. The Commerce Secretary subsequently issued a statement that "[t]he Census Bureau has started the process of printing the decennial questionnaires without the question," and Defendants' counsel advised Judge Hazel in a status conference yesterday in *Kravitz v. U.S. Dep't of Commerce*, 18-cv-1041 (D. Md.), that the decision to proceed without a citizenship question was final. Defendants' counsel expressly affirmed that the Census Bureau would not revisit the issue after printing the census questionnaires; counsel instead assured Judge Hazel that the decision to move forward without the citizenship question had been made "once and for all."

Today, President Trump tweeted that "News Reports about the Department of Commerce dropping its quest to put the Citizenship Question on the Census is incorrect or, to state it differently, FAKE! We are absolutely moving forward, as we must, because of the importance of the answer to this question."¹ Because this statement is not consistent with the representations Defendants' counsel made to Plaintiffs and a federal court yesterday, and because proceeding with a citizenship question at this point would violate this Court's injunction—which the Court retains jurisdiction to enforce—Plaintiffs request an immediate status conference so the Court and the parties can determine Defendants' current position and whether any emergency relief is needed.

Respectfully submitted,

¹ See <https://twitter.com/realDonaldTrump/status/1146435093491277824>.

LETITIA JAMES

Attorney General of the State of New York

By: /s/ Matthew Colangelo

Matthew Colangelo, *Chief Counsel for Federal Initiatives*
Elena Goldstein, *Acting Bureau Chief, Civil Rights Bureau*
Office of the New York State Attorney General
28 Liberty Street
New York, NY 10005
Phone: (212) 416-6057
matthew.colangelo@ag.ny.gov

Attorneys for the State of New York Plaintiffs

ARNOLD & PORTER KAYE SCHOLER LLP
AMERICAN CIVIL LIBERTIES UNION

By: /s/ John A. Freedman

Dale Ho
American Civil Liberties Union Foundation
125 Broad St.
New York, NY 10004
(212) 549-2693
dho@aclu.org

Andrew Bauer
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019-9710
(212) 836-7669
Andrew.Bauer@arnoldporter.com

Sarah Brannon*
American Civil Liberties Union Foundation
915 15th Street, NW
Washington, DC 20005-2313
202-675-2337
sbrannon@aclu.org
** Not admitted in the District of Columbia;
practice limited pursuant to D.C. App. R.
49(c)(3).*

John A. Freedman
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, N.W.
Washington, DC 20001-3743
(202) 942-5000
John.Freedman@arnoldporter.com

Perry M. Grossman
New York Civil Liberties Union Foundation
125 Broad St.
New York, NY 10004
(212) 607-3300 601
pgrossman@nyclu.org

Attorneys for the NYIC Plaintiffs