

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

<p>MAKE THE ROAD NEW YORK, et al.,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity, et al.,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>No. 1:25-cv-00190-JMC</p>
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MOTION TO POSTPONE EFFECTIVE DATE OF AGENCY ACTION

Plaintiff Make the Road New York moves under 5 U.S.C. § 705 of the Administrative Procedure Act (“APA”) to postpone the effective date of agency action. Plaintiff seeks an order postponing the effective dates of two actions: (1) Defendants’ decision to apply expedited removal to certain noncitizens arrested anywhere in the country who cannot show “to the satisfaction of an immigration officer” that they have been continuously present in the United States for longer than two years, U.S. Dep’t of Homeland Sec., Designating Aliens for Expedited Removal, 90 Fed. Reg. 8,139 (Jan. 24, 2025) (“Rule”); and (2) Defendants’ Guidance implementing the Rule, Memorandum from Benjamine C. Huffman, Acting Sec’y, Dep’t of Homeland Sec., to Caleb Vitello, Acting Dir., Immigr. & Customs Enf’t, et al., Guidance Regarding How to Exercise Enforcement Discretion (Jan. 23, 2025) (“Guidance”). Defendants oppose this motion.

Plaintiff files this motion to prevent the irreparable harm that its members, their families, and the public will suffer absent postponement of the Rule and Guidance. As detailed in Plaintiff's Memorandum of Law, over the past weeks, Defendants have moved aggressively to subject large numbers of individuals who have been living in the United States to expedited removal, both in New York and in other states across the country. Defendants have targeted noncitizens who are in ongoing removal proceedings before an immigration judge ("IJ"), where they have been pursuing asylum and other defenses against and relief from removal. Defendants have sought the dismissal of individuals' removal proceedings in immigration courts across the country, regardless of the progress of those proceedings; arrested and detained those individuals after they appear for court hearings without any notice; and abruptly placed them in expedited removal for swift deportation. Plaintiff Make the Road New York's membership includes individuals who are currently in removal proceedings and are vulnerable to Defendants' new enforcement tactics. Defendants' aggressive pursuit of expedited removal, pursuant to the Rule and Guidance, places Plaintiff's members at imminent risk of deportation without due process and separation from their families and communities in the United States.

This Motion is based upon this Motion; the accompanying Memorandum of Law; the supporting declarations and evidence filed concurrently herewith; the pleadings and filings in this case; any additional matter of which the Court may take judicial notice; and such further evidence or argument as may be presented before, at, or after a hearing on this Motion.

Dated: June 10, 2025

Respectfully submitted,

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 Stephen B. Kang (D.D.C. Bar No. CA00090)
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CERTIFICATE OF SERVICE

I hereby certify on June 10, 2025, I caused a copy of the foregoing to be transmitted to all Defendants through the CM/ECF filing system.

/s/ Anand Balakrishnan
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