U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530

September 28, 2018

By ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: *State of New York v. U.S. Dep't of Commerce*, No. 18-cv-2921 (JMF)

Dear Judge Furman:

Defendants respectfully request a stay of all discovery, including the depositions of Secretary of Commerce Wilbur L. Ross, Jr., and John M. Gore, Acting Assistant Attorney General for the Civil Rights Division of the United States Department of Justice, pending review by the United States Supreme Court. Specifically, Defendants seek a stay of discovery pending Supreme Court review of the orders issued by the United States Court of Appeals for the Second Circuit in Nos. 18-2652 & 18-2659, denying Defendants' petitions for writ of mandamus, as well as pending Supreme Court review of any ultimate orders in Nos. 18-2856 and 18-2857, presently pending in the Second Circuit, should the latter petitions be denied. This Court previously denied Defendants' motions for stays pending resolution of both sets of petitions for writ of mandamus. *See* No. 18-cv-02921, ECF Nos. 308, 345; No. 18-cv-05025, ECF No. 134. The Second Circuit recently ordered Secretary Ross's deposition stayed, but only pending resolution of the corresponding mandamus petitions. See Order (Sept. 28, 2018), Nos. 18-2856 & 18-2857 (2d Cir.). Defendants seek a stay that would extend through Supreme Court review. Defendants are submitting the present request for a stay in view of Supreme Court Rule 23.3, which provides that an application for a stay by the Supreme Court "will not be entertained unless the relief requested was first sought in the appropriate court or courts below or from a judge or judges thereof." Plaintiffs' counsel has advised Defendants' counsel that the plaintiffs oppose a stay.

Respectfully submitted,

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CC: All Counsel of Record (by ECF)