

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official
capacity as President of the United
States*, et al.,

Defendants.

20-CV-5770 (JMF)

NEW YORK IMMIGRATION
COALITION, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official
capacity as President of the United
States*, et al.,

Defendants.

20-CV-5781 (JMF)

**PLAINTIFFS’ NOTICE OF MOTION
(Fed. R. Civ. P. 56 and Fed. R. Civ. P. 65)**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 56, Plaintiffs hereby move the Court for summary judgment with respect to their claims for relief under Article I and the Fourteenth Amendment; and the Census Act, 2 U.S.C. § 2(a) and 13 U.S.C. § 141. *See New York Am. Compl.* ¶¶ 142-146, 164-174 (ECF No. 34); *NYIC First Am. Compl.* ¶¶ 182-207 (ECF No. 62). Plaintiffs request that the Court declare that the July 21, 2020 Presidential Memorandum, *Memorandum on Excluding Illegal Aliens From the Apportionment*

Base Following the 2020 Census, 85 Fed. Reg. 44,679 (July 23, 2020), is unconstitutional in violation of Article I and the Fourteenth Amendment; declare that the Presidential Memorandum violates the Census Act, 2 U.S.C. § 2(a) and 13 U.S.C. § 141; and enjoin Defendants and all their officers, employees, and agents, and anyone acting in concert with them, from implementing, applying, or taking any action whatsoever under the Presidential Memorandum.

Alternatively, pursuant to Federal Rule of Civil Procedure 65, Plaintiffs move the Court for a preliminary injunction with respect to their claims for relief under Article I and the Fourteenth Amendment; and the Census Act, 2 U.S.C. § 2(a) and 13 U.S.C. § 141. *See New York Am. Compl.* ¶¶ 142-146, 164-174 (ECF No. 34); *NYIC First Am. Compl.* ¶¶ 182-207 (ECF No. 62). Plaintiffs request that the Court enjoin Defendants from implementing, applying, or taking any action under the July 21, 2020 Presidential Memorandum, *Memorandum on Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census*, 85 Fed. Reg. 44,679 (July 23, 2020), in order to preserve the status quo until this case is decided on the merits and final judgment is entered.

In support of this motion, Plaintiffs rely on the accompanying Memorandum of Law; their Local Rule 56.1 Statement of Material Facts; the Declaration of Matthew Colangelo dated August 7, 2020; the exhibits attached to that Declaration; the pleadings and papers on file in this action; and any argument and evidence that is presented on the hearing of this motion.

DATED: August 7, 2020

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Deputy Solicitor General
Judith N. Vale

Respectfully submitted,

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*** Not admitted in the District of Columbia; practice limited pursuant to D.C. App. R. 49(c)(3).

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