motion must be filed within seven days after the filing of the transcript. And if a party believes that no redactions are necessary, it must file a notice to that effect no later than seven days after the transcript is filed. ***In Re: Revised Transcript Procedures to Provide Increased Privacy Protections*** (Order dated 10/11/2019).

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IMMIGRATION LAW

JUDICIAL LAW

■ **Applications for asylum by those who travel through a third county without first seeking relief there.** Subsequent to the 7/24/2019 order issued by the U.S. District Court in the Northern District of California enjoining the government from implementing its rule (i.e., a mandatory bar to asylum eligibility for individuals entering or attempting to enter the United States through the southern border while traveling through a third country without first seeking relief in that country), the same district court and 9th Circuit Court of Appeals issued further rulings on the injunction. The matter then went before the U.S. Supreme Court, which issued an order on 9/11/2019 staying the district court's injunction during the pendency of the court litigation on the mandatory bar to asylum eligibility. ***Barr, el al. v. East Bay Sanctuary Covenant, et al.,*** 588 U.S. ____ (2019). *https://www.supremecourt.gov/opinions/18pdf/19a230_k53l.pdf*

■ **Inadmissibility and public charge grounds.** On 8/14/2019, the Department of Homeland Security (DHS) published its final rule amending regulations addressing inadmissibility, on public charge grounds, of foreign nationals seeking admission or adjustment of status. The rule was scheduled to go into effect on 10/15/2019. **84 *Fed. Reg.*, 41,292-508** (8/14/2019). *https://www.govinfo.gov/content/pkg/FR-2019-08-14/pdf/2019-17142.pdf*

On 8/20/2019, the State of New York, the City of New York, the State of Connecticut, and the State of Vermont (state plaintiffs) filed a complaint seeking declaratory and injunctive relief in the U.S. District Court for the Southern District of New York. ***State of New York, et al. v. DHS, et al.***, No. 1:19-cv-07777 (S.D.N.Y 8/20/2019). *https://ag.ny.gov/sites/default/files/8.20.2019_complaint_as_filed.pdf*

On 8/27/2019, Make the Road New York, African Services Committee, Asian American Federation, Catholic Charities Community Services, and Catholic Legal Immigration Network, Inc.) (organizational plaintiffs) filed a complaint in the U.S. District Court for the Southern District of New York. ***Make the Road New York, et al. v. Ken Cuccinelli, et al.***, No. 1:19-cv-07993 (S.D.N.Y. 8/27/2019). *https://ccrjustice.org/sites/default/files/attach/2019/08/Public%20Charge%20Complaint.pdf*

On 9/9/2019, the state plaintiffs filed a motion for preliminary injunction to enjoin the government from enforcing the final rule. *https://ag.ny.gov/sites/default/files/35_plaintiffs_mol_iso_pi.pdf*

On 9/9/2019, the organizational plaintiffs also filed a motion for preliminary injunction to enjoin the government from enforcing the final rule. *https://www.courtlistener.com/recap/gov.uscourts.nysd.521773/gov.uscourts.nysd.521773.38.0.pdf*

On 10/11/2019, the U.S. District Court in the Southern District of New York issued a nationwide order enjoining and restraining the government from "enforcing, applying or treating as effective, or allowing persons under their control to enforce, apply, or treat as effective, the Rule" until such time as the order is terminated and the rule goes into effect. ***State of New York, et al. v. DHS, et al.***, No. 1:19-cv-07777-GBD (S.D.N.Y 10/11/2019). *http://www.nysd.uscourts.gov/cases/show.php?db=special&id=720* ***Make the Road New York, et al. v. Ken Cuccinelli, et al.***, No. 1:19-cv-07993-GBD (S.D.N.Y. 10/11/2019). *http://www.nysd.uscourts.gov/cases/show.php?db=special&id=722*

In its accompanying order and memorandum, the court pointedly noted, while discussing the arbitrary and capricious nature of the rule, that "Defendants do not articulate why they are changing the public charge definition, why this new definition is needed now, or why the definition set forth in the Rule—which has absolutely no support in the history of U.S. immigration law—is reasonable. The Rule is simply a new agency policy of exclusion in search of a justification. It is repugnant to the American Dream of the opportunity for prosperity and success through hard work and upward mobility." ***State of New York, et al. v. DHS, et al.***, No. 1:19-cv-07777-GBD (S.D.N.Y 10/11/2019). *https://ag.ny.gov/sites/default/files/doc_110_opinion.pdf*

Related litigation in other regions of the United States includes the following:

On 8/14/2019, the states of Washington, Virginia, Colorado, Delaware, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, and Rhode Island filed a complaint for declaratory and injunctive relief against the Department of Homeland Security and U.S. Citizenship and Immigration Services in the U.S. District Court for the Eastern District of Washington at Richland. ***State of Washington, et al. v. DHS, et al.***, No. 4-19-cv-05210 (E.D. Wash. 8/14/2019). *https://agportals3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/001_Complaint_1.pdf*

On 10/11/2019, the U.S. District Court found in favor of the plaintiff states, enjoining the government from implementing the rule until further order of the court. ***State of Washington, et al. v. DHS, et al.***, No. 4:19-cv-05210-RMP (E.D. Wash. 10/11/2019). *https://www.waed.uscourts.gov/sites/default/files/19513691270.pdf*

On 8/13/2019, the City and County of San Francisco and the County of Santa Clara filed suit in the U.S. District Court for the Northern District of California seeking declaratory and injunctive relief, challenging the final rule. ***City***

and County of San Francisco, et al. v. USCIS, et al., No. 3:19-cv-4717 (N.D. Cal. 8/13/2019). *https://www.sfcityattorney.org/wp-content/uploads/2019/08/Filed-Complaint.pdf*

On 8/16/2019, the states of California, Maine, Oregon, Commonwealth of Pennsylvania, and the District of Columbia filed a complaint for declaratory and injunctive relief against the Department of Homeland Security and U.S. Citizenship and Immigration Services in the U.S. District Court for the Northern District of California. ***State of California, et al. v. DHS, et al.***, No. 3-19-cv-04975 (N.D. Cal. 8/16/2019). *https://oag.ca.gov/system/files/attachments/press-docs/Public%20Charge%20Complaint.pdf*

On 10/11/2019, the U.S. District Court issued an order for the plaintiffs in both cases (City and County of San Francisco, the County of Santa Clara, and the States of California, Maine, Oregon, Commonwealth of Pennsylvania, and the District of Columbia), enjoining the government from applying the rule, in any manner, "to any person residing (now or at any time following the issuance of this order)" in those locales. The injunction remains in effect until the matter is resolved on the merits. ***City and County of San Francisco, et al. v. USCIS; State of California, et al. v. DHS; La Clinica de la Raza, et al. v. Donald Trump, et al.***, No. 4:19-cv-04717-PJH (N.D. Cal. 10/11/2019). *https://www.uscis.gov/sites/default/files/USCIS/files/NDCA_Injunction.pdf*

These court decisions do not, however, enjoin the changes brought by the public charge rule as implemented by DHS' sister agency, Department of State, in consular processing of visas abroad. They remain in place as outlined in its 10/11/2019 Interim Final Rule, scheduled to go into effect on 10/15/2019. The rule makes changes to the existing definitions of public charge, public benefit, foreign national's household, and receipt of public benefit. At the same time, the consular officer assessing an applicant for admissibility is accorded greater discretion as (s)he reviews such factors as Age, Health, Family Status, Financial Status, Education and Skills, as well as such negative factors as Lack of Recent Employment or Prospect of Future Employment; Current or Certain Past Receipt of Public Benefits; Lack of Financial Means to Pay for Medical Costs; and Prior Public Charge Inadmissibility or Deportability Finding. **84 Fed. Reg., 54,996-015** (10/11/2019). *https://www.govinfo.gov/content/pkg/FR-2019-10-11/pdf/2019-22399.pdf*

Since publication of the Interim Final Rule in the Federal Register on 10/11/2019, the Department of State has announced that it will not implement the changes until such time as it obtains approval for use of a new form (Affidavit of Support) reflecting them. *https://travel.state.gov/content/travel/en/traveladvisories/ea/Information-on-Public-Charge.html*

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INTELLECTUAL PROPERTY

JUDICIAL LAW

Copyright: Statutory damages limited to number of infringed registrations. Judge Tostrud recently entered default judgment against Your Inspiration and awarded $300,000 in statutory copyright damages. Adventure Creative Group (ACG) entered into a marketing services contract with Your Inspiration in 2012. Your Inspiration stopped paying ACG its fee, but continued to use the advertising materials generated by ACG. ACG sued Your Inspiration for copyright infringement. After Your Inspiration failed to answer the complaint, default was entered. ACG sought an award of $16,350,000, which it calculated by multiplying the number of works it said Your Inspiration infringed (109) by the maximum statutory damage award available for willful infringement ($150,000). The court, however, found Adventure Creative Group's calculation improper. ACG holds two registered copyrights that Your Inspiration infringed—a catalog and a video. Statutory damages may be awarded under 17 U.S.C. §504(c) entitling a copyright owner to recover up to $30,000 in statutory damages per infringed registration or a maximum of $150,000 per registration if the infringement was willful. ACG arrived at its 109 infringements by counting individual photographs and text removed from each registered work. The court, however, found that all of the parts of a compilation or derivative work constitute one work. Therefore, ACG was entitled to statutory damages on only the two registered works, not the 109 separate elements. The court awarded Adventure Creative Group the maximum $150,000 statutory award for willful infringement of each of ACG's registered works. ***Adventure Creative Grp., Inc. v. CVSL, Inc.***, No. 16-cv-2532, 2019 U.S. Dist. LEXIS 155545 (D. Minn. 9/12/2019).

Patent: Construing design patent claims. Judge Tostrud also recently entered a claim construction order in a design patent infringement case that avoided a "no-scope" construction. Graphic Packaging International sued Inline Packaging for infringing its utility and design patents for microwave susceptor sleeves—sleeves used for heating and carrying food products, including "Hot Pockets." After all claims of the utility patent were canceled in an *inter partes* review, the case proceeded with Graphic Packaging's remaining three design patents. Each design patent contained a single claim claiming "the ornamental design for a carton blank, as shown and described." Graphic Packaging sought constructions that construed the scope of the claims as the visual appearance of the susceptor sleeves as shown in the claim drawings. Inline Packaging argued that the design of the sleeves was primarily functional and sought constructions giving the patents no scope. The court found the law discourages no-scope constructions. Because the sleeves were amenable to alternative designs, the sleeves' patented designs were not primarily functional. The court adopted Graphic Packaging's constructions. ***Graphic Packaging Int'l, LLC v. Inline Packaging, LLC***, No. 15-cv-03476, 2019 U.S. Dist. LEXIS 17066 (D. Minn. 10/1/2019).

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PROBATE & TRUST LAW

JUDICIAL LAW

Motions to confirm claim disallowance during appeal. Prior to decedent's death, plaintiff filed a lawsuit against decedent in federal court. Following decedent's death, plaintiff asserted a contingent claim against decedent's estate, based on the pending lawsuit, by filing a statement of unsecured claim. The personal representative of the estate disallowed the claim. The district court granted a motion to dismiss plaintiff's claims against the estate in federal court. While the appeal was pending in the 8th Circuit, the personal representative of the estate moved to confirm disallowance of the contingent claim. The district court denied the motion.