

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

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED
PEOPLE, *et al.*,

Plaintiffs,

v.

BUREAU OF THE CENSUS, *et al.*,

Defendants.

No. 8:18-cv-00891-PWG

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF DEFENDANTS’
MOTIONS TO DISMISS AND FOR SUMMARY JUDGMENT**

Defendants respectfully submit this Notice to inform the Court of the recent decision of Judge Alvin K. Hellerstein, United States District Judge for the Southern District of New York, in *Center for Popular Democracy Action v. Bureau of the Census*, No. 19 Civ. 10917 (AKH) (Dkt. No. 69) (March 18, 2020). The New York plaintiffs, represented by the same counsel as Plaintiffs in this case, had moved for a preliminary injunction, and Defendants cross-moved to dismiss pursuant to 12(b)(1) and 12(b)(6).

On March 18, 2020, the New York Court denied the plaintiffs’ motion for a preliminary injunction and granted the Defendants’ motion to dismiss, issuing a brief written order (attached as Exhibit A) and incorporating by reference more extensive oral remarks. In the hearing, the Court explained that, *inter alia*, the Census Bureau’s 2020 Census Operational Plan, version 4.0, incorporated by reference in the plaintiffs’ New York Court complaint (containing substantively similar allegations as Plaintiffs’ complaint here) was “reasonably related” to an actual enumeration, and, as a result, the plaintiffs’ complaint failed to state a claim under either the Enumeration Clause or the Administrative Procedure Act. The New York

court explained that even if it “had no other cases . . . it could not be a shadow of what the Census Bureau could do” and “couldn’t improve on” the Census Bureau’s plans.¹

The New York court also rejected the plaintiffs’ request for further discovery of the type Plaintiffs have also requested here, noting that the plaintiffs’ request for “continuing jurisdiction and continuing presence on their part to second guess everything the Census Bureau does” was inappropriate because “they’re not experts” and “it is not for . . . any . . . district judge to second guess the decisions of the Census Bureau,” and ordered that the case be closed.

DATED: March 20, 2020

Respectfully submitted,

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¹ The above quotations are based on the notes of counsel, as the New York court permitted persons to listen in on the argument via teleconference. Defendants have requested a rush order of the transcript of Judge Hellerstein’s remarks and will provide the transcript to the Court as soon as it becomes available.