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**Pro Hac Vice motion pending*
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

STATE OF HAWAI'I, and ISMAIL
ELSHIKH,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF

CIVIL NO. 17-00050-DKW-KSC

**BRIEF AMICUS CURIAE OF
ILLINOIS AND OTHER STATES;
EXHIBITS A-K; CERTIFICATE OF
COMPLIANCE; CERTIFICATE OF
SERVICE**

[Caption continued]

HOMELAND SECURITY; JOHN F. KELLY, in his official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF STATE; REX TILLERSON, in his official capacity as Secretary of State; and the UNITED STATES OF AMERICA,

Defendants.

BRIEF AMICUS CURIAE OF THE STATES OF ILLINOIS, CALIFORNIA, CONNECTICUT, DELAWARE, IOWA, MARYLAND, MASSACHUSETTS, NEW MEXICO, NEW YORK, OREGON, RHODE ISLAND, VERMONT, AND VIRGINIA, AND THE DISTRICT OF COLUMBIA IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

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INTERESTS OF *AMICI*

The States of Illinois, California, Connecticut, Delaware, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and the District of Columbia submit this brief as *amici curiae* in support of the State of Hawaii’s request for a temporary restraining order enjoining the enforcement of the revised Executive Order issued by President Donald J. Trump on March 6, 2017 (Am. Compl. Ex. 1) (“revised Order”). The initial version of the Executive Order barred all nationals of seven majority-Muslim countries from entering the United States for at least 90 days, halted the entire U.S. Refugee Admissions Program for at least 120 days, and indefinitely barred all Syrian refugees. *See* Exec. Order No. 13,769, 82 Fed. Reg. 8,977-79 (Jan. 27, 2017) (Am. Compl. Ex. 2) (“initial Order”). In litigation brought by the States of Washington and Minnesota, the District Court for the Western District of Washington entered a nationwide temporary restraining order barring enforcement of the initial Order, Am. Compl. ¶ 71, and the Ninth Circuit denied the federal government’s request for a stay of that judgment, *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017) (*per curiam*). The Court of Appeals held that the State plaintiffs had standing to challenge the initial Order, *id.* at 1158-61, and that the federal government failed to demonstrate a likelihood of success on the merits of the plaintiffs’ due process claim, *id.* at 1164-68. Notably, the Court rejected the federal government’s

assertion that the initial Order was unreviewable, reasoning that the federal government's position was "contrary to the fundamental structure of our constitutional democracy." *Id.* at 1161.

Although the revised Order is narrower in some respects than the initial Order, it retains the two essential pillars of that Order: a sweeping ban on entry to the United States by nationals of several predominantly Muslim countries and a complete suspension of the refugee program. If allowed to go into effect, the revised Order will immediately harm the *amici* States' proprietary, quasi-sovereign, and sovereign interests. It will inhibit the free exchange of information, ideas, and talent between the six designated countries and the States, including at the States' many educational institutions; harm the States' life sciences, technology, health care, finance, and tourism industries, as well as innumerable other small and large businesses throughout the States; inflict economic damage on the States themselves through both increased costs and immediately diminished tax revenues; and hinder the States from effectuating the policies of religious tolerance and nondiscrimination enshrined in our laws and state constitutions.

While the *amici* States differ in many ways, all of us welcome and benefit from immigration, tourism, and international student and business travel, and all of us will face concrete and immediate harms flowing directly from the revised Order if it is not enjoined. The harms detailed in this brief exemplify, on a nationwide

scale, the injuries that form the basis for state standing to challenge the revised Order in this and other pending litigation,¹ as well as demonstrating the widespread and irreparable harms caused by the Order that necessitate nationwide injunctive relief.

ARGUMENT

“States are not normal litigants for the purposes of invoking federal jurisdiction.” *Massachusetts v. E.P.A.*, 549 U.S. 497, 518 (2007). On the contrary, the Supreme Court has held that States are “entitled to special solicitude in our standing analysis.” *Id.* at 520. Like any litigant, States may sue in federal court to protect their proprietary interests, *Davis v. E.P.A.*, 348 F.3d 772, 778 (9th Cir. 2003), and, in appropriate circumstances, may bring actions to vindicate the rights of third parties such as students and instructors at state universities, *Washington*, 847 F.3d at 1160-61. In addition, States may invoke federal jurisdiction to protect

¹ See *Washington v. Trump*, No. C17-0141JLR (W.D. Wash.). The District Court in *Washington* is currently considering whether the nationwide injunction previously entered in that case against the initial Order continues to bar the 90-day ban on entry of persons from the six Muslim-majority countries and the 120-day suspension of the U.S. Refugee Admissions Program. Emergency Motion to Enforce Preliminary Injunction, *Washington v. Trump*, No. C17-0141JLR, Dkt. 119 (W.D. Wash. Mar. 13, 2017). Because the District Court in that case has not yet enforced the injunction against the defendants on that basis, see Order Regarding Defendants’ Notice of the Filing of a New Executive Order and Plaintiffs’ Response, *Washington v. Trump*, No. C17-0141JLR, Dkt. 117 (W.D. Wash. Mar. 10, 2017), a pressing need for nationwide interim relief remains, and this Court should grant Hawaii’s request for a temporary restraining order against the revised Order.

“quasi-sovereign interests,” such as the welfare of their residents and the interest in seeing that their “residents are not excluded from the benefits that are to flow from participation in the federal system,” *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex. rel. Barez*, 458 U.S. 592, 607-08 (1982), as well as sovereign interests such as the power to enforce their own laws and state constitutions, *id.* at 601.

State standing to challenge the revised Order is amply demonstrated by the substantial and immediate injuries the Order will inflict on the *amici* States. As a result of the Order, our States will suffer concrete proprietary injuries akin to those inflicted on individuals, families, businesses and private institutions across the country, as well as injuries to our quasi-sovereign and sovereign interests in protecting our residents and enforcing our laws and constitutions. Moreover, the breadth of the injuries immediately threatened by the revised Order—to our residents, public and private institutions, businesses, state treasuries, and economies as a whole—as well as the interconnectedness of our commercial and transportation networks, counsel strongly in favor of a nationwide temporary restraining order to return the country to the status quo that prevailed before the initial Order went into effect.

I. The Revised Order Will Inflict Concrete Proprietary Injuries On The States.

The revised Order has already caused concrete, irreparable harms to the *amici* States and their state institutions. Nationals from the six designated

countries are (or plan to become) faculty and students at our public universities, doctors at our medical institutions, employees at our businesses, and, frequently, guests who contribute to our economies when they come here to visit their families or for purposes of tourism. Although some of these people already have visas, the revised Order nonetheless harms them and the State: they may face delays in renewal when their visas expire that could jeopardize their employment; they may not be able to receive visits from family and friends while living in our States; and many may decide not to stay here because of hardships arising from the revised Order, a departure that will harm them and the State in equal measure. Others who plan to come here to study, teach, or provide health care or other services, but who have not yet secured a visa, may not be able to come to our States at all, causing further injury and disruption to state institutions and economies. The injuries to *amici* States detailed below are representative of the harms being suffered by States throughout the country.²

A. The revised Order will harm state colleges and universities and their faculty and students.

The revised Order will irreparably injure state colleges and universities, along with the faculty and students from around the world on whom they rely.

² Although the specific harms and other facts described do not apply uniformly to every State—for example, Delaware does not have a state medical school—all of the *amici* States support the legal arguments put forward in this brief.

Impact on faculty. By barring entry for nationals of the six designated countries, the revised Order has already created disruption, uncertainty, and fear among current and potential faculty members and substantially hampered the ability of state universities to attract and retain scholars from abroad. The harm is deep and widespread. For example, the University of Massachusetts (“UMass”) employs approximately 130 employees from the affected countries who are neither lawful permanent residents nor U.S. citizens, including Professors, Researchers, Visiting Faculty, and Post-Doctoral Fellows across a wide variety of academic departments. To the extent these employees hold expired or single-entry visas, they now stand to face unprecedented delays in the renewal of their visas, precluding them from international travel—whether for personal reasons or to fulfill professional obligations—during the implementation of the entry ban. The revised Order’s 90-day entry ban also coincides with the peak period of the hiring season, during which UMass is interviewing top candidates and extending offers to faculty for the 2017-2018 year. UMass may be unable to hire top-ranked potential faculty, lecturers, or visiting scholars from the affected countries because the revised Order may preclude them from reaching the United States to fulfill their teaching obligations.³ Baruch College, part of the City University of New York

³ Ex. C (Decl. of Deirdre Heatwole), ¶¶ 4-10.

(“CUNY”), which hires a significant number of foreign faculty members, already reports that potential faculty are voicing concerns about travel restrictions that will interfere with family obligations such as care of elderly parents, attending important family events, and participation in cultural holidays. The CUNY Graduate Center is currently negotiating with an international senior research scholar who has expressed serious concerns about moving to the United States at this time.⁴

Foreign-born faculty often have specialized expertise that cannot easily be replaced. Some of these scholars were slated to join our state universities for the Spring 2017 term. Our colleges and universities have already formed task forces and are making contingency plans to fill the unexpected gaps in their faculty rosters caused by the exclusion of scholars from the six designated countries, but there is no guarantee that they will succeed in doing so. These efforts have already required a considerable expenditure of scarce resources.⁵

⁴ Ex. H (Decl. of V. Rabinowitz), ¶ 21.

⁵ See, e.g., Decl. of Michael F. Collins, MD, ¶¶ 4-5, *Louhghalam v. Trump*, No. 17-cv-10154-NMG (D. Mass. Feb. 2, 2017), ECF No. 52-2; Decl. of Marcellette G. Williams, Ph. D., ¶¶ 8, 10, *Louhghalam v. Trump*, No. 17-cv-10154-NMG (D. Mass. Feb. 2, 2017), ECF No. 52-9. (describing investment of resources in faculty hiring at the UMass more broadly, as well as the additional costs and burdens caused by the initial Order).

Likewise, the research laboratories at our state universities depend heavily on the work of foreign postdoctoral researchers to complete critical projects and studies, many of which are grant-funded. For instance, more than 200 graduate students, post-doctoral fellows, and faculty from the six designated countries staff the University of Maryland's scientific laboratories.⁶ A shortfall of such researchers puts public institutions in peril of losing grant funding. The *amici* States are aware of specific affected researchers who have accepted offers of employment but are still awaiting visas abroad, their prospects of timely assuming their positions now deeply uncertain.⁷

Impact on students. The revised Order has already disrupted the academic plans of existing students and the admissions process for new students, imperiling tuition dollars for state institutions in the process. Our state colleges and universities enroll thousands of students from the designated countries. The University of California (UC), which has ten campuses, has numerous undergraduate students, graduate students, and medical residents who are nationals

⁶ Ex. F (Decl. of Ross D. Lewin), ¶ 8.

⁷ See, e.g., Decl. of Michael F. Collins, MD, *supra* n.5, ¶ 9 (describing importance of work done by post-doctoral students, as well as two cases of individuals from the affected countries who had accepted employment offers from the University of Massachusetts Medical School); Decl. of Marcellette G. Williams, Ph. D., *supra* n.5, ¶ 8 (noting that the UMass spent over \$650 million on research in 2016 and describing risks to research funding).

of Iran, Libya, Somalia, Sudan, Syria, and Yemen. There are 436 students on student visas from these countries at UC's six largest campuses (Los Angeles, Berkeley, San Diego, Irvine, Davis, Santa Barbara). The California State University System has approximately 250 students on visas from these countries.⁸ The University of Illinois has approximately 280 students from the six designated countries, with about 50 more admitted for Fall 2017.⁹ Many students from the designated countries find themselves unable to make study and travel plans. For instance, the revised Order likely will delay the return to the University of Maryland of a student who has applied for renewal of his expired student visa, a process which typically requires a 90-day waiting period. If this student's visa is not issued prior to the effective date of the revised Order, the 90-day ban will increase his wait time to return to the United States to 180 days, thus impeding his academic progress and the University research in which he is engaged.¹⁰ The revised Order's travel ban also will likely prevent family members from the designated countries from traveling to the United States for milestone events such

⁸ Information provided to the California Attorney General's Office by the Institutional Research and Academic Planning (IRAP) division of the University of California and by the Assistant Vice Chancellor of International and Off-Campus programs at the California State University System.

⁹ These figures were provided to the office of the Illinois Attorney General by the general counsel of the University of Illinois.

¹⁰ Ex. F (Decl. of Ross D. Lewin), ¶ 5.

as graduations, unless they are able to obtain the case-by-case waivers that “may, in the consular officer’s or the [Customs and Border Patrol] official’s discretion,” be granted under the open-ended standards set forth in the Order. Am. Compl. Ex. 1, § 3(c).

Even before going into effect, the revised Order has already deterred many students from the designated countries from beginning or continuing their studies at our state universities. For instance, roughly half of the students newly admitted to the Ph. D. program at the University of Illinois at Chicago’s civil engineering department—ten students out of roughly 20—are from Iran and thus will be unable to enroll because of the entry ban. Some of the department’s projects may need to be cancelled, and reportedly, several of the Iranian students have chosen to pursue their studies in Canada instead.¹¹ Portland State University in Oregon admitted thirteen international students from the designated countries for the Spring 2017 term; their tuition revenue will be lost if they are unable to travel to Oregon.¹² A number of students from the affected countries are currently enrolled in or have been accepted to Vermont’s public and private colleges and universities. The

¹¹ Miles Bryan, *10 Prospective UIC Students Ineligible To Enroll Due To Travel Ban*, WBEZ News (Mar. 6, 2017), <https://www.wbez.org/shows/wbez-news/10-prospective-uic-students-ineligible-to-enroll-due-to-travel-ban/d29224a4-fb11-4184-a8a9-f03fb45a3be1>.

¹² Ex. B (Decl. of Margaret Everett), ¶ 16.

Vermont Attorney General was recently contacted by an Iranian graduate student, currently studying in Canada, who has been accepted and was planning to attend a doctoral program at the University of Vermont but is now unable to enter the United States because of the revised Order.¹³

The competitive harms caused by the revised Order are already being felt in the student recruitment process as well. Our university officials have learned that graduate schools in Canada, Australia, New Zealand, and elsewhere are aggressively recruiting international applicants with the assertion that their countries are more welcoming to international students than the U.S.

Consequently, the Graduate School at the City University of New York (“CUNY”) expects the yield on its outstanding offers to applicants—who must respond by April 15, 2017—to decline, as newly admitted students from the affected countries are concerned about their ability to travel to the United States to begin their studies in the Fall.¹⁴ The Rochester Institute of Technology (“RIT”), a state institution in New York, has already experienced a 10% decrease in applicants from the Middle East and various Muslim majority countries for the 2017-18 academic year and

¹³ The information in these two sentences was provided to the Vermont Attorney General’s Office by personnel from the University of Vermont and the Vermont State Colleges and an affected student.

¹⁴ Ex. H (Decl. of V. Rabinowitz), ¶ 12.

anticipates further declines in the future.¹⁵ Close to 400 individuals from the six designated countries have submitted applications for Fall 2017 admission to the University of Maryland at College Park (“UMCP”), more than 90% of whom are from Iran. If just half of these students are admitted but do not enroll because of the revised Order, UMCP will incur a revenue loss of approximately \$1.6 million for academic year 2017-18. Moreover, the State of Maryland will lose these students’ long-term economic contributions, as most of these students are in high-demand science, technology, engineering and mathematics disciplines.¹⁶

The initial and revised Orders not only interfere with the matriculation of students from the six designated countries but also severely harm those who are already enrolled at our state institutions (as well as jeopardizing their continued enrollment) by deterring them from travelling for research, conferences, study abroad, and family visits.¹⁷ For example, in New York, RIT has 32 students from the designated countries on its main campus; it has advised students, faculty and staff from those countries not to leave the United States for fear that they will not be able to return.¹⁸

¹⁵ Ex. K (Decl. of L. Warren), ¶ 24.

¹⁶ Ex. F (Decl. of Ross D. Lewin), ¶ 10.

¹⁷ *See, e.g.*, Decl. of Marcellette G. Williams, Ph. D., *supra* n.5, ¶¶ 7, 9.

¹⁸ Ex. K (Decl. of L. Warren), ¶¶ 22-23.

B. The revised Order will disrupt staffing and research at state medical institutions.

Public medical institutions employ people from the designated countries as medical residents, fully trained physicians, research faculty, and postdoctoral researchers. Public medical institutions in the *amici* States have extended offers of employment that have already been accepted by individuals from the designated countries. But these would-be employees are now waiting for visas to be approved and are uncertain if and when they will be able to start work.¹⁹ Because our patients must be cared for, our facilities must immediately adapt to these changed circumstances, and spend precious time and resources to do so. The risks posed by understaffing medical facilities are of course among the gravest irreparable harms that could befall our residents.

Additional disruption has occurred in the context of medical residency staffing, endangering our public health and placing our communities at risk. State medical schools participate in a “match” program that assigns residents to university hospital programs. These medical residents perform crucial services, including providing medical care to underserved populations. The process has already begun, with candidate applications and interviews and medical schools’ rankings of future residents already completed. The computerized “match” is

¹⁹ See, e.g., Decl. of Michael F. Collins, MD, *supra* n.5, ¶ 9.

scheduled for March 17 (one day after the revised Order is scheduled to go into effect), and matched residents are expected to begin work on July 1. Many programs regularly match medical residents from the six designated countries. Indeed, prior to the revised Order, institutions like the University of Massachusetts Medical School had already interviewed specific applicants from the designated countries. These programs now must forgo ranking applicants from these countries or risk having insufficient medical residents to meet staffing needs if their preferred choices are precluded from obtaining a visa or banned from entry even if they have one.²⁰ Similarly, in New York, the uncertainty created by the initial and revised Orders has had “a profound chilling effect on international medical students applying to New York hospitals’ residency programs and [has been] a major disincentive for hospitals to select foreign nationals for their residency programs.”²¹

²⁰ If a program “matches” with an applicant who is then unable to come into the country, the program is left with an open slot. The only way to fill the slot is to seek a waiver from the National Resident Matching Program. Such a waiver puts a medical school in the difficult position of trying to hire a resident from the pool of applicants who did not match anywhere else, and the school may be unable to find a resident at all. These problems are described in detail in Decl. of Michael F. Collins, MD, *supra* n.5, ¶¶ 6-8.

²¹ Ex. I (Decl. of Eric Scherzer), ¶ 15.

C. The revised Order will reduce States' tax revenues and harm our economies more broadly.

Lost tax revenues. Even before its implementation, the revised Order has caused the States to lose tax revenues—economic damage that cannot be undone. Every foreign student, tourist, and business visitor to the *amici* States contributes to our respective economies. They do so not only by direct payments, including tuition, room, and board payments to state schools, but also through the tax receipts that their presence generates. The revised Order will block thousands of travelers—potential consumers all—from entering the *amici* States, thereby halting their tax contributions as well. The broader chilling effect on tourism will be much larger; indeed, preliminary reports already suggest a significant downturn in international tourists traveling to the United States. For example, for the first time in seven years, New York City officials are expecting a drop in the number of foreign visitors, a decrease that they attribute to the President's anti-immigrant actions and rhetoric.²² The city now expects to draw 300,000 fewer foreigners this year than in 2016, a decline that will cost New York City businesses at least \$600 million in sales.²³ Similarly, the Los Angeles Tourism and Convention Board has

²² Tourism Economics, *The Economic Impact of Tourism in New York: 2015 Calendar Year*, https://cdn.esd.ny.gov/Reports/NYS_Tourism_Impact_2015.pdf.

²³ Patrick McGeehan, *New York Expects Fewer Foreign Tourists, Saying Trump Is to Blame*, New York Times (Feb. 28, 2017), https://www.nytimes.com/2017/02/28/nyregion/new-york-foreign-tourists-trump-policies.html?_r=0.

estimated that it might see 300,000 fewer international visitors in 2017, a three to four percent decrease from expectations, at least in part as a result of the initial and revised Orders. This decrease would amount to an estimated loss of \$220 million, which jeopardizes the employment of the hundreds of thousands of Los Angeles residents whose jobs rely on tourism.²⁴

Absent preliminary relief during the pendency of challenges to the revised Order, the *amici* States will lose weeks or even months of otherwise available tax revenues. The States will never recover these revenues, even if those challenges ultimately prevail. The dollars at issue are immense, even just with respect to the contribution of foreign students. California universities and colleges host the largest number of students from the six designated countries, with 1,286 student visa-holders from Iran alone in 2015.²⁵ Students from the six designated countries who were enrolled in New York State institutions contributed \$28.8 million to the

²⁴ Information provided to the California Attorney General's Office by the Vice President, Global Communications, Los Angeles Tourism & Convention Board; *see also* "Trump's Travel Ban Could Hurt LA's Tourism Industry," KPCC (March 7, 2017), <http://www.scpr.org/programs/take-two/2017/03/07/55468/trump-s-travel-ban-could-hurt-la-s-tourism-industr/>.

²⁵ *See* Teresa Watanabe & Rosanna Xia, *Trump Order Banning Entry from Seven Muslim-Majority Countries Roils California Campuses*, L.A. Times (Jan. 30, 2017), <http://www.latimes.com/local/california/la-me-trump-universities-20170130-story.html>.

State's economy, including direct payments for tuition, fees, and living expenses.²⁶

And these amounts do not include indirect economic benefits, such as the contributions of international students and scholars to innovation in academic and medical research. Our States, of course, are not the only ones affected. The six countries singled out by the revised Order account for more than 14,000 students who attended institutions of higher education nationally during the 2014-15 academic year.²⁷ During that period, Iran alone sent 11,338 students to colleges and universities across the United States, yielding an estimated economic impact of \$323 million.²⁸

Broader economic impacts. The initial and revised Orders have also already inflicted harms on the *amici* States' economies more broadly, even if those harms will not be fully quantifiable for some time. The health of our economies depends in large part on remaining internationally competitive and attractive destinations for companies in the life sciences, technology, finance, health care, and other industries, as well as for tourists and entrepreneurs. In Illinois alone, for example, 22.1% of entrepreneurs are foreign-born; immigrant- and refugee-owned

²⁶ This figure is based on information provided by the Institute of International Education to the office of the New York Attorney General on March 10, 2017.

²⁷ See Institute of International Education, *Open Doors Data, International Students: All Places of Origin*, <http://bit.ly/1ObpkM2>.

²⁸ See Institute of International Education, *Open Doors Data Fact Sheets: Iran*, <http://bit.ly/2lmPhjg>.

businesses employ more than 281,000 people; and immigrants represent 37.7% of the State's software developers.²⁹ A recent study found that if even half of the more than 3,900 foreign-born graduates of Illinois universities in so-called STEM fields (science, technology, engineering, and mathematics) stayed in the United States after graduation, it could result in the creation of more than 5,100 new jobs for U.S.-born workers by 2021.³⁰ A survey by the Urban Institute examined 2006 data and found that foreign-born residents accounted for 27% of Maryland's scientists, 21% of its health care practitioners, and 19% of its mathematicians and computer specialists.³¹ Similarly, in the State of Washington, immigrant and refugee-owned businesses employ 140,000 people.³² In addition, Washington's technology industry relies heavily on the H-1B visa program, with Redmond-headquartered Microsoft alone employing nearly 5,000 people through that program.³³ Other Washington companies, including Amazon, Expedia, and

²⁹ See *The Contributions of New Americans in Illinois*, New American Economy, 2, 10 (Aug. 2016), <http://bit.ly/2kRVaro>.

³⁰ *Id.* at 13.

³¹ Randy Capps & Karina Fortuny, *The Integration of Immigrants in Maryland's Growing Economy*, The Urban Institute, <http://www.urban.org/sites/default/files/publication/31521/411624-Integration-of-Immigrants-in-Maryland-s-Growing-Economy.PDF>.

³² See Mot. for Temporary Restraining Order at 22, *Washington v. Trump*, No. 2:17-cv-00141-JLR (W.D. Wash. Jan. 30, 2017), ECF No. 3.

³³ *Id.*

Starbucks, likewise employ thousands of H-1B visa holders.³⁴ Loss of these highly skilled workers puts companies across the United States at a disadvantage compared to their global competitors.³⁵

The revised Order suggests that some people might be able to receive discretionary waivers from the 90-day travel ban on a “case-by-case basis.” Am. Compl. Ex. 1, § 3(c). That possibility does not alleviate the injury that the revised Order inflicts on the States. The revised Order does not explain the process for applying for a waiver or the timeframe for receiving one or set concrete standards governing the issuance of waivers, and the ultimate decision regarding whether to issue a waiver appears to be entirely discretionary. The waiver provision is of little assistance to state institutions, such as universities and public hospitals, who need certainty when filling classes and vacant positions.

II. The Revised Order Will Harm The States’ Quasi-Sovereign And Sovereign Interests In Protecting Our Residents And Enforcing Our Laws.

The harms inflicted on the States by the revised Order extend far beyond the proprietary interests described above. The Order also harms the States’ ability to protect “the well-being of [our] populace,” *Alfred L. Snapp & Son*, 458 U.S. at

³⁴ *Id.*

³⁵ See Br. for Technology Companies and Other Businesses as *Amici Curiae* In Support of Appellees at 8-20, *Washington v. Trump*, No. 17-35105, Dkt. 19-2 (9th Cir. Feb. 5, 2017).

602, including via our antidiscrimination laws, and to ensure that our “residents are not excluded from the benefits that are to flow from participation in the federal system,” *id.* at 608.

Decreased ability to enforce state antidiscrimination laws. Most fundamentally, the revised Order prevents States from honoring the commitments to openness, tolerance, and diversity that lie at the heart of our state constitutions and laws. The *amici* States have exercised their sovereign prerogative to adopt constitutional provisions and enact laws that protect their citizens from discrimination. Our residents and businesses—and, indeed, many of the *amici* States ourselves—are prohibited by those state enactments from taking national origin and religion into account in determining to whom they can extend employment and other opportunities.³⁶ The revised Order stands in stark opposition to these core expressions of the States’ sovereignty. To be sure, under the Supremacy Clause these state provisions and laws must give way if they conflict with valid federal law. But the revised Order is unlawful and

³⁶ See, e.g., Cal. Const. art. I, §§ 4, 7-8, 31; Cal. Gov’t Code §§ 11135-11137, 12900 *et seq.*; Cal. Civ. Code § 51, subd. (b); Conn. Gen. Stat. § 46a-60; Ill. Const. art. I, § 3; Ill. Const. art. I, § 17; 740 ILCS 23/5 (a)(1); 775 ILCS 5/1-102 (A); 775 ILCS 5/10-104 (A)(1); 5 Maine Rev. Stat. Ann. §§ 784, 4551-4634 (2013); Mass. Gen. L. ch. 151B, §§ 1, 4; Mass. Gen. L. ch. 93, § 102; Md. Code Ann., State Gov’t § 20-606; Or. Rev. Stat. § 659A.006(1); R.I. Gen. Laws § 28-5-7(1)(i); 9 Vt. Stat. Ann. §§ 4500-07; 21 Vt. Stat. Ann. § 495.

unconstitutional, and the States' interest in enforcing their state constitutions and laws gives them a distinct basis to so argue in federal court.

More specifically, the revised Order inflicts a distinctive harm on the States by violating the Establishment Clause of the First Amendment. The historical background of the revised Order demonstrates that it, no less than the initial Order, has the purpose and effect of conveying the message that Islam is a disfavored religion. When a party "alleges a violation of the Establishment Clause, this is sufficient, without more, to satisfy the irreparable harm prong for purposes of the preliminary injunction determination." *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 303 (D.C. Cir. 2006); *see also ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 275 (7th Cir. 1986); *cf. ACLU of Ky. v. McCreary Cty*, 354 F.3d 438, 445 (6th Cir. 2003), *aff'd*, 545 U.S. 844 (2005) (presuming irreparable harm where plaintiffs were likely to succeed on merits of Establishment Clause claim); *Parents' Ass'n of P.S. 16 v. Quinones*, 803 F.2d 1235, 1242 (2d Cir. 1986) (same). Moreover, States are uniquely positioned to vindicate Establishment Clause claims against the federal government in view of that Clause's unique history. Although the Clause indisputably protects individual rights against both state and federal infringement, several commentators have suggested that one of the Clause's original purposes was to prevent the federal government from

interfering with the States as to core matters of religion.³⁷ The revised Order does just that by requiring the *amici* States to tolerate a federal policy disfavoring Islam, in violation of their own profound commitments to religious pluralism. In view of all the harms detailed above, States are appropriate parties to make good on those commitments by seeking to enjoin such a policy.

Contribution to an environment of fear and mistrust. In addition, the initial and revised Orders have contributed to an environment of fear and insecurity among immigrant and minority populations that not only puts additional strain on state and local law enforcement resources but also runs counter to the *amici* States' deeply held commitment to inclusiveness and equal treatment. In the Chicago area alone, for example, the Council on American-Islamic Relations has counted 175 hate-related incidents in 2017 so far, as compared to 400 hate crimes reported in all of 2016.³⁸

Harm to refugee resettlement efforts. The revised Order also hinders the efforts of the *amici* States to resettle and assist refugees. Between 2012 and 2015,

³⁷ See, e.g., 2 J. Story, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 1873 (5th ed. 1891); see also A. Amar, THE BILL OF RIGHTS 32–42 (1998); *id.* at 246–257.

³⁸ Marwa Eltagouri, *Hate Crime Rising, Report Activists at Illinois Attorney General's Summit*, Chicago Tribune (Feb. 24, 2007), <http://www.chicagotribune.com/news/local/breaking/ct-madigan-immigration-hate-crimes-summit-20170223-story.html>.

California accepted 23,393 refugees, including 5,668 from Iran, 225 from Syria, and 119 from Sudan.³⁹ Between July 1, 2015 and June 30, 2016, California resettled 1,454 Syrian refugees, more than any other state.⁴⁰ According to the Maryland Office for Refugees and Asylees, during the five-year period ending September 30, 2016, 1,121 refugees from the six designated countries were resettled in Maryland, including 404 refugees from Syria.⁴¹ In Chicago alone, approximately 795 refugees from four of the six designated countries were resettled in 2016.⁴² Vermont is also home to a vibrant refugee population. Since 1989, approximately 1,000 refugees from the six designated countries have resettled in Vermont pursuant to the federal refugee resettlement program, which is administered in Vermont by the state Agency of Human Services.⁴³ In one public school district in the Burlington metropolitan area, roughly ten percent of the

³⁹ Office of Refugee Resettlement, Refugee Arrival Data, (November 24, 2015) <https://www.acf.hhs.gov/orr/resource/refugee-arrival-data>.

⁴⁰ “California Leads the Nation in Resettlement of Syrian Refugees,” CBS SF Bay Area (Sept. 29, 2016), <http://sanfrancisco.cbslocal.com/2016/09/19/in-the-u-s-most-syrian-refugees-are-being-resettled-in-california/>.

⁴¹ Maryland Office for Refugees and Asylees, “Refugees and SIV’s Resettled in Maryland by Nationality, FY 2012 – FY 2016,” <https://tinyurl.com/hec8j8y>.

⁴² U.S. Department of State, Bureau of Population, Refugees and Migration, Office of Admissions – Refugee Processing Center, <http://ireports.wrapsnet.org/>.

⁴³ This information was provided to the Vermont Attorney General’s Office by personnel from the U.S. Committee for Refugees and Immigrants: Vermont Refugee Resettlement Program; *see also* <http://humanservices.vermont.gov/departments/office-of-the-secretary/state-refugee-coordinator>.

student body—nearly 100 children, mostly refugees—are from Somalia or Yemen.⁴⁴

By suspending the U.S. refugee program, the revised Order strands thousands of refugees—who have already been extensively vetted—in crisis zones, in many cases keeping them separate from family members who are already in the United States. In addition, even if the suspension is lifted rather than extended after 120 days, the revised Order indefinitely excludes tens of thousands of otherwise eligible refugees by reducing the cap on admissible refugees for Fiscal Year 2017 by more than half, from 110,000 to 50,000. Am. Compl. Ex. 1, § 6(b). Resettlement agencies such as the International Rescue Committee of New York, whose funding is allocated on a per-arrival basis under a contract with the State Department, face a reduction in resources.⁴⁵ Similarly, the revised Order will cause refugee resettlement organizations in Oregon to lose federal funding, which will force them to lay off staff and reduce operations, resulting in fewer services for refugees.⁴⁶ World Relief, a Baltimore-based non-profit organization that helps resettle refugees, has announced that it will lay off more than 140 staff and close

⁴⁴ This information was provided to the Vermont Attorney General's Office by personnel from the Winooski School District.

⁴⁵ Ex. J (Decl. of J. Sime), ¶¶ 11-12.

⁴⁶ *See generally* Ex. A (Decl. of Richard Birkel); Ex. D (Decl. of Howard N. Kenyon); Ex. A (Decl. of Richard Birkel); Ex. E (Decl. of Lee Po Cha).

five offices across the country as a result of the provision in the initial Order, virtually identical to § 6(b) of the revised Order, allowing fewer refugees to enter the United States.⁴⁷

Harm to residents seeking medical care. The revised Order will harm residents seeking medical care in our States, particularly those in underserved communities. According to the Immigrant Doctors Project, at least 7,000 doctors practicing in the United States attended medical school in one of the six designated countries.⁴⁸ In New York, “safety-net hospitals”—which include all of New York City Health and Hospitals, public acute care hospitals, as well as most of the hospitals in Brooklyn, Queens, and the Bronx—rely heavily on foreign national resident physicians.⁴⁹ For example, of the 91 resident physicians in the Department of Internal Medicine at Interfaith Medical Center, a safety-net hospital in Brooklyn, 43 are on H-1B visas, 12 are on J-1 visas, 20 are legal permanent

⁴⁷ Colin Campbell, *Baltimore-based World Relief to lay off 140, close Glen Burnie office after Trump’s refugee order*, Baltimore Sun (Feb. 16, 2017), <http://www.baltimoresun.com/news/maryland/bs-md-world-relief-layoffs-20170215-story.html>.

⁴⁸ See <https://immigrantdoctors.org/>; see also Anna Maria Barry-Jester, *Trump’s New Travel Ban Could Affect Doctors, Especially In The Rust Belt And Appalachia*, FiveThirtyEight (Mar. 6, 2017), <https://fivethirtyeight.com/features/trumps-new-travel-ban-could-affect-doctors-especially-in-the-rust-belt-and-appalachia/>.

⁴⁹ Ex. I (Decl. of Eric Scherzer), ¶¶ 10-12.

residents, and only 16 are U.S. citizens.⁵⁰ The medical staff includes Sudanese resident physicians who are concerned about leaving the country for fear of not being allowed to return, and whose family members may not be able to visit them here because of the revised Order.⁵¹ And in Oregon, one physician from a country affected by the revised Order who had been willing to work in the town of Florence—a community facing a physician shortage—has indicated through his counsel that because of the Order he will be unlikely to obtain a visa.⁵² The revised Order thus directly harms the welfare of our most vulnerable populations.

III. A Nationwide Temporary Restraining Order Is Necessary To Provide Complete Relief.

A nationwide injunction is necessary to return the country to the status quo that obtained prior to the issuance of the initial Order, provide complete relief to the plaintiffs, and prevent the irreparable harms described above. The “scope of injunctive relief is dictated by the extent of the violation established.” *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979). The Ninth Circuit confronted a similar issue when it rejected the government’s request to limit the geographic scope of a nationwide injunction regarding the initial Order. See *Washington*, 847 F.3d at 1166-67. The Ninth Circuit highlighted the reasoning of the Fifth Circuit, also in

⁵⁰ *Id.* ¶ 12.

⁵¹ *Id.*

⁵² Ex. G (Decl. of Marc Overbeck), ¶ 4.

an immigration case, that a limited injunction resulting in “a fragmented immigration policy would run afoul of the constitutional and statutory requirement for uniform immigration law and policy.” *Id.* at 1166-67 (citing *Texas v. United States*, 809 F.3d 134, 187-88 (5th Cir. 2015), *aff’d by an equally divided Court*, 136 S. Ct. 2271 (2016)). As the Ninth Circuit further observed, the inter-connections among this country’s economic, transportation, and educational systems frustrate any attempt to provide effective interim relief on less than a nationwide basis. 847 F.3d at 1167. A temporary restraining order limited to the geographical boundaries of a particular State would not sufficiently protect either firms and institutions that conduct business in multiple states or noncitizens who must arrive through entry points elsewhere. Only a nationwide injunction will provide complete relief.

CONCLUSION

For the foregoing reasons, the Court should grant the plaintiffs’ motion and enter a temporary restraining order enjoining the operation of the revised Order on a nationwide basis.

DATED: Honolulu, Hawai‘i, March 13, 2017.

/s/ Duane R. Miyashiro

DUANE R. MIYASHIRO

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ISLAND, VERMONT, VIRGINIA and
THE DISTRICT OF COLUMBIA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

STATE OF HAWAI‘I, and ISMAIL
ELSHIKH,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of Homeland Security; U.S.
DEPARTMENT OF STATE; REX
TILLERSON, in his official capacity as
Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

CIVIL NO. 17-00050-DKW-KSC

CERTIFICATE OF COMPLIANCE

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.5 of the Local Rules for the District of Hawai‘i, State of Illinois, states that this Motion of The State Of Illinois for Leave to File Amicus Brief is double-spaced, is in Times New Roman 14 point font, and contains 6,292 words (according to the Word Count function of Microsoft Word), exclusive of captions and signature lines.

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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE WESTERN DISTRICT OF WASHINGTON**
6 **AT SEATTLE**

7 STATE OF WASHINGTON, et al.,

8 Plaintiffs,

9 v.

10 DONALD J. TRUMP, et al.,

11 Defendants.
12

Case No. C17-0141JLR

DECLARATION OF RICHARD BIRKEL

13
14 I, RICHARD BIRKEL, declare:

15 1. I have personal knowledge of the facts set forth in this declaration and I am
16 competent to testify about them.

17 2. I am the Executive Director of Catholic Charities of Oregon ("Catholic
18 Charities"). I work at Catholic Charities' office in Portland, Oregon.

19 3. Catholic Charities' mission is to partner with the most vulnerable, regardless of
20 faith, to achieve lasting solutions to poverty and injustice. In fulfilling that mission, Catholic
21 Charities has operated a strong Refugee Resettlement Program for more than 60 years,
22 successfully resettling thousands of refugees in Oregon. This work is done in close partnership
23 with hundreds of volunteers, faith communities, schools, and other generous organizations.

24 4. The pause to the refugee admissions program and travel suspension imposed by
25 President Trump's Executive Order of January 27, 2017, directly impacts our ability to fulfill our
26

1 - DECLARATION OF RICHARD BIRKEL

OREGON DEPARTMENT OF JUSTICE
100 SW Market Street
Portland, OR 97201
(971) 673-1880 / Fax: (971) 673-5000

mission, serve our clients, and partner with the community. Catholic Charities of Oregon is specifically and immediately faced with the following impacts:

5. As a result of the suspension of the refugee admissions program for 120 days, Catholic Charities would anticipate an immediate loss of approximately \$200,000 in revenue provided by the Resettlement & Placement funding authorized by the U.S. Department of State. Furthermore, an additional \$110,000 in funding provided by the Office of Refugee Resettlement's Match Grant Program for employment and case management support would be immediately at risk. This represents a total of approximately \$310,000 in immediate lost revenue through the 120 day period.

6. Furthermore, Refugee Case Services Project (RSCP) funding provided by the Office of Refugee Resettlement may be impacted, dependent upon the volume of client cases throughout the period of the 120 days. With no new arrival, it could have a long-range impact of up to \$126,000 in funding.

7. The figures above assume a resumption of the program at the end of a 120-day period. The effects of the suspension could last much longer, as it would take time for refugees to be moved into the acceptance "pipeline."

8. As a result of the suspension of the refugee admissions program, Catholic Charities will not fill any vacant positions in the program and is considering an immediate initial staff reduction from 16.9 full-time employees to 9.6 full-time employees, a net loss of 7.3 full-time employees. Should the suspension of arriving clients be delayed by more than 120 days, Catholic Charities would be forced to consider eliminating the remainder of staff, incrementally.

9. With decreased arrivals and funding during the suspension, Catholic Charities will consolidate its Salem and Portland operations for the near term. In 2016, Catholic Charities

2 - DECLARATION OF RICHARD BIRKEL

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1 invested resources to develop a resettlement office in Salem to provide placement, employment
2 assistance, and case management to refugees located in Salem, due to increased Portland housing
3 costs. Without a strong presence in Salem, existing clients are at risk of receiving scaled-back,
4 localized support services.

5 10. With reduced staffing, the approximately 500 refugee clients who have been
6 resettled in Oregon in the past eight months may be directly impacted by reduced support
7 services and case management.
8

9
10 **I declare under penalty of perjury that the foregoing is true and correct.**

11 EXECUTED on February 10, 2017.
12

13 
14 RICHARD BIRKEL

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3 - DECLARATION OF RICHARD BIRKEL

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APPEAL

U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

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Case Name: State of Washington, et al., v. Trump., et al

Case Number: [2:17-cv-00141-JLR](#)

Filer: State of Oregon

Document Number: [102](#)

Docket Text:

DECLARATION of Richard Birkel in Support of State of Oregon's Motion to Intervene filed by Plaintiff State of Oregon re [94] MOTION to Intervene Attorney Scott J Kaplan added to party State of Oregon(pty:pla) (Kaplan, Scott)

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Ex. A - Birkel Declaration

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Case 1:17-cv-00050-DKW-KSC Document 154-3 Filed 03/13/17 Page 40 of 120 PageID
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c0e7a54e2d9c76e0d69896dbfe280f523f168de758cd65fee9b7e93f9e809]]

Ex. A - Birkel Declaration

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4 **UNITED STATES DISTRICT COURT**
5 **WESTERN DISTRICT OF WASHINGTON**
6 **AT SEATTLE**

7 STATE OF WASHINGTON, et al.,

8 Plaintiffs,

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10 DONALD J. TRUMP, et al.,

11 Defendants.
12

CASE NO. C17-0141JLR

DECLARATION OF MARGARET
EVERETT

13 I, Margaret Everett, hereby declare and affirm as follows:

- 14 1. I am over the age of 18 and competent to testify.
- 15 2. I am employed by Portland State University ("PSU") and serve as Vice Provost for
16 International Affairs and Dean of Graduate Studies. I have personal knowledge of the
17 facts set forth in this declaration and I am competent to testify about them.
- 18 3. Portland State University is an urban public research university located in downtown
19 Portland, Oregon. PSU's Mission is to serve and sustain a vibrant urban region through
20 creativity, collective knowledge, and expertise. The research and teaching of PSU has a
21 global impact. PSU is dedicated to collaborative learning, innovative research,
22 sustainability, and community engagement among a diverse community of life-long
23 learners.
- 24 4. Consistent with that Mission, Portland State University has a rich and diverse student
25 body, including a significant number of international students who are an essential part of
26 the community, who add to and enhance the experience of all students, and who provide
an important part of PSU's enrollment revenue.

- 1 5. Portland State University has a current enrollment of approximately 25,000 students, with
2 eight percent (8%), or 1929, being international students. "International students" are
3 foreign nationals studying at PSU pursuant to a U.S. government-issued visa.
- 4 6. I am familiar with the Executive Order entitled "Protecting the Nation from Foreign
5 Terrorist Entry into the United States," which I understand to temporarily bar any person
6 entering the United States who is a citizen of any of the following seven countries: Syria,
7 Iraq, Iran, Somalia, Sudan, Libya, and Yemen ("the affected countries").
- 8 7. Of the 1929 international students enrolled at PSU during the current academic term, 59
9 students are citizens of five of the affected countries: Iran, Iraq, Yemen, Libya, and Syria.
10 The 59 students are at PSU under valid student visas. I believe these 59 students, along
11 with all international students, enhance the educational experience of all students, faculty
12 and staff at Portland State University.
- 13 8. International students at PSU pay non-resident tuition and fee rates which are
14 significantly higher than in-state resident tuition and fee rates. I have consulted with the
15 University Budget Office and am informed that approximately \$33 million of Portland
16 State University's net tuition and fee revenue in academic year 2015-16 was derived from
17 international students. This amount is approximately 13% of PSU's total net tuition and
18 fees for 2015-16. This amount does not include housing or other auxiliary revenues
19 received by PSU from international students.¹
- 20 9. The implementation of the Executive Order has had a chilling effect on the PSU
21 community and a negative impact on the lives of affected international students. PSU has
22 advised the 59 affected students not to leave the country out of concern they would not be
23 able to return to resume their studies.
- 24 10. I understand that international students and their parents, as well as faculty and staff, are

25
26 ¹ I understand it is estimated that in 2015, Portland State University's international students contributed \$71.1 million to the U.S. economy, supporting 877 jobs. See NAFSA: Association of International Educators at <https://istart.iu.edu/nafsa/reports/state.cfm?state=OR&year=2015>.

1 worried about the travel restrictions generally, and specifically, for the 59 current
2 students from the affected countries. Some international students at PSU are worried
3 about their ability to travel to their home countries and then be able to return to complete
4 their studies, particularly in the event of a family or other emergency, and about the
5 ability of family members to visit or to attend significant events such as commencement.

6 11. In addition, PSU has significant partnerships with foreign universities outside of the
7 affected countries through which students can transfer to PSU and from which PSU
8 derives a significant number of its international students. I have heard from such
9 partnership universities with concerns about the safety and fair treatment of their students
10 in the United States in light of the Executive Order.

11 12. We have seen negative impacts to the personal and professional lives of persons affiliated
12 with PSU as a result of the Executive Order. For example, the Executive Order has
13 already negatively impacted a visiting researcher and a recent graduate.

14 13. The impacted visiting researcher is funded by a university in Finland but is an Iranian
15 national. This visiting researcher came to PSU from Finland in January 2016 to conduct
16 research related to water resources engineering in collaboration with faculty in PSU's
17 Maseeh College of Engineering and Computer Sciences. He returned to Finland over the
18 winter break and was scheduled to leave Europe to return to the United States on January
19 27, 2017. He was not allowed to board his flight, despite holding a valid J-1 visa. To
20 date, the visiting researcher has not returned to PSU and it is unclear at this time whether
21 he will do so, thereby depriving PSU of the important research he was conducting on our
22 campus.

23 14. The impacted recent graduate is an Iraqi national who has completed his studies and was
24 to return to Portland in order present research conducted by him and his graduate advisor.
25 If he is unable to return, he will not be able to present the research as planned. In order to
26 allow this former student and faculty member to jointly present their research, PSU
would likely bear the cost of having the research presented outside the United States in

1 order to enable the former student and faculty member to present jointly. Doing so would
2 be consistent with PSU's mission, with the dissemination of knowledge, and with
3 allowing a student to participate in the culmination of his work, although doing it outside
4 the United States deprives our community of the ability to participate. This is but one
5 example of the many ways the Executive Order is likely to impact PSU and our local
6 community if it remains in place.

7 15. In addition to current student, staff, and faculty impacts, Portland State University is
8 concerned about future negative impacts. PSU is presently in the middle of the
9 admissions season. To date, I understand PSU has received 84 applications for
10 Spring/Summer/Fall 2017 from prospective students from the seven affected countries.
11 Thirteen of those students have already been admitted, nine have been denied, and the
12 remaining 61 applications are pending an admission decision.

13 16. I understand two of the thirteen admitted international students from the affected
14 countries are graduate students admitted for the Spring 2017 term. The first day of the
15 Spring term is April 3, 2017. These admitted students have been issued F-1 visas, have
16 incurred the costs necessary to obtain such visas, and should be able to enter the United
17 States on or after February 25, 2017 pursuant to the terms of their visas. If the students
18 are not able to travel to the United States for the Spring 2017 term, their positions will not
19 be filled and represent lost revenue to PSU. Moreover, the loss of international graduate
20 students has a direct, negative impact on research and undergraduate teaching at PSU
21 because international graduate students often serve as graduate research assistants and
22 graduate teaching assistants at the University.

23 17. It is my understanding and belief that many of the international students we have in our
24 PSU community are provided a scholarship or other support by their home governments
25 to pursue studies in fields such as Engineering, Urban Planning and Public
26 Administration in order to contribute to rebuilding and civic improvement efforts in their
home countries after graduation. I believe that the ability of these students to create

1 positive connections and lasting ties with fellow students, the PSU community, Oregon,
2 and the United States as a whole, is in our national interest and that alienating PSU's
3 current and prospective international students runs counter to that interest. I also believe
4 that such actions are counter to the interests of PSU and its ability to fulfill its mission
5 and to its students.

6
7 I declare under penalty of perjury that the foregoing is true and correct.

8
9 Executed this 8th day of February, 2017

10
11 
12 Margaret Everett

APPEAL

U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

The following transaction was entered by Kaplan, Scott on 2/22/2017 at 7:28 PM PST and filed on 2/22/2017

Case Name: State of Washington, et al., v. Trump., et al

Case Number: [2:17-cv-00141-JLR](#)

Filer: State of Oregon

Document Number: [101](#)

Docket Text:

DECLARATION of Margarette Everett in Support of State of Oregon's Motion to Intervene filed by Plaintiff State of Oregon re [94] MOTION to Intervene Attorney Scott J Kaplan added to party State of Oregon(pty:pla) (Kaplan, Scott)

2:17-cv-00141-JLR Notice has been electronically mailed to:

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EX. B - Everett Declaration

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EX. B - Everett Declaration

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Case 1:17-cv-00050-DKW-KSC Document 154-3 Filed 03/13/17 Page 48 of 120 PageID
#: 2433

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

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8f3d15ca236890e5fbfa6cfbdb89376f32ac4fe5b6d1a007a4bfe186d92 ec]]

EX. B - Everett Declaration

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

I, Deirdre Heatwole, hereby declare as follows:

1. I am General Counsel for the University of Massachusetts (“UMass” or “University”). UMass is public land grant university with five campuses located in Amherst, Boston, Dartmouth, Lowell and Worcester, Massachusetts, with administrative offices in Shrewsbury and Boston. I have been employed at the University in this capacity since 2009, and have been employed as an attorney in the University’s legal office for a total of 27 years.

1 My current duties include oversight of all the University's legal work, and supervising the
2 attorneys in my office who provide legal advice and assistance to the offices that serve and
3 support students and employees, and the offices which support and promote the University's
4 many international associations and opportunities for both students and faculty.

5 2. I have either personal knowledge of the matters set forth below or, with respect
6 to those matters for which I do not have personal knowledge, I have reviewed information
7 gathered from University records by others within the organization, including the numbers of
8 students and employees and their various home countries.

9 3. The March 6, 2017 Executive Order entitled "Protecting the Nation from Foreign
10 Terrorist Entry into the United States" ("Revised Executive Order") will negatively affect the
11 ability of the University to continue to offer excellent public education in undergraduate,
12 graduate, and professional programs at affordable rates. This in turn will affect UMass' ability
13 to provide a well-educated workforce for the Commonwealth, reducing the significant amount
14 of business and tax revenue these UMass-educated workers provide to the Commonwealth.
15 UMass is the only public land-grant university in the Commonwealth, and the only public
16 university authorized to award doctoral degrees. Additionally, the UMass Medical School at
17 Worcester is the only public medical school in the Commonwealth, and UMass School of Law
18 at the Dartmouth campus is the only public law school in the Commonwealth.

19 4. The University currently employs approximately 130 people who are from the six
20 countries referenced in the Revised Executive Order (Syria, Iran, Somalia, Sudan, Libya, and
21 Yemen, or the "affected countries"), and who are neither U.S. citizens nor lawful permanent
22 residents and are therefore not exempted from the Revised Executive Order (hereinafter, "visa
23 holders").

24 5. Specifically, these approximately 130 visa-holder employees from the affected
25 countries are employed in positions including, but not limited to, Visiting Faculty, Associate
26 Lecturer, Researcher, Post-Doc, Graduate Teaching Assistant, Research Assistant, and

1 Graduate Medical Education Resident. These employees are located on all of our campuses
2 and in a wide variety of academic departments.

3 6. The University currently has approximately 155 enrolled students who are from the
4 six affected countries and who are neither U.S. citizens nor lawful permanent residents.
5 Approximately 100 of these students are also among the University's employees, including, for
6 example, as graduate teaching and research assistants.

7 7. For at least the period of the 90-day entry ban, all of the University's single-entry
8 visa holders from the six affected countries whose visa date stamps expire before the end of the 90-
9 day period will be unable, absent a discretionary waiver (the obtaining of which is deeply uncertain),
10 to return to the United State and to their schooling or work at the University if they travel abroad—
11 whether for personal, academic or professional reasons, or to renew their visas. Of course, the delay
12 in their ability to return may be considerably longer, given the need to obtain a visa following
13 expiration of the 90-day period.

14 8. Like the Executive Order 13769 issued on January 27, 2017, the Revised Executive
15 Order will have a significant negative impact on the ability to UMass to operate its core business:
16 education and research. The impact will be financial as well as reputational. UMass is a top-ranked
17 research institution and must hire highly qualified research faculty from around the world to
18 continue our significant research enterprise. UMass spent over 650 million dollars last year in its
19 research enterprise.

20 9. UMass needs to fill dozens of tenure track positions each academic year. The time
21 required to identify, evaluate, and negotiate with potential new faculty and researchers takes many
22 months, and the Revised Executive Order will interfere with that process for the 2017-2018
23 academic year. The month of March is part of the peak time (spanning from January through
24 March) for interviews of candidates, typically three to six candidates per position. Such interviews
25 can extend into May. Typically, new teaching faculty will start in the fall semester, such that offers
26 will need to be made and finalized in the spring. Offers are typically given February through May—

1 a period largely overlapping with the Revised Executive Order's 90-day entry ban. Prospects who
2 accept offers will also need to move family and secure housing by summer and thus will need to
3 obtain visas by that time.

4 10. Given the Revised Executive Order's 90-day entry ban, in conjunction with the
5 decision by USCIS to suspend premium processing on H-1B work status, departments within the
6 University are considering delaying their candidate selection and interview processes, aiming for a
7 spring 2018 rather than fall 2017 start date. Such delays would mitigate the Revised Executive
8 Order's impact on the selection of the strongest candidates for each position, but they would leave
9 empty positions that will need to be filled for the fall 2017 semester. The entry ban and the
10 continuing level of uncertainty because of the Revised Executive Order will thus delay and may
11 prevent the University from actively recruiting international faculty and related personnel. This
12 will translate into thousands of additional dollars spent by each campus, delays in research efforts,
13 and potential delays or loss of federal funding for new research.

14 11. UMass operates in a very competitive research environment but does not have the
15 financial resources of many of our sister institutions in the Commonwealth. We have limited
16 financial resources to provide affected faculty incentives to come to Massachusetts or to offer other
17 support or resources that might mitigate the impact of the Revised Executive Order on them or their
18 families. As a result, the Revised Executive Order's negative effects on recruitment of top
19 international candidates may fall more heavily on UMass as an institution than on institutions with
20 greater resources.

21 12. The Revised Executive Order provisions allowing for potential discretionary
22 "waivers" of the entry ban for particular applicants from the affected countries does not
23 meaningfully diminish the uncertainty around hiring that was created by Executive Order 13769
24 and continued by the Revised Executive Order. For example: a student wishing to visit an ailing
25 family member back in his home country, a faculty member wishing to attend a conference abroad
26 that is important to obtaining tenure, or prospective students or faculty members all will not be able

1 to count on the existence of a discretionary waiver of the ban on entering the United States. The
2 Revised Executive Order thus curtails travel opportunities outside the United States for holders of
3 single-entry or expired visas from the affected countries. Although such visa-holders always need
4 to apply for a visa to re-enter the United States if they travel outside the country, the Revised
5 Executive Order greatly diminishes or eliminates the possibility of getting such a visa. It thus
6 effectively precludes from international travel visa-holders who wish to remain in school or remain
7 employed in the United States.

8 13. The Revised Executive Order will negatively affect the University's ability to
9 continue to attract and enroll students from the six affected countries. The University's
10 admissions processes for graduate and undergraduate programs vary across the University's five
11 campuses. Most campuses are still admitting students for fall 2017 enrollment. Following
12 admission, students are sent a Form I-20 to use in applying for the F-1 international student visa
13 stamp. The University begins sending admitted students Form I-20s in the late winter and early
14 spring. Most Form I-20s are sent in April, May, and June, for fall enrollment. Therefore, the
15 impact of the Revised Executive Order's 90-day suspension will occur during "high season" for
16 international student visa processing for the 2017-2018 academic year.

17 14. Although, as described, the admissions season is still in process, and the
18 University is just beginning sending Form I-20s to admitted international students, UMass has
19 already extended at least 40 offers of admission for the 2017-2018 academic year to prospective
20 undergraduate and graduate students who are nationals of these countries. We expect to extend
21 additional offers in the coming weeks.

22 15. Higher education is very much international in nature. Students, faculty,
23 researchers, and staff regularly travel all over the world to participate in conferences, exchange
24 programs, seminars, and symposia with fellow students abroad. The manner in which Executive
25 Order 13769 was issued and implemented: as an abrupt travel ban, with no advance notice and
26 with no guidance, and without notice of implicit visa revocations, has made all travelers who are

1 not United States citizens concerned about whether they can continue to move about the world.
2 The Revised Executive Order perpetuates that uncertainty, barring entry of travelers from six
3 countries for 90 days, absent a discretionary waiver. Prospective students and faculty have many
4 options and they can certainly elect to attend or work at schools in the UK, Africa, or the EU,
5 rather than risk travel to the United States.

6 16. It has required a considerable outlay of scarce resources to mitigate the effects of
7 federal action that has been so immediate and is constantly changing. Efforts to identify affected
8 UMass individuals outside the United States started within hours of notice of Executive Order
9 13769. In the weeks thereafter, UMass was continually gathering data on the impact from a variety
10 of sources: official federal statements, news reports, internal immigration updates prepared and
11 sent to senior administrators, outreach to the international campus community in the form of legal
12 resources, and discussions with retained immigration counsel. Additionally, UMass has had to
13 create an internal crisis communication structure for alerting senior leadership and management of
14 immigration changes with campus level task forces closely monitoring executive actions, initiating
15 outreach to impacted members of the campus community, and identifying needs and resources.
16 Retained outside counsel has repeatedly been engaged to assist in these campus community support
17 efforts. Following conflicting statements from the federal government about whether Executive
18 Order 13769 would be rescinded, UMass was forced to continue preparing to respond to and
19 mitigate its effects while awaiting further action. Upon issuance of the Revised Executive Order,
20 the University was once again forced to devote additional resources to analyze the Revised
21 Executive Order's impact on our faculty and other employees, students, medical residents, and
22 graduate and undergraduate admissions processes; to consult with retained immigration counsel
23 regarding the same; to craft guidance for our campuses on how to respond and advise administrators
24 on ongoing business operations; and once again offer support to very concerned campus
25 communities—all to account for the additional 90-day entry ban.
26

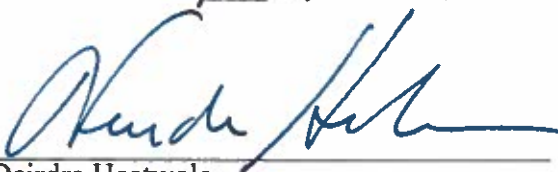
1 17. For academic institutions, the timing of the Revised Executive Order is particularly
2 challenging with respect to both faculty hiring, as discussed above, and student admissions. UMass
3 campuses have been issuing offers of admission for some weeks and will continue to do so for the
4 next several months. Students have a short time to review offers and make decisions. Generally,
5 students will be required to confirm their acceptance by paying a fee to secure their space, and some
6 may be hesitant to do so in light of concerns about the two executive orders. In turn, the University's
7 calculation of whom to admit is now jeopardized by having to take into account whether a student
8 from an affected country might be willing to accept, or instead, will decide not to attend UMass.
9 Campuses are attempting to adjust to the current environment, but they are limited in what they can
10 do as long as the actual terms and effects of the Revised Executive Order remain unclear.

11 18. These concerns all speak to potential long term financial and reputational damage
12 to UMass – the quality of its students, researchers, faculty and staff will decline, UMass's reputation
13 as a top research institution will decline, federal funding for research will decline, and enrollment
14 will decline. A decrease in applications or enrollment at UMass will reduce revenue to the
15 Commonwealth.

16 19. UMass, an institution with over 150 years of service to the Commonwealth, years
17 of continued growth, and a strong commitment to its mission, is very seriously concerned about the
18 long-term impact of the executive orders on its future. The Revised Executive Order significantly
19 impairs the University's ability to recruit and retain a diverse faculty and staff, and to teach and
20 support a diverse student body, enriched by a culture of inclusiveness and a high quality of
21 international research participants. It will take years for UMass to recover from the financial and
22 reputational damage due to the loss of personnel, students, programs, grants.

1
2 I declare under penalty of perjury that the foregoing is true and correct.
3

4 Executed on this 10th day of March, 2017

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6 

7 Deirdre Heatwole
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3
4 **UNITED STATES DISTRICT COURT**
5 **WESTERN DISTRICT OF WASHINGTON**
6 **AT SEATTLE**

7 STATE OF WASHINGTON, et al.,

8 Plaintiffs,

9 v.

10 DONALD J. TRUMP, et al.,

11 Defendants.

CASE NO. C17-0141JLR

DECLARATION OF HOWARD N.
KENYON

12
13 I, Howard N. Kenyon, hereby declare and affirm as follows:

- 14 1. I am over the age of 18 and competent to testify.
- 15 2. I am the Chief Finance and Operations Officer of Ecumenical Ministries of Oregon. I
- 16 work at Ecumenical Ministries' office in Portland, Oregon.
- 17 3. Ecumenical Ministries of Oregon is a statewide association of Christian
- 18 denominations, congregations, ecumenical organizations and interfaith partners
- 19 working together to improve the lives of Oregonians.
- 20 4. Since the 1970s, Ecumenical Ministries of Oregon has assisted refugees from all over
- 21 the world. Many refugees come to Oregon fleeing persecution and countries torn by
- 22 war. Often, they arrive with no more than the clothes they are wearing.
- 23 5. Ecumenical Ministries of Oregon assists approximately 600 refugees each year. Of
- 24 the refugees we assist, many have family members already in Oregon with whom
- 25 they are reuniting.
- 26 6. Almost one-half of our organization's budget is directed at refugee and immigration
- services. More specifically, over one-fourth of our budget is spent on our Sponsors

DECLARATION OF HOWARD N. KENYON - 1

OREGON DEPARTMENT OF JUSTICE
1162 Court Street
Salem, OR 97301
Telephone: (503) 378-4400
Fax: (503) 947-4793

Ex. D - Kenyon Declaration

1 Organized to Assist Refugees (SOAR) program. That program offers, among other
2 things, community education, translation and interpretation services, cultural
3 orientation, and English tutoring.

4 **Impact of Executive Order on Ecumenical Ministries of Oregon's Employees**

- 5 7. Our organization employs 12 people who assist with refugee resettlement in Oregon.
6 If refugees are no longer permitted to enter the United States, Ecumenical Ministries
7 of Oregon will have to terminate the employment of those 12 people.
- 8 8. In addition, Ecumenical Ministries of Oregon receives approximately \$75,000 per
9 year in government funding for other staff in our organization who provide support
10 for the refugee and immigration services. Our organization would lose that source of
11 income if the refugee ban, imposed by President Trump's Executive Order of January
12 27, 2017, remains in place. That loss of income may lead to staffing reductions in
13 other areas.
- 14 9. Because the long term impacts of the Executive Order are unclear, Ecumenical
15 Ministries of Oregon may not be able to rehire those same employees at a later date.

16
17 I declare under penalty of perjury that the foregoing is true and correct.

18
19 Executed this 13th day of February, 2017

20
21 s/ 
22 Howard N. Kenyon

APPEAL

U.S. District Court

United States District Court for the Western District of Washington

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The following transaction was entered by Kaplan, Scott on 2/22/2017 at 7:17 PM PST and filed on 2/22/2017

Case Name: State of Washington, et al., v. Trump., et al

Case Number: [2:17-cv-00141-JLR](#)

Filer: State of Oregon

Document Number: [97](#)

Docket Text:

DECLARATION of Howard N. Kenyon in Support of State of Oregon's Motion to Intervene filed by Plaintiff State of Oregon re [94] MOTION to Intervene Attorney Scott J Kaplan added to party State of Oregon(pty:pla) (Kaplan, Scott)

2:17-cv-00141-JLR Notice has been electronically mailed to:

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Ex. D - Kenyon Declaration

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Case 1:17-cv-00050-DKW-KSC Document 154-3 Filed 03/13/17 Page 61 of 120 PageID
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ec7ce1d90a31cccfed173f0295176677bd1bdbc14a91703e389f180479f96]]

Ex. D - Kenyon Declaration

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. C17-0141JLR

DECLARATION OF LEE PO CHA

I, Lee Po Cha, declare:

1. I have personal knowledge of the facts set forth in this declaration and I am competent to testify about them.

2. I am the Executive Director of Immigrant and Refugee Community Organization ("IRCO"). I work at IRCO's office in Portland, Oregon.

3. IRCO's mission is to promote the integration of refugees, immigrants and the community at large into a self-sufficient, healthy, and inclusive multi-ethnic society.

4. IRCO is a community-based organization that serves the needs of immigrants, refugees, and community members in Oregon, empowering people from around the world to build new lives and become self-sufficient by providing more than 150 culturally and linguistically specific social services, including employment and vocational training, English language learning, community development, early childhood and parenting education, youth academic support, and gang prevention.

1 - DECLARATION OF LEE PO CHA

OREGON DEPARTMENT OF JUSTICE
100 SW Market Street
Portland, OR 97201
(971) 673-1880 / Fax: (971) 673-5000

1 5. IRCO works closely with the State of Oregon and various local faith-based
2 organizations that specialize in providing immediate resettlement services to Oregon's refugee
3 populations.

4 6. A substantial portion of IRCO's clients come from countries subject to President
5 Trump's Executive Order of January 27, 2017, particularly Iraq, Somalia, and Syria. The pause
6 to the refugee admissions program and travel suspension imposed by the Executive Order
7 immediately disrupts IRCO's ability to fulfill its mission, serve its clients, maintain its programs
8 and operations, maintain current levels of employment, and work with government and
9 community partners. Already, in the 2017 fiscal year to date, we have experienced a 50%
10 reduction from the anticipated number of refugee arrivals seeking employment services. In
11 addition, I expect the pause to the refugee admissions program and travel suspension to have
12 major fiscal consequences on IRCO beginning in the 2018 fiscal year.

13 7. If the 120-day travel ban is given effect, the local refugee service system will be
14 impacted, potentially forcing IRCO to reduce services and lay off employees.

15 8. The indefinite suspension of Syrian refugees entering the United States will have
16 both an immediate and long-term negative impact on IRCO, by reducing the number of refugees
17 that IRCO serves and had planned to serve, causing disruption to IRCO's programs, operations,
18 and funding.

19
20 **I declare under penalty of perjury that the foregoing is true and correct.**

21 EXECUTED on February 17, 2017.

22
23 
24 _____
25 LEE PO CHA
26

APPEAL

U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

The following transaction was entered by Kaplan, Scott on 2/22/2017 at 7:24 PM PST and filed on 2/22/2017

Case Name: State of Washington, et al., v. Trump., et al

Case Number: [2:17-cv-00141-JLR](#)

Filer: State of Oregon

Document Number: [99](#)

Docket Text:

DECLARATION of Lee Po Cha in Support of State of Oregon's Motion to Intervene filed by Plaintiff State of Oregon re [94] MOTION to Intervene Attorney Scott J Kaplan added to party State of Oregon(pty:pla) (Kaplan, Scott)

2:17-cv-00141-JLR Notice has been electronically mailed to:

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Ex. E - Lee Po Cha Declaration

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2:17-cv-00141-JLR Notice will not be electronically mailed to:

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Ex. E - Lee Po Cha Declaration

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Document description:Main Document

Original filename:n/a

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0c1ec3973442e8c162fde016ce73ce623662d1b5cf8494b17bd19e3167623]]

Ex. E - Lee Po Cha Declaration

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, *et al.*,

*

Plaintiffs,

v.

*

Civil No. 2:17-cv-00141

DONALD TRUMP, *et al.*,

*

Defendants.

*

* * * * * * * * *

DECLARATION OF ROSS D. LEWIN

Pursuant to 28 U.S.C. § 1746, I, Ross D. Lewin, declare as follows:

1. I am over eighteen years of age, am competent to testify, and have personal knowledge of the matters in this declaration.

2. I serve as Associate Vice President for International Affairs at the University of Maryland College Park (“the University”). I have held this position since 2012. Before joining the University, I was Executive Director of the Office of Global Programs and Director of the Office of Study Abroad at the University of Connecticut. As Associate Vice President for International Affairs, I am responsible for the direction and management of the Office of International Affairs, which includes International Student Scholar Services, Education Abroad, and the Office of China Affairs. The Office of International Affairs coordinates international activities within the University’s seven colleges and five schools, advancing a strategic plan for internationalization, fostering

and nurturing international partnerships, and developing innovative programming for faculty and students to facilitate their development as global leaders committed to the improvement of the common good.

3. The University currently enrolls more than 6,100 international students and employs 1,500 international faculty from 137 countries. It sends more than 2,000 students abroad to more than sixty countries each year. It currently has 273 active international agreements with more than 213 partners in 53 countries.

4. I have reviewed the March 6, 2017 Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States (“Executive Order”), which temporarily bars entry into the United States by persons who are citizens of six countries: Syria, Iran, Somalia, Sudan, Libya, and Yemen (the “designated countries”). The implementation of the Executive Order on March 16, 2017 will directly impair the University’s ability to carry out its mission of teaching, research and support for the State’s economic development. Implementation of the Executive Order will prevent some students and faculty from traveling for academic activities and will impede some students’ academic progress and the progress of scholarly research. It will prevent some students from seeing family members, and it has already caused anxiety, depression and

alienation among all international members of the campus community. It will lead to enrollment declines, causing economic harm to the University.

5. The Executive Order will likely delay the return of one student who has applied for renewal of his expired student visa, a process which typically requires a 90-day waiting period. If this student's visa is not issued prior to the effective date of the Executive Order, the 90-day ban will increase his wait time to return to the United States to 180 days, thus impeding his academic progress and the University research in which he is engaged. The 90-day travel ban will likely prevent some students' family members from coming to the United States to visit for upcoming important milestone events, such as the May 2017 graduation and awards ceremonies.

6. Students from the designated countries whose visas have expired or will soon expire will not be eligible to apply for new visas until the 90-day ban has elapsed, thus delaying any travel abroad for academic or personal reasons.

7. Even students with valid visas have expressed hesitancy to travel abroad. They fear they will be subjected to heightened scrutiny upon their return to the United States, or that there may be additional executive orders forthcoming that will affect their immigration status. As a result, some students have opted not to study abroad, an activity the University regards as an important component of an undergraduate education.

Moreover, fewer graduate students will present their research at academic conferences abroad and carry out field work at global experimental stations, thereby making those students less competitive in the global job market.

8. The Executive Order is disrupting critical University research. For example, honeybee colonies have declined precipitously in the last several years, threatening crops that many humans depend on for their primary source of nutrition. The University is exploring the possible causes and potential remedies for this condition, known as colony collapse disorder, by surveying and mapping global honeybee populations. The U.S. Department of Agriculture has recognized the University's critical role in this work by funding its research since 2009. This work requires a team of experts, each of whom has unique knowledge and skills. None is easy to replace. After a long search, the University identified a statistician with singular expertise. Excited to join in this important work, she accepted the offer and was ready to relocate from Europe to College Park to begin her appointment. Because she was uncomfortable about the focus of the January 27, 2017 executive order upon predominantly Muslim countries, she decided to reverse her decision, leaving the University with a knowledge gap that will slow the progress of this urgent research. The University operates numerous scientific laboratories, each of which is a complex organization with myriad interdependent parts.

More than 200 graduate students, post-docs, and faculty from the designated countries staff the University's laboratories. The loss of just one of these researchers will disrupt work and delay progress for an entire lab.

9. The Executive Order has generated deep anxiety among the University's international population, particularly among Muslim students. They have expressed intense feelings of insecurity, depression, and alienation. The University has mobilized a team of professionals to provide special counseling services and has engaged legal counsel specializing in immigration to advise students. Staff in the University's Office of International Affairs have worked many hours beyond their regular work schedules to assist students affected by the January 27, 2017 executive order and this Executive Order, diverting their attention from other critical matters.

10. The Executive Order threatens the University's enrollment. Close to 400 individuals from the designated countries have submitted applications for Fall 2017 admission. More than 90% are from Iran. If just half of these students are admitted and accepted but choose not to attend the University because of the Executive Order's chilling effect, the University will incur a revenue loss of approximately \$1.6 million for Academic Year 2017-18. Moreover, the State of Maryland will lose these students' long-

term economic contribution, particularly because the overwhelming majority are in high-demand STEM disciplines.

11. The Executive Order affects the University's ability to attract talented international students, which has and will continue to financially impact the University and the State of Maryland. According to the 2016 NAFSA Association of International Educators report, international students contribute \$150 million annually to the University in payments for tuition, housing, and academic materials, generating and/or maintaining more than 2,200 jobs in 2016 alone. <https://istart.iu.edu/nafsa/reports/state.cfm?state=MD&year=2015>. The uncertainty surrounding the United States' immigration policy and the perception that the United States does not welcome students from predominantly Muslim countries will deter students from choosing to study at the University. The loss of just one of these students reduces the University's revenues.

12. The loss of students from the designated countries will also diminish the educational experiences of all of the University's students, because their access to the views and perspectives of students from these countries will be limited. Particularly affected will be those students who are preparing for positions requiring global involvement and leadership.

13. The University fears that the Executive Order will damage its international reputation. The University ranks high in all of the most respected and well disseminated global university rankings, including the US News and World Report Best Global University Ranking (40/1,000), the Academic Research World University Ranking (52/1,200), and the Times Higher Education World University Ranking (67/980). These rankings are based in part on the number of international students and faculty at the University, and the University's level of engagement with international partners through research collaboration. A reduction in these activities will likely affect the University's standing in these important rankings.

I declare under penalty of perjury that the foregoing is true and correct.



ROSS D. LEWIN

1
2
3
4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE WESTERN DISTRICT OF WASHINGTON**
6 **AT SEATTLE**

7 STATE OF WASHINGTON, et al.,

8 Plaintiffs,

9 v.

10 DONALD J. TRUMP, et al.,

11 Defendants.
12
13

Case No. C17-0141JLR

DECLARATION OF MARC OVERBECK

14 I, Marc Overbeck, hereby declare and affirm as follows:

15 1. I am over the age of 18 and competent to testify.

16 2. I am the Director, Primary Care Office, of the Oregon Health Authority. The
17 mission of the Primary Care Office ("PCO") is to promote health equity and access to quality
18 medical, dental and behavioral health services for all people living in Oregon. The PCO works
19 under a Cooperative Agreement with the US Health Resources and Services Administration
20 ("HRSA") to identify shortages of health care professionals in various communities around the
21 state and help coordinate efforts to recruit and retain needed professionals in these areas. As part
22 of that agreement with HRSA, each state is required to identify a PCO Director. One program
23 within the PCO is the J-1 Visa Waiver (Physician Waiver) Program.

24 3. Oregon's health care system, particularly in rural and underserved areas, is
25 dependent on the presence of an adequate supply of health care providers to serve the population.
26 J-1 physicians are international medical graduates who have been given a J-1 Visa to complete a

1 medical residency or fellowship in the United States. A stipulation of the J-1 Visa is that upon
2 completion of training, the physicians must return to their home country for two years. This
3 requirement is “waived” for a physician willing to work in a shortage area, in a position for
4 which recruitment of a U.S. physician has been unsuccessful. Oregon, like other states, has
5 30 J-1 slots per year, with up to 10 “flex” slots available outside of designated Health
6 Professional Shortage Areas, provided other program requirements are met.

7 4. There is a great deal of competition among states to obtain physicians willing to
8 work on the J-1 program. In the past, Oregon has been unable to utilize all of its available slots;
9 the Executive Order will very likely make this even more difficult by reducing the pool of
10 providers whom we may have to practice in Oregon under this program. Already, one physician
11 from a country affected by the Executive Order who had been willing to work in Florence,
12 Oregon, an area affected by a physician shortage, has indicated through his counsel that because
13 of the Executive Order, he was unlikely to obtain a waiver to remain in the country and practice
14 medicine in Oregon.

15 5. Since 2002, approximately 320 J-1 visa international physicians have practiced in
16 Oregon, including 16 physicians from the countries affected by the Executive Order. As
17 required by the visa, these physicians serve regions such as rural areas of southern and eastern
18 Oregon that have difficulty recruiting physicians domestically, particularly physicians who are
19 willing to accept the Oregon Health Plan or Medicare. J-1 visa physicians are also important to
20 staffing the Oregon State Hospital, our statewide psychiatric hospital, which currently employs
21 such physicians and is seeking to employ several more to address the shortages faced by our state
22 institution in serving the current and anticipated future patient population.


23 6. Currently, physicians from Iran and Iraq are practicing in underserved areas.
24 Without J-1 visa physicians, Oregon patients will have to either delay treatment or travel farther
25 to obtain it, resulting in additional Oregon Health Plan and Medicare costs to the State. Because
26

1 we are responsible for providing transportation to nearest available provider who can provide
2 services, this will result in additional costs to the State of Oregon.

3 7. J-1 Program directors in other states have identified similar concerns as the ones
4 we have identified about the negative effects to the program and the ability to recruit additional
5 providers imposed by the Executive Order.

6 **I declare under penalty of perjury that the foregoing is true and correct.**

7 EXECUTED on February 7, 2017.

8 
9 MARC OVERBECK

APPEAL

U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

The following transaction was entered by Kaplan, Scott on 2/22/2017 at 7:26 PM PST and filed on 2/22/2017

Case Name: State of Washington, et al., v. Trump., et al

Case Number: [2:17-cv-00141-JLR](#)

Filer: State of Oregon

Document Number: [100](#)

Docket Text:

DECLARATION of Marc Overbeck in Support of State of Oregon's Motion to Intervene filed by Plaintiff State of Oregon re [94] MOTION to Intervene Attorney Scott J Kaplan added to party State of Oregon(pty:pla) (Kaplan, Scott)

2:17-cv-00141-JLR Notice has been electronically mailed to:

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Ex. G - Overbeck Declaration

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Case 1:17-cv-00050-DKW-KSC Document 154-3 Filed 03/13/17 Page 79 of 120 PageID
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07b9233793669c4bfca4d41cc5762cb440e523f1af8144e5ddd60a7881704]]

Ex. G - Overbeck Declaration

DECLARATION OF VITA RABINOWITZ

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

Pursuant to 28 U.S.C. § 1746(2), I Vita C. Rabinowitz, hereby declare as follows:

1. I am Executive Vice Chancellor and University Provost at The City University of New York, ("CUNY" or "University"), a position I have held since July 2015. As Executive Vice Chancellor and University Provost, I am the chief academic officer of the University, responsible for leading the planning, development, and implementation of University policies and initiatives relevant to all aspects of its academic programs, research, instructional technology, global engagement, student development, and enrollment management. Prior to holding my current position, I served as Provost and Vice President for Academic Affairs at Hunter College, a senior college of CUNY, for approximately ten years, and prior to that I was a faculty member at Hunter College as well as a member of the doctoral program in psychology

1 at CUNY Graduate Center. I have personal knowledge of the matters set forth below, or have
2 knowledge of those matters based on my review of information and records gathered by
3 members of my staff.
4

5 2. The City University of New York is the nation's largest urban university, with
6 twenty-four campuses, including senior and community colleges and graduate institutions
7 including the CUNY Graduate School and University Center, the CUNY Graduate School of
8 Journalism, the CUNY School of Law, the CUNY Graduate School of Public Health and Health
9 Policy and the CUNY School of Medicine at City College. CUNY has approximately 1,600
10 different academic programs running the gamut from certificate programs to Ph.D. and
11 professional programs. The University has an enrollment of approximately 274,000 full and
12 part-time undergraduate and graduate students and has nearly 276,000 students enrolled in adult
13 and continuing education programs.
14

15
16 3. Since the founding of what is now City College (the oldest college in the CUNY
17 system) in 1847, CUNY has had a special mission to provide an affordable and excellent
18 education for students from disadvantaged backgrounds. More than 42 percent of CUNY's
19 students are in the first generation of their families to attend college. With its home in the
20 nation's largest and most diverse city, CUNY recruits and attracts a student body that is
21 extraordinarily diverse by any measure, including in language, culture, race, ethnicity, religion,
22 geography, family income, age, and educational background. CUNY students identify with 216
23 different ancestries and speak 189 different languages. Thirty seven percent of CUNY students
24 were born outside of the United States mainland.
25
26

1 4. As is described in its 2016-2020 Master Plan adopted by the University's Board
2 of Trustees, CUNY has recognized the increasing importance of providing global perspectives
3 to its students. Studying with faculty and alongside students from other countries can expose
4 students to different cultures and ideas, enliven their classroom experiences, expand their
5 networks and horizons and engender a sense of global citizenship. The Master Plan also
6 specifically highlights CUNY's goal to further diversity its faculty and increase the geographic
7 diversity of its students by recruiting more international students to enroll in and transfer to
8 CUNY.
9

10 5. The March 6, 2017 Presidential Executive Order entitled "Protecting the Nation
11 from Terrorist Entry into the United States" ("EO") restricted entry to the United States from six
12 countries: Syria, Iran, Somalia, Sudan, Libya and Yemen ("affected countries"). The EO will
13 impede CUNY's ability to offer its students an excellent and affordable education, as well as the
14 ability of CUNY's faculty to engage in research and collaboration with foreign scholars. The
15 EO will affect CUNY by, among other things: impeding the ability of current students to leave
16 the United States for personal reasons and to take part in "study abroad" programs; chilling
17 CUNY's ability to recruit and enroll foreign students; interfering with the ability of CUNY
18 faculty, postdoctoral researchers and graduate students, and their collaborators abroad, to travel
19 for research purposes; and limiting CUNY's ability to hire and retain foreign faculty and to host
20 foreign scholars in the United States.
21

22 Student International Travel and Related Issues
23

24
25 6. The University has more than 850 students born in the affected countries,
26 including approximately 116 students from those countries who attend CUNY on F or J visas

1 (including 18 doctoral students from Iran.) The implementation of the EO will have a negative
2 impact on the lives of students from the affected countries as well as other students. CUNY's
3 Citizenship Now! Program, which provides free immigration law services to help individuals
4 and families on their path to U.S. citizenship, reports that since the promulgation of the first
5 Executive Order on January 27, 2017 and continuing to date, it has been assisting dozens of
6 international students who have concerns and fears about the impact of the EO on them and their
7 families. Many of these inquiries are from students who are not from the six affected countries;
8 they include students from Afghanistan, India and Pakistan, among others. These students are
9 afraid to travel abroad, including for study abroad programs, because they fear being unable to
10 return to the United States.
11

12
13 7. The EO will diminish CUNY's ability to continue and expand a number of
14 international study abroad programs. Studying abroad is a formative educational experience that
15 can provide tremendous personal growth and marketable global competencies for students. The
16 University has more than 1,500 students and faculty traveling and participating in study abroad
17 programs annually, and CUNY's undergraduate colleges are actively developing more such
18 programs. The viability of CUNY's study abroad programs depends on the ability of CUNY
19 students (as well as faculty) to travel outside of the United States. By affecting the right to travel,
20 the EO is jeopardizing these programs, and will adversely affect students and faculty, regardless
21 of their immigration or citizenship status.
22

23
24 8. International programs and partnerships at CUNY campuses are already being
25 affected. At the Spitzer School of Architecture at City College, a partnership with institutions
26

1 in Mexico City has been put on hold because the School cannot at this time risk taking all of its
2 students out of the country since some may not be able to return. Current students are losing a
3 valuable opportunity and future students may as well because international professional
4 relationships cannot be regularly sustained. Both the Urban Design program and the Landscape
5 Architecture program in that same School have supported the travel of entire studios of students
6 to study foreign locations where urban areas are in crisis or major transition, including Ecuador,
7 Southern China and Ireland, among others. These irreplaceable educational experiences are not
8 possible at this time because it could put certain foreign students in jeopardy.

10
11 9. The EO is also posing an administrative burden on CUNY's study abroad offices,
12 and adding uncertainty into study abroad planning. CUNY study abroad program offices now
13 need to systematically record each study abroad participant's full nationality and immigration
14 status from the moment the student expresses interest in a program, to allow them to advise
15 students appropriately and to anticipate whether and how the student's status will impact the
16 viability of the program, for example, by increasing the number of student withdrawals due to
17 possible travel issues. If there are additional changes to immigration policies after students are
18 admitted to study abroad programs and pay fees, colleges will generally not be able to reimburse
19 students who withdraw, as most of the costs (such as to hotels and airlines) are paid in advance
20 and non-refundable. Programs that depend on minimum enrollments will face greater challenges
21 in meeting their targets, which may result in a higher than usual program cancellation rate.

23
24 10. Students at CUNY from the affected countries who are preparing to graduate are
25 also fearful and anxious about potential changes in their plans to work post-graduation under
26

1 Optional Practical Training (OPT) status. Post-graduation employment in OPT status gives
2 these students the ability to work in their area of study and some financial security. Now,
3 however, students from the affected countries will at a minimum experience delays in obtaining
4 work authorization. This will affect the ability of these students to obtain job offers that were
5 the hoped-for culmination of their CUNY education.
6

7 Admissions and Enrollment
8

9 11. The EO will also harm CUNY's ability to continue to attract and enroll students
10 from the affected countries and elsewhere. Higher education has become international, and
11 CUNY is no exception. CUNY currently enrolls over 8,000 international students on F and J
12 visas from over 100 countries. International students expect to be able to travel to their countries
13 of origin to maintain family relationships and, in the case of graduate students, to cultivate
14 professional opportunities because postgraduate employment in the United States is not
15 guaranteed. The EO threatens to scare away prospective students from the affected countries as
16 well as from other countries with large Muslim populations. It is also expected to reduce
17 applications and admissions from other international students, who may well decline to pursue
18 higher education in the United States in light of the EO.
19
20

21 12. For example, the lifeblood of CUNY's Graduate School is its doctoral students,
22 and its programs grow more competitive each year. During the admissions cycle for Fall 2017,
23 24.8 percent of the Graduate School's 4,255 applications were from international students. The
24 deadline by which students must accept or decline the Graduate School's offer of admission is
25 April 15. Graduate schools in Canada, Australia, New Zealand, and elsewhere are currently
26

1 making a strong recruitment pitch to international applicants, stating that their countries are more
2 welcoming to international students than the U.S. In this climate of uncertainty and fear, the
3 Graduate School expects a negative impact on its student yield this year and on admissions
4 during the next academic year. The Graduate School has already been contacted by a number
5 of just-admitted applicants from the affected countries who have expressed concerns about their
6 ability to travel to the United States to begin their studies in Fall 2017.
7

8
9 13. Similarly, the Spitzer School of Architecture at City College, which has
10 applicants each year from predominantly Muslim countries, anticipates that the uncertainty of
11 being granted a student visa will discourage international students from applying to City College.
12 Baruch College expects a similar impact on its master's degree programs in business
13 administration, public affairs, international affairs and financial engineering, and its doctoral
14 program in business administration, each of which enroll significant numbers of foreign students
15 including students from one of the affected countries, Iran. The CUNY School of Journalism
16 also foresees a similar negative impact on an intensive summer workshop that attracts many
17 international students and has included participants from the affected countries.
18

19 International Travel by Faculty and Other CUNY-Affiliated Researchers
20

21 14. CUNY currently has over 80 faculty members who specialize in Middle Eastern
22 and diaspora studies. It also has numerous faculty in different fields (including STEM fields)
23 who conduct research and collaborate with foreign researchers in the affected countries and other
24 Muslim-majority countries. The uncertainty of travel for individuals from the six affected
25
26

1 countries or any Muslim-majority country harms the ability of CUNY faculty to engage in
2 research abroad or to enter into partnerships with academic colleagues abroad.

3
4 15. I am aware of at least five CUNY faculty members currently working on research
5 projects relating to the Middle East and/or East Africa funded by grants from the National
6 Science Foundation. Their project topics include dispute resolution in the Middle East and an
7 archaeological and genetic study of East Africa, among others, and to different degrees will
8 involve research about and in the affected countries. Based on my experience in higher
9 education, I am confident that some or all of these faculty members will encounter considerable
10 difficulties in carrying out research in countries whose citizens are prohibited from entering the
11 United States, even if the faculty members themselves are not prohibited from re-entering the
12 United States.
13

14
15 16. I am also aware of an assistant professor at Baruch who conducts archaeological
16 research in Sudan. The EO will likely prevent her Sudanese colleagues from traveling to Baruch
17 for symposia, workshops, and exhibitions, and will make it difficult or impossible for her and
18 other American researchers to continue this and other active research projects in Sudan. The
19 project at issue aims to recover lost data about Meroe, the capital of the Meroitic Kingdom (ca.
20 400 BCE-350 CE) and a UNESCO World Heritage Site, which is in unstable condition. This
21 research is critical to the recovery of data before it is lost to researchers.
22

23 17. Additionally, I am aware of a Lehman College faculty member who is engaged
24 in research on Syrian television drama production, much of which takes place outside Syria in
25 neighboring countries. She expects that her research will be impeded due to the difficulty of
26

1 traveling to and returning from Muslim majority nations, given the enhanced scrutiny of travelers
2 returning from the affected countries and other Muslim-majority countries.

3
4 18. It is becoming clear at CUNY and at other research institutions that I am aware
5 of that the EO is having and will have a significant impact not only on academic research directly
6 involving the affected countries or Muslim-majority countries, but on research activity and
7 collaboration in the United States more generally. At least one CUNY faculty member has
8 reported that several British and Canadian colleagues have advised that they are no longer
9 willing to visit the United States for conferences or academic meetings as a result of the EO, and
10 that some U.S. academic organizations are experiencing calls from members to boycott
11 conferences (such as the American Psychiatric Association Conference in San Diego) unless
12 they are moved outside of the United States. CUNY faculty will suffer significant harm if, as
13 appears likely, academic conferences are moved out of the United States, as conference travel
14 will be prohibitively expensive. The boycott by foreign scholars of U.S.-based conferences will
15 also diminish the ability of CUNY faculty to engage in academic collaborations and exchange
16 of research findings.

17
18
19 Faculty Recruitment and Retention

20
21 19. Although CUNY faculty have always engaged in research, within the past decade
22 CUNY has expanded its research enterprise significantly to become a major research institution,
23 spending over \$450 million on research within the past year. In 2014, the University opened
24 the CUNY Advanced Science Research Center to support and accelerate high-level science
25 research and development and the faculty whose work is concentrated on cutting-edge research.
26

20. In light of this commitment to research, it is critical that CUNY be able to recruit and retain highly qualified research faculty. Identifying, recruiting and negotiating with potential new faculty and researchers takes many months. Ideally, new teaching faculty start in the fall semester, requiring offers made and arrangements finalized months prior to August. Prospects who accept offers will also need to move family and secure housing by summer. The uncertainty in the process caused by the EO will delay and may prevent the University and its colleges and units from pursuing prospects, resulting in delays in research efforts and potential delay or loss of federal funding for new research.

21. Moreover, potential foreign faculty recruits have already expressed concerns about coming to CUNY and the U.S. Baruch College, for example, which hires a significant number of foreign faculty members, reports that as a result of the EO it has received many more questions from potential employees about travel restrictions that will interfere with normal family obligations such as care of elderly parents, attending family weddings and anniversary events, or participation in cultural holidays. New York City College of Technology has many faculty members in engineering technology from the Middle East, especially Iran, as well as other countries such as Pakistan, Bangladesh and Algeria, that could potentially be affected in the future. The college fears that its ability to recruit and retain faculty from those countries who have family at home or in temporary visa statuses will be seriously affected by the EO. The CUNY Graduate Center is currently negotiating with an international senior research scholar who has expressed serious concerns about moving to the United States at this time.

Summary

1 22. The concerns raised above all reflect potential short- and long-term harm to
2 CUNY from the EO. The EO seriously affects CUNY's educational mission to provide
3 education to a geographically and intellectually diverse student body; to provide opportunities
4 for students to obtain a global perspective by studying with students from all nationalities; to
5 recruit and retain a diverse faculty, including international scholars; and to support wide-ranging
6 and critically important research by faculty, postdoctoral researchers and graduate students. In
7 my judgment, the EO will harm not only CUNY's educational and research missions, but also
8 its financial health, due to reduced federal grant funding for research and a decline in student
9 enrollment, and its reputation as a cutting-edge research university. It would take years for
10 CUNY to recover from this damage.
11

12
13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed on this 11th day of March, 2017

15 *Vita C. Rabinowitz*
16

17 _____
18 Vita C. Rabinowitz, Ph.D.
19 Executive Vice Chancellor and University Provost
20 The City University of New York,
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The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

Pursuant to 28 U.S.C. § 1746(2), I Eric Scherzer, hereby declare as follows:

1. I am the Executive Director of the Committee of Interns and Residents/SEIU Healthcare ("CIR"), a national union representing interns, residents, and fellows in the medical field, which is headquartered in New York City.
2. I have personal knowledge of the statements set forth below. Personnel within CIR, including the legal department and research department, assisted in gathering information related to these statements.
3. CIR is the oldest and largest housestaff union in the country, representing more than 14,000 interns, residents, and fellows in the medical field in New York, New Jersey, New Mexico, Massachusetts, Florida, California and Washington, D.C. CIR members comprise approximately 13% of all United States resident physicians.

1 4. CIR has over 5,900 members in New York State and is the major union representing
2 medical interns, residents, and fellows in the state. The majority of these CIR members
3 (approximately 5,600) work in hospitals located in New York City. The remainder
4 work in Westchester County.

5 5. A breakdown of CIR members in each of our New York State hospitals and clinics is
6 attached as Exhibit A.
7

8 **Harm to CIR Members**

9 6. The March 6, 2017 Executive Order, titled "Protecting the Nation from Foreign
10 Terrorist Entry Into the United States" ("March 6th Executive Order") will be
11 particularly harmful to CIR members. Although we do not collect visa information, I
12 have reason to believe that more than 500 CIR members are foreign nationals with
13 temporary employment visas. Scores of resident physicians in New York City alone are
14 from the countries listed in the Executive Order. Of these, a significant number are
15 from Iran, one of the listed countries. Shortly after the January 27, 2017 Executive
16 Order also titled "Protecting the Nation from Foreign Terrorist Entry Into the United
17 States" ("January 27th Executive Order") went into effect, CIR issued a notice advising
18 all nationals of the affected counties not to travel outside of the United States. We also
19 warned foreign nationals from other countries not listed in the January 27, 2017
20 Executive Order to avoid international travel. We cautioned other members on visas to
21 travel outside of the U.S. only after consideration of the possible risks associated with
22 travel during this unpredictable time.
23
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- 1 7. As a result of the January 27th Executive Order, a second-year Internal Medicine
2 resident at Interfaith Medical Center in Brooklyn – one of New York's “safety-net
3 hospitals” that treat some of New York's most vulnerable patients – was denied entry
4 back into the United States when he attempted to leave Sudan after a visit to his family.
5 This doctor is a Sudanese citizen who has a valid H-1 B visa for foreign workers in
6 specialty occupations. He was unable to return to his residency program until he was
7 allowed to enter the United States on February 5, 2017, after a temporary restraining
8 order was issued by the Western District of Washington at Seattle, halting
9 implementation and enforcement of the Executive Order.
10
11 8. The March 6th Executive Order continues to harm CIR members and potential CIR
12 members from the 6 listed countries. Although the March 6th Executive Order allows
13 immigration-enforcement officials to issue waivers to permit admission of nationals of
14 the 6 listed countries if there is proof that denying entry “would cause undue hardship,
15 and that his or her entry would not pose a threat to national security and would be in the
16 national interest,” this is done on a case-by-case basis. Therefore, it is unclear how
17 difficult it will be for CIR members or prospective members to obtain a waiver. Also,
18 family members of CIR members from the 6 listed countries may be barred from
19 obtaining a visa as a result of the March 6th Executive Order.
20
21 9. The March 6th Executive Order will also likely harm CIR members beyond those from
22 the listed countries. Many CIR members who are foreign nationals from other countries
23 expressed concern that the January 27th and March 6th Executive Orders will be
24 expanded to include their countries of origin. This is particularly the case for CIR
25
26

1 members from countries with a large Muslim population. Since the January 27, 2017
2 Executive Order went into effect, CIR's counsel has been inundated with panicked calls
3 from foreign- national residents seeking advice about how the Executive Orders could
4 affect them.

5
6
7 **Impact on Safety-Net Hospitals**

8 10. I expect that the March 6th Executive Order and other policies promulgated by
9 Department of Homeland Security will result in medical students deciding not to pursue
10 their medical training in the U.S. Because of the remaining uncertainties engendered
11 by this March 6th Executive Order, many medical students may elect to do their
12 residency in Britain or Canada thus depriving U.S. hospitals from the best and brightest
13 foreign trained medical students.

14
15 11. CIR members primarily work in safety-net hospitals, which include all of New York
16 City Health and Hospitals, public acute care hospitals, as well as most hospitals in
17 Brooklyn, Queens and the Bronx. Upon completing their residencies these members
18 often go on to work within the primary care units throughout New York State, where
19 there is a particularly underserved population and a great need for health care
20 professionals.

21
22 12. New York's safety-net hospitals rely heavily on foreign national resident physicians.
23 For example, in the Department of Internal Medicine at Interfaith Medical Center, a
24 safety-net hospital in Brooklyn, there are 91 resident physicians. Of the 91, 43 are on
25 H-1 B visas, 12 are on J-1s, 20 are green card holders and 16 are U.S. citizens. There
26

1 are, for example, four Sudanese resident physicians in this Department at Interfaith, one
2 of whom was discussed above. The Sudanese doctors cannot have family members visit
3 them because of the Executive Order. These Sudanese residents are still concerned
4 about overseas travel, as the Executive Orders could change to include visa holders.
5 Many of their foreign national colleagues are similarly worried about exiting the U.S.
6 in case the Executive Order is expanded to encompass citizens of their home countries
7 as well.
8

9 13. Resident physicians in the U.S. on a J-1 visa, which affords foreign nationals cultural
10 and educational exchange opportunities in the United States, need a waiver to stay in
11 the U.S. after their residency program is complete. A J-1 Visa Waiver allows a
12 physician to stay in the country to practice in a federally designated Health Professional
13 Shortage Area or Medically Underserved Area. As a result of the March 6th Executive
14 Order, physicians from the affected countries may not pursue entry to the U.S. in J-1
15 status and will thereby deprive underserved rural communities of the benefit of their
16 service under a J-1 waiver after their training.
17

18 14. The Executive Order has significant public health implications. Even the shortage of
19 one physician can have a significant impact on a safety-net hospital and the patients
20 they treat. Further, CIR learned about foreign-national patients who are confused by the
21 Executive Order and are afraid to get treated in some of these safety-net hospitals out of
22 concern that they would be deported. If this concern continues, it would have wide
23 public health impacts.
24
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Harm to New York Hospitals' Residency Programs

15. There has been a profound chilling effect on international medical students applying to New York hospitals' residency programs and a major disincentive for hospitals to select foreign nationals for their residency programs due to the January 27th and March 6th Executive Orders and the uncertainty about whether they will be expanded to include other nations. CIR is concerned that some of the best and brightest international medical students, who have options to participate in residency programs in the United Kingdom and Canada, for example, will decide not to participate in a U.S. residency program. Many of these international medical students will not want to invest the time, energy and resources into applying for U.S. residency programs as they are concerned that they may not be able to enter the country.

16. I expect that there will be a significant negative impact on the National Residency Matching Program ("the Match") which will result in lower ranked medical students working in New York hospitals. During the Match, domestic and international medical school students are matched with residency programs at teaching hospitals throughout the United States. Medical students apply to residency programs and rank their hospitals by preference while teaching hospitals interview and evaluate residency program applicants and also rank them by preference. The result of the Match is that most of these applicants are placed with their most preferred program and, similarly, each program is matched with the most preferred applicants on its list.

17. The March 6th Executive Order places teaching hospitals and residents in an untenable position as they will be uncertain about which medical students will be allowed to enter

1 the country to fill their residency positions in July. We will not know for sure what the
2 effects of this uncertainty has been on the selection process until the results are
3 announced on March 17 ("Match Day"), but I suspect that hospitals will be reluctant to
4 rank some of the best and most qualified candidates if they are from the 6 affected
5 countries, or even if they are foreign nationals from other countries, as they may not be
6 able to participate in the program due to the March 6th Executive Order. As it is very
7 difficult to fill a vacant residency position after the Match, programs may determine
8 that it would be too much of a risk for them to rank foreign nationals who might not be
9 able to enter the country, especially those from the affected countries.
10

11 18. The March 6th Executive Order will likely continue to cause great injury to CIR
12 members, the hospitals where they train and the communities that they serve.
13

14
15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on this 10th day of March, 2017

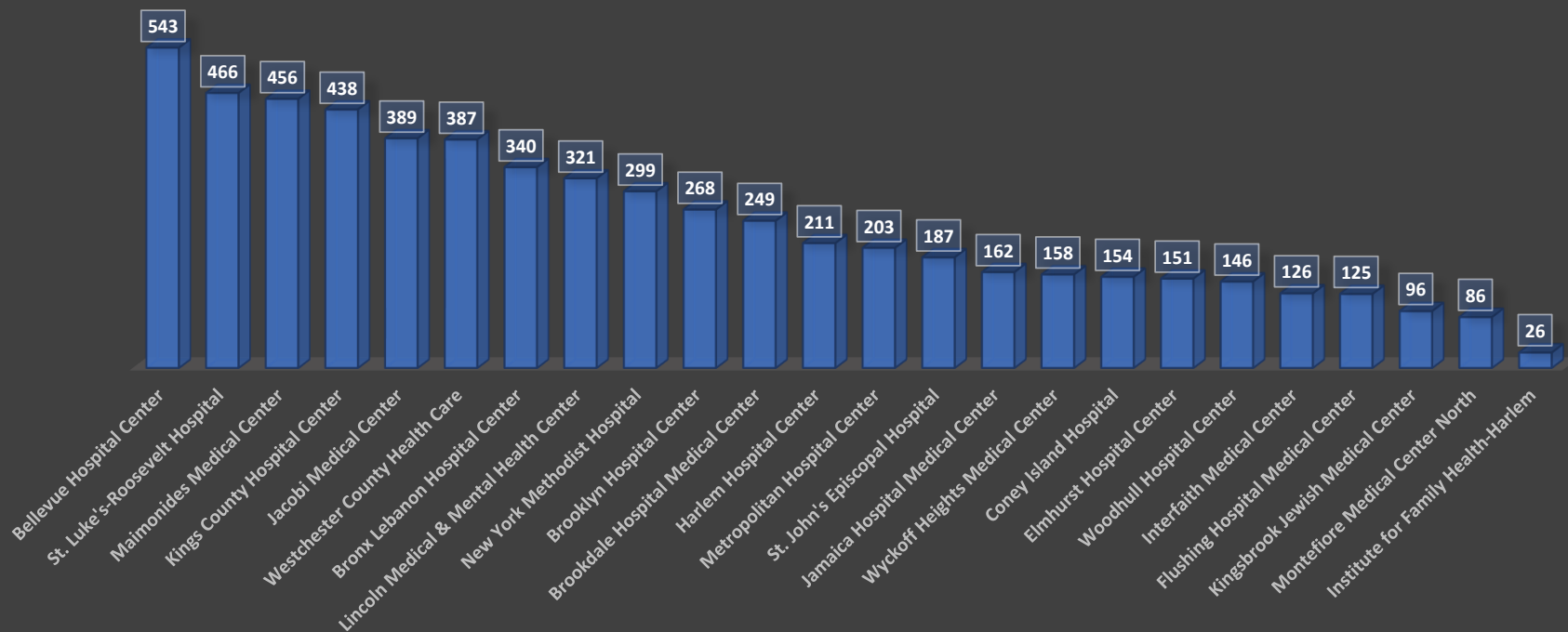
17 
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19 Eric Scherzer
20 Executive Director
21 Committee of Interns and Residents/SEIU
22 Healthcare
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Breakdown of CIR Residents in New York State

CIR RESIDENTS IN NEW YORK STATE



DECLARATION OF JENNIFER SIME

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

Pursuant to 28 U.S.C. § 1746(2), I, Jennifer Sime, hereby declare as follows:

1. I am Jennifer Sime, Senior Vice President, US Programs of the International Rescue Committee (IRC). I am responsible for providing executive oversight and management of IRC's refugee resettlement programs in the United States.
2. IRC is a non-profit, non-sectarian global organization founded in 1933 and currently operating in over 40 countries around the world. The IRC's core mission is to serve people forced to flee from war, conflict, and disaster and help them survive, recover, and gain control of their lives. A substantial part of the IRC's work is providing aid to

1 refugees, which it does recognizing that refugees are the victims of terror, not the
2 perpetrators of it.

3
4 3. Responding to the world's worst humanitarian crises, the IRC helps people whose lives
5 and livelihoods are shattered by conflict and disaster to recover and gain control of their
6 futures. Starting from the moment a new refugee arrives at the airport, the IRC provides
7 essential services to maximize successful resettlement through its 28 U.S. offices. These
8 offices serve as a free, one-stop center for refugees' needs during their pivotal first
9 months in the United States, providing immediate aid, including food, housing, and
10 medical attention.
11

12
13 4. The March 6, 2017 Executive Order suspending the US Refugee Admissions Program
14 has interfered with IRC's ability to carry out its mission and injured those the IRC serves,
15 characteristically extinguishing the glimmer of hope of refugees awaiting a safe life in
16 the United States.
17

18
19 5. The IRC is one of only nine resettlement agencies approved by the U.S. Department of
20 State. Over the past forty-years, the IRC has resettled roughly 370,000 global refugees
21 in cities throughout the United States.
22

23 6. The IRC operates in 28 U.S. cities to oversee domestic refugee resettlement. The IRC in
24 New York opened in 1975, and since then has resettled over 28,000 refugees by using a
25 combination of services including case management, employment assistance, education
26

1 programming, and legal services. The IRC of New York is headquartered in New York
2 City and is operated by a staff of 21 employees and 400 volunteers annually.

3
4 7. During fiscal year 2016 (October 1, 2015 to September 30, 2016), the IRC in New York
5 resettled 125 individuals from fifteen different countries of origin. The office anticipated
6 resettling approximately 125 individuals again in fiscal year 2017, and thus far the IRC
7 in New York has resettled only 45 individuals from 10 different countries of origin.

8
9
10 8. The March 6, 2017 “Protecting The Nation From Foreign Terrorist Entry To The United
11 States” Executive Order directly harms refugees awaiting resettlement to the U.S. and those
12 already residing here.

13
14 9. Families separated because they obtained refugee status at different times, who have been
15 waiting to be reunited, will have to wait even longer. One case overseen by IRC of New
16 York involves a 17-year old waiting to be reunited with his father, stepmother, and
17 siblings, all of whom reside in New York City. However, because of the Executive Order,
18 his family does not know when he will be permitted to join them.

19
20
21 10. Currently, the IRC in New York has 25 cases (56 people) in its pipeline waiting for
22 resettlement in New York City, from countries such as Iraq, Afghanistan, Syria, El
23 Salvador and Cuba. However, as a result of the EO’s limits on and suspension of the US
24 Refugee Admissions Program, it is possible that none of these people will now be resettled.

1 11. In this way, the Executive Order also directly impacts refugees already living in the U.S.
2 Resettlement agencies including the IRC in New York are allocated funding on a per
3 arrival basis through a contract with the U.S. State Department, but that does not account
4 for ongoing services to individuals already in the country.
5

6 12. The Order not only suspends refugee resettlement for 120 days, but reduces the number of
7 refugee arrivals this fiscal year from 110,000 to 50,000. As a result, the IRC in New York
8 is facing a reduction in resources. This puts in jeopardy the capacity for resettlement
9 agencies to provide continued services for those refugees who are already here and in
10 need of case management, employment and other support services, such as developing
11 and refining job skills, connecting clients to professional work, offering English-
12 language instruction or other training opportunities, providing access to legal services,
13 and connecting clients to other community-based organizations.
14
15

16 13. As of the issuance of the Executive Order, the United States had already vetted 60,000
17 individuals for resettlement in the country. These refugees are now stranded in crisis
18 zones, even though they have established to the satisfaction of Consular Officers that
19 their lives are in danger and they pose no threat to the United States. In many cases, these
20 are individuals who have been separated from family members already in the United
21 States.
22

23 14. Refugees are vetted more intensively than any other group seeking to enter the U.S. In
24 fact, the hardest way to come to the country is as a refugee. Once those refugees most in
25
26

1 need are registered by the UNHCR, the U.N. refugee agency, the U.S. then hand-selects
2 every person who is admitted.
3


4 15. The U.S. resettlement program gives priority to refugees, usually vulnerable families,
5 who have been targeted by violence. The U.S. does not recognize as refugees people who
6 have committed violations of humanitarian and human rights law, including the crime of
7 terrorism, as refugees. They are specifically excluded from the protection accorded to
8 refugees.
9

10
11 16. Security screenings are intense and led by U.S. government authorities, including the
12 FBI, the Department of Homeland Security, the Department of Defense, and multiple
13 security agencies. The process typically takes up to 36 months and is followed by further
14 security checks after refugees arrive in the States.
15

16
17 17. Refugees undergo biographic and biometric checks, medical screenings, forensic
18 document testing, and in-person interviews. Because of the complexity of the conflict in
19 their country, Syrian refugees must go through extra review steps with intelligence
20 agencies and Department of Homeland Security officers who have particular expertise
21 and training in conditions in Syria and the Middle East.
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1 I declare under penalty of perjury that the foregoing is true and correct.
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3 Executed on this 10th day of March, 2017
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7 _____
8 Jennifer Sime
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DECLARATION OF LOVELY WARREN

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

**Declaration of
Mayor Lovely A. Warren,
City of Rochester, New York,
Regarding Immediate and
Irreparable Harm**

Pursuant to 28 U.S.C. § 1746(2), I Lovely A. Warren, hereby declare as follows:

1. I am the Mayor of the City of Rochester, New York (the “City”), with offices at City Hall, 30 Church Street, Rochester, New York. I have been the City’s Mayor since January 2014.
2. I make this declaration based in part on personal knowledge and in part on information City staff has collected from community organizations, colleges and universities in the Rochester area, and published reports. The City of Rochester Law Department has reviewed Executive Order 13780, “Protecting the Nation from Foreign Terrorist Entry into the United States,” issued March 6, 2017, and to be implemented March 16, 2017, and the predecessor to that order, Executive Order 13769, entitled “Protecting the Nation from Terrorist Entry into the United States,” issued January 27, 2017.

3. The City of Rochester, the home of Frederick Douglass and Susan B. Anthony, has a long tradition of support for equal rights for all people, including immigrants and refugees.
4. In 1986, Rochester City Council Resolution No. 86-29 recognized Rochester as a City of Sanctuaries.
5. On February 21, 2017, the Rochester City Council passed Resolution No. 2017-5 reaffirming the City's status as a Sanctuary City and adopting Sanctuary City policies. The resolution reiterated that the City is one community that is welcoming and inclusive of all, united and strengthened by its diversity, and committed to upholding and protecting the civil and human rights of all individuals that come within its borders, including immigrants and refugees.
6. The City of Rochester is the third largest city in New York State with a population of approximately 210,000 people.
7. Approximately 8.5% of the City's residents were born outside the United States—more than 17,000 Rochesterians, according to 2015 data from the U.S. Census Bureau.
8. Immigrants in the City of Rochester—members of our community born outside the United States but who have made Rochester their home—contribute significantly to the City economically, socially, and culturally.¹
9. In the past decade, approximately 6,300 refugees have settled in Rochester, making Rochester one of the top three cities in refugee resettlement in New York State during that period, according to a published report.²

¹ See, e.g., Brief for Association of American Universities as Amicus Curiae in Support of Petitioners' Requested Relief at 28, *Darweesh v. Trump*, No. 17-cv-480 (E.D.N.Y. filed Feb. 16, 2017), ECF No. 139 [hereinafter "AAU Amicus Brief"] (discussion of Saudi Arabian hepatologist who was recently hired by University of Rochester and the University of Rochester's Division of Solid Organ Transplantation's Chief, a Mexican national, who is a world-renowned liver-transplant surgeon and has recruited an international team to join him in Rochester).

² See Joseph Spector, *Immigration order hits home across NY*, DEMOCRAT & CHRONICLE (Feb. 3, 2017), <http://www.democratandchronicle.com/story/news/politics/albany/2017/02/03/immigration-order-hits-home-across-ny/97303656>

1 10. According to the Catholic Family Center, which handles refugee resettlement in the
2 Rochester area, in 2016, a total of 1,180 refugees settled in Rochester, including from
3 countries named in Executive Order 13780: 231 from Somalia and 72 from Syria.

4 11. In 2015, 756 refugees resettled in Rochester, according to a published report.³

5 12. Refugees are the fastest growing population in the Rochester City School District.

6 13. The Rochester International Academy (“RIA”), a school in the Rochester City School
7 District that helps newly arrived students learn English and become part of the community,
8 and which most refugee children attend for some time after arriving in Rochester, has
9 experienced a significant increase in enrollment this school year, with 426 students enrolled,
10 according to a published report.⁴

11 14. Rochester City School District School No. 15, the Children’s School of Rochester, has
12 approximately 333 students in Pre-K through grade 6. Some of those students are originally
13 from three countries named in the executive order—Somalia, Sudan, and Yemen. Those
14 students are predominantly Muslim.

15 15. If Executive Order 13780 is implemented, it will cause significant harm and upheaval in the
16 City of Rochester, including in immigrant and refugee communities, and for organizations
17 that serve them.

18 16. The 120-day suspension of the United States Refugee Assistance Program as set forth in
19 Executive Order 13780 may cause refugees to face delays in entry to the United States. Such
20 Delays in entry may prevent Rochester’s refugee resettlement agency, Catholic Family
21 Center, from doing its work effectively. When entry is delayed, Catholic Family Center
22 must refile paper work, reissue checks, and secure housing again for arriving refugees.

23
24 ³ See Justin Murphy, *Rochester’s refugee population booms*, DEMOCRAT & CHRONICLE (Dec. 27, 2016),
25 <http://www.democratandchronicle.com/story/news/2016/12/27/rochester-international-academy-refugees-enrollment/95713600>

26 ⁴ See *id.*

1 17. Catholic Family Center not only serves refugees, it employs many former refugees. As a
2 result of the executive order, however, its work force may face cuts.

3 18. While Catholic Family Center had been planning for an increase in refugees from Syria and
4 Somalia due to ongoing crisis conditions in those countries, Executive Order 13780's
5 reduction in the number of refugees allowed to resettle may force Catholic Family Center
6 to reduce its resettlement services. That reduction could result in lost jobs in its Resettlement
7 Office.

8 19. International students in New York's 25th Congressional District, which encompasses the
9 City of Rochester, have a major economic impact on the area, according to data from
10 NAFSA, the Association of International Educators. During the 2015–2016 academic year,
11 the presence of 7,138 international students in the district contributed \$253.3 million to the
12 economy and supported 3,613 jobs.⁵

13 20. Rochester Institute of Technology ("RIT") employs approximately 3,900 faculty and
14 staff. Of RIT's more than 18,600 students, approximately 2,700 are international
15 students, from more than 100 countries.⁶

16 21. During the 2015–2016 academic year, RIT's international students were responsible for
17 financial contributions of \$105.4 million in the 25th Congressional District, supporting
18 1,567 jobs, according to NAFSA.⁷

19 22. RIT has 32 students on its main campus who are from the countries named in Executive
20 Order 13780.⁸

21
22 ⁵ NAFSA, New York *Congressional District 25 Benefits from International Students*,
<http://istart.iu.edu/nafsa/reports/district.cfm?state=NY&year=2015&district=25> (last visited Mar. 10, 2017).

23 ⁶ Rochester Institute of Technology, RIT in Brief, <https://www.rit.edu/overview/rit-in-brief> (last visited
24 March 10, 2017); Rochester Institute of Technology, A message from RIT President Bill Destler regarding U.S.
Presidential executive orders pertaining to immigration (Jan. 29, 2017), <http://www.rit.edu/immigration>.

25 ⁷ NAFSA, *supra* note 5.

26 ⁸ See Rochester Institute of Technology, A message from RIT President Bill Destler regarding U.S.
Presidential executive orders pertaining to immigration (Mar. 8, 2017), <http://www.rit.edu/immigration>.

23. RIT has advised its students, faculty, and staff from the countries covered by Executive Order 13780 not to leave the United States due to the risk they may be unable to reenter the country.⁹

24. Even before the announcement of Executive Order 13780, RIT faced a 10% decrease in applicants from the Middle East and various predominantly Muslim countries around the world for the 2017–2018 school year, according to a published report. Applicants from the countries affected named in the previous travel ban, Executive Order 13769, have expressed concerns about studying in the United States.¹⁰

25. The University of Rochester is Rochester's largest employer, with more than 28,000 employees.¹¹ Of those employees, more than 2,000 serve as faculty and instructional staff to approximately 11,100 students.¹²

26. The University of Rochester is critical to Rochester's economy. Its operations produce an economic impact estimated at \$3.26 billion per year.¹³

27. The University of Rochester has 3,432 International Students.¹⁴

⁹ *Id.*

¹⁰ See James Goodman, *Fear and economic conditions account for RIT drop*, DEMOCRAT & CHRONICLE (Feb. 20, 2017), <http://www.democratandchronicle.com/story/news/2017/02/20/rit-finds-drop-applications-middle-east/98147154>

¹¹ See Brian Sharp, *Study highlights UR's economic impact*, DEMOCRAT & CHRONICLE (June 16, 2016), <http://www.democratandchronicle.com/story/news/2016/06/16/study-highlights-urs-economic-impact/85951436/>; see also University of Rochester, About Us, <http://www.rochester.edu/aboutus> (last visited March 10, 2017); University of Rochester, Working Here <http://www.rochester.edu/working> (last visited March 10, 2017).

¹² See University of Rochester, About Us, *supra* note 11.

¹³ See KENT GARDNER, UNIVERSITY OF ROCHESTER & AFFILIATES 2015 NYS ECONOMIC IMPACT at ii (Center for Governmental Research 2016), <http://www.rochester.edu/newscenter/wp-content/uploads/2016/06/NYS-economic-impact-report-UR-affiliates-2015.pdf>.

¹⁴ See AAU Amicus Brief, *supra* note 1, at Appendix A.

1 28. During the 2015–2016 academic year, the University of Rochester’s international students
2 were responsible for financial contributions of \$132.7 million in the 25th Congressional
3 District, supporting 1,951 jobs, according to NAFSA.¹⁵

4 29. Applicants to the University of Rochester have also expressed concerns to the University
5 about studying in the United States since the release of the original travel ban, Executive
6 Order 13769, according to a published report.¹⁶

7 30. According to the Catholic Family Center, delays in refugee resettlement and reduction in
8 the number of refugees allowed to resettle may also negatively affect employers in the City
9 of Rochester that hire refugees, including Kraft, Wegmans Food Markets, and the
10 University of Rochester.

11 31. Thus, by impeding foreign-born visitors, workers, and students from entering the City or
12 traveling freely, Executive Order 13780 would negatively impact the City of Rochester as
13 well as its residents, its economy, and educational institutions.

14
15 I declare under penalty of perjury that the foregoing is true and correct.

16
17 Executed on this 11th day of March, 2017

18
19 
20

21 Mayor Lovely A. Warren
22
23
24

25 ¹⁵ NAFSA, *supra* note 5.

26 ¹⁶ See Goodman, *supra* note 10.

DATED: Honolulu, Hawai‘i, March 13, 2017.

/s/ Duane R. Miyashiro

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII, and ISMAIL
ELSHIKH,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of Homeland Security; U.S.
DEPARTMENT OF STATE; REX
TILLERSON, in his official capacity as
Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

CIVIL NO. 17-00050-DKW-KSC

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on the date and by the method of service noted below, a true and correct copy of the foregoing was duly served as indicated below on the following at their last known address via electronically through CM/ECF:

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