

No. 17-15589

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF HAWAI‘I and ISMAIL ELSHIKH,

Plaintiffs-Appellees,

v.

DONALD TRUMP, President of the United States, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Hawai‘i
(1:17-cv-00050-DKW-KSC)

**BRIEF OF THE STATES OF ILLINOIS, CALIFORNIA, CONNECTICUT,
DELAWARE, IOWA, MAINE, MARYLAND, MASSACHUSETTS, NEW
MEXICO, NEW YORK, NORTH CAROLINA, OREGON, RHODE ISLAND,
VERMONT, VIRGINIA, AND WASHINGTON, AND THE DISTRICT OF
COLUMBIA AS AMICUS CURIAE IN SUPPORT OF
PLAINTIFFS/APPELLEES**

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INTERESTS OF *AMICI*

The States of Illinois, California, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington, and the District of Columbia submit this brief as *amici curiae* in support of affirmance and in opposition to appellants' motion for a stay pending appeal. On January 27, President Donald J. Trump promulgated the initial version of the Executive Order at issue in this suit. *See* Exec. Order No. 13,769, 82 Fed. Reg. 8,977-79 (Jan. 27, 2017) (Am. Compl. Ex. 2) ("initial Order"). The initial 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. 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, *Washington v. Trump*, 2017 WL 462040 (W.D. Wash. Feb. 3, 2017), and this Court denied the federal government's request for a stay of that judgment, *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017) (*per curiam*). This Court 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, this

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.

On March 6, 2017, President Trump issued the revised Executive Order that is the subject of this litigation. ER 68-78 ("revised Order"). 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 our 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 and demonstrate the widespread and irreparable harms that the States would suffer if this Court were to reverse the grant of a preliminary injunction or issue a stay pending appeal.²

ARGUMENT

Hawai‘i and other States have standing to challenge the revised Order in federal court and would be irreparably injured if that Order were permitted to go into effect. In view of these widespread, concrete and immediate harms, the public interest requires that the District Court’s injunction remain in place. Appellants’

¹ See *Washington v. Trump*, No. C17-0141JLR (W.D. Wash.). The District Court in *Washington* denied the plaintiff States’ emergency motion to enforce the nationwide injunction previously entered in that action against the Revised Order’s 90-day ban on entry of persons from the six Muslim-majority countries and its 120-day suspension of the U.S. Refugee Admissions Program. *Washington v. Trump*, 2017 WL 1045950 (W.D. Wash. Mar. 16, 2017). The court, however, did not decide whether the plaintiff States were entitled to a new temporary restraining order or preliminary injunction with respect to those aspects of the revised Order, and a motion for a temporary restraining order remains pending in that action. *Id.* at *4.

² All parties have consented to the filing of this brief. No party’s counsel authored this brief in whole or in part, and no person other than *amici* contributed money that was intended to fund preparing or submitting the brief.

motion for a stay pending appeal should be denied and the judgment granting a preliminary injunction should be affirmed.

The Supreme Court has held that States are “entitled to special solicitude in our standing analysis.” *Massachusetts v. E.P.A.*, 549 U.S. 497, 520 (2007). 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 with whom they stand in a special relationship such as students and instructors at state universities, *Washington*, 847 F.3d at 1160-61. In addition, States may invoke federal jurisdiction to protect “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 harms 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. In view of these immediate and irreparable harms to the States, as well as to our residents, public and private institutions, businesses, state treasuries, and economies as a whole, the District Court did not abuse its discretion in granting a nationwide preliminary injunction. Meanwhile, appellants have not come any closer than they did in the *Washington* case to carrying their burden of demonstrating that a stay pending appeal is necessary to avoid irreparable harm to them. The judgment of the District Court should be affirmed and the motion for a stay should be denied.

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, and would immediately cause even greater harms if the preliminary injunction were stayed or reversed. Nationals from the six designated countries are (or plan to become) faculty and students at our public universities, doctors at our medical institutions, employees of 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 States: many are likely to face obstacles to renewal when their visas expire that could jeopardize their employment; many will be effectively unable 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. Others who plan to come here to study, teach, or provide health care or other services, but who have not yet secured a visa, will 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 Hawai‘i and other States throughout the country, and are more than sufficient to demonstrate Article III standing and to show that the District Court did not abuse its discretion as to the irreparable harm and public interest components of the injunctive relief standard.³

One argument must be disposed of at the outset. Appellants contend that the injuries to state institutions have not yet ripened because the revised Order suggests that some people might be able to receive “case-by-case waivers.” Appellants’ Br. at 23 (citing revised Order, § 3(c)(i), (iii)). But that speculative possibility does not undo the injuries the revised Order has already inflicted on the States or the even greater harms that will follow if the Order is allowed to go into effect. The Order does not describe the process for applying for a waiver, or specify the timeframe for receiving one, or set any concrete standards governing the issuance of waivers beyond providing a list of circumstances in which waivers

³ 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.

“could be appropriate.” *Id.* The ultimate decision whether to issue a waiver is committed entirely to “the consular officer’s or the [Customs and Border Patrol] official’s discretion.” *Id.* This vague and open-ended waiver provision is of no help to state institutions, such as universities and public hospitals, that need a degree of predictability when filling classes and vacant positions, much less to individuals from the six designated countries who are prevented from arranging travel to and from the United States for themselves and their families. There is thus no merit to appellants’ contention that courts are powerless to address the revised Order “until a prospective student or faculty member requests a waiver and is denied.” Appellants’ Br. at 23. As detailed below, our State institutions are feeling the pinch of the revised Order *now*—and the additional adverse effects of granting a stay or reversing the injunction would be immediate and severe.⁴

⁴ The doctrine of consular nonreviewability, cited at Appellants’ Br. 32-33, is likewise irrelevant here. As this Court has recognized, the doctrine does not bar constitutional claims brought by U.S. citizens, *Bustamante v. Mukasey*, 531 F.3d 1059, 1062 (9th Cir. 2008), not to mention claims brought by States. Moreover, as was true of *Washington v. Trump*, this case “is not about the application of a specifically enumerated congressional policy to the particular facts presented in an individual visa application. Rather, the States are challenging the President’s promulgation of sweeping immigration policy.” 847 F.3d at 1162. Therefore, neither the consular nonreviewability doctrine nor the deferential standard of *Kleindienst v. Mandel*, 408 U.S. 753 (1972), applies.

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. As this Court held in *Washington v. Trump*, States may assert proprietary standing to seek redress for harms to their public universities, 847 F.3d at 1161, as well as third-party standing on behalf of faculty and students, whose interests are “inextricably bound up with” the research and teaching activities of the universities, *id.* at 1160 (quoting *Singleton v. Wulff*, 428 U.S. 106, 114 (1976)). These harms are neither speculative nor elective: they are happening already, as a direct result of the issuance of the revised Order.

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, immediate, 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 across a wide variety of academic departments.⁵ To the extent these employees hold expired or single-

⁵ Ex. A (Heatwole Declaration), ¶¶ 4-5.

entry visas, they now stand to face unprecedented delays and obstructions to renewal, precluding them from international travel—whether for personal reasons or to fulfill professional obligations—during the implementation of the entry ban. For instance, Baruch College, part of the City University of New York (“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.⁶

The revised Order’s 90-day entry ban also coincides with the peak period of the hiring season, making it practically impossible for state universities to interview faculty candidates from the six designated countries and extend offers to them for the 2017-2018 year. UMass, for instance, expects to be unable to hire top-ranked potential faculty, lecturers, or visiting scholars from the affected countries because the revised Order precludes those individuals from reaching the United States to fulfill their teaching obligations.⁷ 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.⁸

⁶ Ex. B (Rabinowitz Declaration), ¶ 21.

⁷ Ex. A (Heatwole Declaration), ¶¶ 4-10.

⁸ Ex. B (Rabinowitz Declaration), ¶ 21.

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 considerable expenditure of scarce resources.⁹

The entry ban also substantially impedes the exchange of scholarly ideas that is essential to the research mission of our state universities. To take just one example, under the initial Order the visa interview of a faculty member at a foreign university was cancelled, preventing that faculty member from traveling to the U.S. for a scheduled meeting with faculty at Oregon State University to discuss curriculum and research in a specialized scientific field.¹⁰

Likewise, the research laboratories at our state universities depend heavily on the work of foreign post-doctoral 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

⁹ Ex. C (Collins Declaration), ¶¶ 4-5; Ex. D (Williams Declaration), ¶¶ 8, 10.

¹⁰ Ex. E (Adams Declaration), ¶ 16.

the University of Maryland's scientific laboratories.¹¹ 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 in serious question.¹²

Impact on students. The revised Order has already disrupted the academic plans of current 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. For instance, the University of California has 436 undergraduate students, graduate students, and medical residents who are nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen at its six largest campuses (Los Angeles, Berkeley, San Diego, Irvine, Davis, and Santa Barbara). The California State University System has approximately 250 students on visas from these countries.¹³ The University of Illinois has approximately 280 students from the six designated countries, with

¹¹ Ex. F (Lewin Declaration), ¶ 8.

¹² Ex. C (Collins Declaration), ¶ 9; Ex. D (Williams Declaration), ¶ 8.

¹³ 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.

about 50 more admitted for Fall 2017.¹⁴ 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, thus impeding his academic progress and the university research in which he is engaged.¹⁵ The revised Order's entry ban also will prevent family members from the designated countries from traveling to the United States for milestone events such as graduations, unless they are able to obtain the case-by-case waivers that may or may not be granted under the open-ended and discretionary authority set forth in the Order. Revised Order, § 3(c) (ER 73-74).

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, about 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; reportedly, several of the Iranian students have chosen to pursue their

¹⁴ These figures were provided to the office of the Illinois Attorney General by the general counsel of the University of Illinois.

¹⁵ Ex. F (Lewin Declaration), ¶ 5.

studies in Canada instead.¹⁶ As of March 12, the University of Washington had admitted 28 graduate students from the designated countries for the Fall 2017 term, but its graduate dean is concerned they will be unable to matriculate; several students have already emailed him to withdraw their applications.¹⁷ 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 the U.S.¹⁸ The Vermont Attorney General was recently contacted by an Iranian graduate student, currently studying in Canada, who has been accepted into and was planning to attend a doctoral program at the University of Vermont but is concerned that he will be unable to enter the United States because of the revised Order.¹⁹ The fiancée of a student at Washington State University (“WSU”), who was herself accepted to a Ph.D. program at the University of Oklahoma after winning a green card lottery, had her visa interview

¹⁶ Miles Bryan, *10 Prospective UIC Students Ineligible To Enroll Due To Travel Ban*, WBEZ News (Mar. 6, 2017), goo.gl/sHAiku.

¹⁷ Ex. G (Eaton Declaration), ¶¶ 3-4 & ex. 2.

¹⁸ Ex. H (Everett Declaration), ¶ 16.

¹⁹ 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.

process cancelled as a result of the entry ban and is now unable to study in the U.S.²⁰

The competitive harms caused by the revised Order are already being felt in the student recruitment process as well. Nationwide, two out of every five universities report a decline in international applications, with the biggest decline coming from the Middle East.²¹ Our university officials have learned that graduate schools in Canada, Australia, New Zealand, and elsewhere are aggressively recruiting international applicants by asserting that their countries are more welcoming to international students than the United States. The Special Education Program at WSU's Department of Teaching and Learning has seen its number of international applications drop from 63 last year to just ten this year.²²

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.²³ For example, in New York, the Rochester Institute of

²⁰ Ex. I (Ghasemzadeh Declaration), ¶ 2 of ex. A.

²¹ Stephanie Saul, *Amid 'Trump Effect' Fear, 40% of Colleges See Dip in Foreign Applicants*, N.Y. Times (Mar. 16, 2017), goo.gl/9z5bfx.

²² Ex. J (Chaudhry Declaration), ¶ 9.

²³ Ex. D (Williams Declaration), ¶¶ 7, 9.

Technology 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.²⁴ And the revised Order is preventing an Iranian post-doctoral student at WSU from visiting her husband in Germany or her parents in Iran.²⁵

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 post-doctoral 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.²⁶ The risks posed by understaffing medical facilities are among the gravest irreparable harms that could befall our residents. And 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.

²⁴ Ex. K (Warren Declaration), ¶¶ 22-23.

²⁵ Ex. I (Ghasemzadeh Declaration), ¶ 1 of ex. A; Ex. J (Chaudhry Declaration), ¶ 7.

²⁶ Ex. C (Collins Declaration), ¶ 9.

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 for 2017 has already begun, as candidate applications and interviews and medical schools’ rankings of future residents have already been completed and the computerized “match” took place on March 17, one day after the revised Order was scheduled to go into effect. 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 such as the University of Massachusetts Medical School had already interviewed specific applicants from the designated countries. These programs now risk having insufficient medical residents to meet staffing needs if their preferred choices are precluded from obtaining a visa.²⁷ 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

²⁷ Ex. C (Collins Declaration), ¶¶ 6-8.

major disincentive for hospitals to select foreign nationals for their residency programs.”²⁸

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 and 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; one research firm estimates 4.3 million fewer people will come to the U.S. this year, resulting in \$7.4 billion in lost revenue.²⁹

If the revised Order is permitted to go into effect, the *amici* States will lose weeks or even months of otherwise available tax revenues. The States will never recover these revenues, even if the pending legal challenges ultimately prevail. The amounts at issue are immense, even just with respect to the contribution of

²⁸ Ex. L (Scherzer Declaration), ¶ 15; Ex. M (Johnson Declaration), ¶ 13.

²⁹ Abba Bhattarai, *Even Canadians are skipping trips to the U.S. after Trump travel ban*, Wash. Post (Apr. 14, 2017), goo.gl/gj1XSU.

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 2015.³⁰ Students from the six designated countries who were enrolled in New York State institutions contributed \$28.8 million to the State's economy, including direct payments for tuition, fees, and living expenses.³¹ 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. The *amici* 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.³² During the 2015-16 academic year, Iran alone sent 12,269 students to colleges and universities across the United States, yielding an estimated economic impact of \$386 million.³³

³⁰ Teresa Watanabe & Rosanna Xia, *Trump Order Banning Entry from Seven Muslim-Majority Countries Roils California Campuses*, L.A. Times (Jan. 30, 2017), goo.gl/qFzNz9.

³¹ 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.

³² Institute of International Education, *Open Doors Data, International Students: All Places of Origin*, goo.gl/LOU2m6.

³³ Institute of International Education, *Open Doors Data Fact Sheets: Iran*, goo.gl/h5HJsd.

Broader economic impacts. The initial and revised Orders have also already inflicted harms on the *amici* States' economies more broadly, although those harms will not be fully quantifiable for some time. The health of our economies depends in large part on remaining internationally attractive and competitive destinations for companies in the life sciences, technology, finance, health care, and other industries, as well as for tourists and entrepreneurs. In Illinois, for example, 22.1% of entrepreneurs are foreign-born; immigrant- and refugee-owned businesses employ more than 281,000 people; and immigrants represent 37.7% of the State's software developers.³⁴ 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 2021.³⁵ 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.³⁶ Similarly, in the State of Washington, immigrant and refugee-owned

³⁴ *The Contributions of New Americans in Illinois*, New American Economy, 2, 10 (Aug. 2016), goo.gl/C3X2L0.

³⁵ *Id.* at 13.

³⁶ Randy Capps & Karina Fortuny, *The Integration of Immigrants in Maryland's Growing Economy*, goo.gl/6l2B5b.

businesses employ 140,000 people.³⁷ In addition, Washington’s technology industry relies heavily on the H-1B visa program, with Microsoft alone employing nearly 5,000 people through that program.³⁸ Even a temporary disruption in the flow of these highly skilled workers into the United States puts companies across the country at a disadvantage compared to their global competitors.³⁹

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 602, including through 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

³⁷ 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.

³⁸ *Id.*

³⁹ 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).

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.⁴⁰ The revised Order stands in stark opposition to these core expressions of the States’ sovereignty. The States’ interest in enforcing their state constitutions and laws gives them a distinct basis to challenge the Order’s constitutionality in federal court.

More specifically, the revised Order inflicts a distinctive harm on the States by violating the Establishment Clause of the First Amendment. As the district court found, ER 15-17, 54-64, 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

⁴⁰ 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); Mass. Gen. L. ch. 151B, §§ 1, 4; 5 Maine Rev. Stat. Ann. §§ 784, 4551-4634; 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; Wash. Rev. Code § 49.60.030(1).

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 structural role in our constitutional order. Although the Clause indisputably protects individual rights against both state and federal infringement, one of its original purposes was also to prevent the federal government from interfering with the States on core matters of religion.⁴¹ 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—and to vindicate the structural limitation on federal power that the Establishment Clause embodies—by

⁴¹ *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.

invoking federal jurisdiction to seek to enjoin the revised Order.

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 counted 175 hate-related incidents in the first two months of 2017, as compared to 400 hate crimes reported in all of 2016.⁴²

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, California accepted 23,393 refugees, including 5,668 from Iran, 225 from Syria, and 119 from Sudan.⁴³ Between July 1, 2015 and June 30, 2016, California resettled 1,454 Syrian refugees, more than any other state.⁴⁴ 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

⁴² Marwa Eltagouri, *Hate Crime Rising, Report Activists at Illinois Attorney General's Summit*, Chicago Tribune (Feb. 24, 2017), goo.gl/WsnMbp.

⁴³ Office of Refugee Resettlement, *Refugee Arrival Data*, (November 24, 2015), <https://www.acf.hhs.gov/orr/resource/refugee-arrival-data>.

⁴⁴ "California Leads the Nation in Resettlement of Syrian Refugees," CBS SF Bay Area (Sept. 29, 2016), goo.gl/tkMa7T.

resettled in Maryland, including 404 refugees from Syria.⁴⁵ In Chicago alone, approximately 795 refugees from four of the six designated countries were resettled in 2016.⁴⁶ 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.⁴⁷ In one public school district in the Burlington metropolitan area, roughly ten percent of the student body—nearly 100 children, mostly refugees—are from Somalian or Yemeni families.⁴⁸

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 isolating them 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

⁴⁵ Maryland Office for Refugees and Asylees, “Refugees and SIV’s Resettled in Maryland by Nationality, FY 2012 – FY 2016, <https://tinyurl.com/hec8j8y>.

⁴⁶ U.S. Department of State, Bureau of Population, Refugees and Migration, Office of Admissions – Refugee Processing Center, <http://ireports.wrapsnet.org/>.

⁴⁷ 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>.

⁴⁸ This information was provided to the Vermont Attorney General’s Office by personnel from the Winooski School District.

eligible refugees by reducing the cap on admissible refugees for Fiscal Year 2017 by more than half, from 110,000 to 50,000. Revised Order, § 6(b) (ER 75). As a result, resettlement agencies whose funding is allocated on a per-arrival basis face a reduction in resources. The International Institute of Buffalo, which provides refugee resettlement services, will have to lay off six employees over the next few months.⁴⁹ Lutheran Community Services Northwest, based in Washington, has notified 15 out of its 35 refugee assistance employees that they will be laid off after the revised Order goes into effect.⁵⁰ 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 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.⁵¹

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

⁴⁹ Ex. N (Hassett Declaration), ¶ 21.

⁵⁰ Ex. O (Duea Declaration), ¶ 9.

⁵¹ Colin Campbell, *Baltimore-based World Relief to lay off 140, close Glen Burnie office after Trump's refugee order*, Baltimore Sun (Feb. 16, 2017), goo.gl/6jpxQV.

countries.⁵² In New York, “safety-net hospitals”—which include the entire New York City Health and Hospitals system and public acute care hospitals, as well as most of the hospitals in Brooklyn, Queens, and the Bronx—rely heavily on foreign national resident physicians.⁵³ 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 residents, and only 16 are U.S. citizens.⁵⁴ 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.⁵⁵ 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.⁵⁶ Overall, the Immigrant Doctors Project concludes that the revised Order is “likely to hurt the health of millions of Americans . . . who rely on physicians trained in Iran,

⁵² 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), goo.gl/dT2Z6h.

⁵³ Ex. L (Scherzer Declaration), ¶¶ 10-12.

⁵⁴ *Id.* ¶ 12.

⁵⁵ *Id.*

⁵⁶ Ex. P (Overbeck Declaration), ¶ 4.

Libya, Somalia, Sudan, Syria, and Yemen.”⁵⁷ The revised Order thus directly harms the welfare of our most vulnerable populations.

III. Appellants Have Not Demonstrated That A Stay Pending Appeal Is Necessary To Prevent Irreparable Harm.

A stay pending appeal “is not a matter of right. ... It is instead an exercise of judicial discretion, and the propriety of its issue is dependent on the circumstances of the particular case.” *Nken v. Holder*, 556 U.S. 418, 433 (2009) (citation and internal quotation marks omitted). The court must consider whether the stay applicant has a strong likelihood of success on the merits, whether the applicant will be irreparably injured without a stay, whether a stay will substantially injure other parties, and where the public interest lies. *Id.* at 434. The party requesting a stay “bears the burden of showing that the circumstances justify an exercise of this Court’s discretion.” *Lair v. Bullock*, 697 F.3d 1200, 1203 (9th Cir. 2012) (quoting *Nken*, 556 U.S. at 433-34) (brackets omitted).⁵⁸

⁵⁷ Ex. Q (Akhtari Declaration), ¶ 5.

⁵⁸ In the past, this Court has sometimes applied an alternative standard in the context of issuing stays, allowing the moving party to demonstrate that the case raised “serious legal questions” and that the balance of the hardships tipped “sharply in its favor.” *Golden Gate Restaurant Ass’n v. City and County of San Francisco*, 512 F.3d 1112, 1116 (9th Cir. 2008) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1435 (9th Cir. 1983)). Since the Supreme Court’s decision in *Nken*, this Court has indicated that this alternative approach remains available in the stay context. See *Leiva-Perez v. Holder*, 640 F.3d 962, 964-966 (9th Cir. 2011) (per curiam). Regardless of which approach this Court applies, the stay requested by appellants should be denied.

In *Washington v. Trump*, this Court found that appellants had not met their burden of showing that a stay was necessary to avoid irreparable injury. 847 F.3d at 1168. They have done no better this time. As this Court held in *Washington*, bare invocations of the paramount importance of national security or the President's interest in protecting his institutional prerogatives are not enough to justify a stay. *Id.* Yet the claims of irreparable harm on which appellants rely—unlike the concrete, immediate harms to the States described above—are, once again, abstract and conclusory. *See* Appellants' Mot. for Stay 7-10. Even viewed deferentially, the revised Order's recitations of purpose fall short of establishing that irreparable harm will follow if the Order is not immediately put into effect. Revised Order, §§ 1(e), 1(h) (ER 69-71). The only terrorism-related offense cited there that involved a national of one of the six designated countries was a failed bombing attempt by a native of Somalia who came to this country as a child refugee and became a naturalized U.S. citizen. *Id.* §1(h) (ER 71). Meanwhile, a draft report from appellants' own Department of Homeland Security finds that very few nationals of the designated countries have carried out or attempted terrorist acts in the United States, Am. Compl. ¶61 (ER 151-52) & Ex. 10, and a joint declaration of ten former high-ranking national security officials concluded as to the initial Order that “[m]aintaining the district court's temporary restraining order while the underlying legal issues are being adjudicated would not jeopardize

national security.”⁵⁹ As this Court noted in *Washington*, the district court’s preliminary injunction “merely returned the nation temporarily to the position it has occupied for many previous years.” 847 F.3d at 1168. That is not irreparable injury.

Finally, consideration of the public interest does not support a stay here any more than it did in *Washington*. See 847 F.3d at 1169. To the contrary, as this Court has observed more than once, “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Sammartano v. First Judicial District Court*, 303 F.3d 959, 974 (9th Cir. 2002)).

⁵⁹ Joint Declaration of Madeleine K. Albright, Avril D. Haines, Michael V. Hayden, John F. Kerry, John E. McLaughlin, Lisa O. Monaco, Michael J. Morrell, Janet A. Napolitano, Leon E. Panetta, and Susan E. Rice, at 5, *Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 6, 2017), ECF No. 28-2.

CONCLUSION

For the foregoing reasons, the Court should affirm the district court's grant of a preliminary injunction and deny appellants' motion for a stay pending appeal.

Dated: April 20, 2017

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of FRAP 32(a)(5) and (6) because it has been prepared in 14-point Times New Roman, a proportionally spaced font, and that it complies with the type-volume limitations of FRAP 29(a)(5) and Circuit Rule 32-1 because it contains 6,865 words according to the word count feature of Microsoft Word, excluding the parts exempted by FRAP 32(a)(7)(B)(iii).

/s/ David L. Franklin

David L. Franklin

CERTIFICATE OF SERVICE

I certify that on April 20, 2017, I electronically filed the foregoing brief with the Clerk of this Court by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ David L. Franklin

David L. Franklin

EXHIBITS

DECLARATION OF DEIRDRE HEATWOLE

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**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.

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.

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

Executed on this 10th day of March, 2017


Deirdre Heatwole

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.
9

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.
22

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

1 20. In light of this commitment to research, it is critical that CUNY be able to recruit
2 and retain highly qualified research faculty. Identifying, recruiting and negotiating with
3 potential new faculty and researchers takes many months. Ideally, new teaching faculty start in
4 the fall semester, requiring offers made and arrangements finalized months prior to August.
5 Prospects who accept offers will also need to move family and secure housing by summer. The
6 uncertainty in the process caused by the EO will delay and may prevent the University and its
7 colleges and units from pursuing prospects, resulting in delays in research efforts and potential
8 delay or loss of federal funding for new research.
9

10
11 21. Moreover, potential foreign faculty recruits have already expressed concerns
12 about coming to CUNY and the U.S. Baruch College, for example, which hires a significant
13 number of foreign faculty members, reports that as a result of the EO it has received many more
14 questions from potential employees about travel restrictions that will interfere with normal
15 family obligations such as care of elderly parents, attending family weddings and anniversary
16 events, or participation in cultural holidays. New York City College of Technology has many
17 faculty members in engineering technology from the Middle East, especially Iran, as well as
18 other countries such as Pakistan, Bangladesh and Algeria, that could potentially be affected in
19 the future. The college fears that its ability to recruit and retain faculty from those countries who
20 have family at home or in temporary visa statuses will be seriously affected by the EO. The
21 CUNY Graduate Center is currently negotiating with an international senior research scholar
22 who has expressed serious concerns about moving to the United States at this time.
23
24

25 Summary
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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

ARGHAVAN LOUHGHALAM and
MAZDAK POURABDOLLAH TOOTKABONI
Plaintiff-Petitioners,

FATEMEH YAGHOUBI MOGHADAM,
BABAK YAGHOUBI MOGHADAM,
ALI SANIE, ZAHRASADAT MIRRAZI
RENANI, LEILY AMIRSARDARY, and
OXFAM AMERICA, INC.
Plaintiffs,

and

No.17.cv-10154-NMG

COMMONWEALTH OF MASSACHUSETTS
and UNIVERSITY OF MASSACHUSETTS,
Plaintiff-Intervenors,

v.

DONALD TRUMP, President of the United
States; U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”); U.S. CUSTOMS AND
BORDER PROTECTION (“CBP”); JOHN
KELLY, Secretary of DHS; KEVIN K.
MCALEENAN, Acting Commissioner of CBP;
and WILLIAM MOHALLEY, Boston Field
Director, CBP,

Defendants.

DECLARATION OF MICHAEL F. COLLINS, MD

I, Michael F. Collins, MD, on oath do say as follows:

1. I am a physician, duly licensed to practice medicine in the Commonwealth of Massachusetts (1982), and Board certified by the American Board of Internal Medicine (1984).
2. Since June of 2007, I have served as Senior Vice President for the Health Sciences for the University of Massachusetts (University) and Chancellor of the University of Massachusetts Medical School (UMMS) in Worcester, Massachusetts. As the Senior Vice President, I am charged with leading strategic initiatives to strengthen the University’s efforts in the life and health sciences and to engage more fully with the

Commonwealth's innovation economy. As Chancellor of UMMS, I serve as the chief executive officer of the UMMS enterprise and provide strategic leadership to the institution's continuing efforts to distinguish itself as a premier academic health sciences center of national and international distinction.

3. I am aware that on January 27, 2017, President Trump signed an Executive Order entitled "Protecting the Nation from Foreign Terrorist Entry Into the United States" relating to visa issuance, screening procedures, and refugees coming to the U.S.
4. Following the issuance of this Executive Order, I established the UMMS Task Force on Immigration and charged the Task Force to investigate and detail the potential issues that may adversely impact UMMS resulting from this Executive Order.
5. As part of this investigation, the Task Force and I spoke with a variety of Departments and Offices at UMMS, including but not limited to the following: Office of Human Resources, Immigration Services Office, Graduate Medical Education Office, and Graduate School of Biomedical Sciences.
6. With respect to our Graduate Medical Education program, by no later than February 22, 2017, UMMS Program Directors must submit their "ranking" of potential new Residents to work at UMMS. The nation-wide "match" of all Residents to all Medical Schools occurs on March 17, and new Residents are expected to commence work on July 1, 2017. UMMS Program Directors are currently considering ranking Residents from one or more of the countries designated in the Executive Order (Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen).
7. If the UMMS Program Directors rank a Resident from one of these seven countries, and this person ends up "matching" with UMMS, our campus is obligated to offer that person an employment agreement. If, as a result of the Executive Order, it turns out this person is not able to enter the U.S., we would be left with an open "Resident" slot, and we would have to apply for a match waiver from the National Resident Matching Program (NRMP).
8. Even if such a waiver is eventually provided by the NRMP, it would put UMMS in the very difficult position of trying to hire a Resident from the pool of individuals who did not match anywhere else. Further, if such a potential waiver is not immediately provided (awaiting the future efficacy and implementation of the Executive Order), it may result in the Resident not being able to commence work by July 1, 2017, which would be a significant hardship to the future Resident, UMMS, as well as our clinical partner, UMass Memorial Medical Center, which relies on Residents as part of their patient care workforce.
9. UMMS hires many post-doctoral employees to work in our very large and important research enterprise. Currently, UMMS has two employment offers extended and accepted by post-doc candidates, both of whom are from one of the seven designated countries. These two individuals are currently waiting for visas to be approved, which will take a minimum of 90 days. However, as a result of the Executive Order, it is

unknown whether they will be able to travel to the U.S. at all. Our research labs depend greatly on the work performed by post-docs to timely and satisfactorily complete critical projects and studies, many of which are grant funded. UMMS is not in a position, financially or grant-wise, to have a shortfall in available post-docs.

10. UMMS is currently interviewing graduate students who have applied to matriculate at the UMMS Graduate School of Biomedical Sciences beginning in the fall of 2017. Three individuals from the seven designated countries are in the process for Skype interviews. Any offers to these individuals would occur in the coming weeks, and visa documents would be sent out in May, 2017. UMMS cannot afford to make an offer to a graduate student who is unable to travel to the U.S.
11. UMMS employees with the following forms of work authorization (H1B, F1 OPT, TPS, etc.) must regularly obtain extensions from the U.S. Citizenship and Immigration Services (USCIS – a division of the Department of Homeland Security – DHS), which entity requires an adjudication of a person’s status. UMMS understands that as of January 30, 2017, DHS adjudicators are not to take final action on any petition or application where the applicant is a citizen of [one of the seven designated countries] for 90 days. This policy decision will result in overly lengthy delays in obtaining the necessary extensions for our employees. Although UMMS can use “premium processing” for H1B petitions (only) to hopefully lessen the length of the delay after final adjudication has occurred, this costs \$1,225 more than regular processing.
12. UMMS employees who are working under an Employment Authorization Document (EAD) and who may need an extension of same must also go through a formal adjudication by the USCIS. This means EAD extensions for those employees from the seven designated countries will be delayed for the same reason stated above in number 11 – for both new hires and existing employees. Without an approved EAD, the individual cannot continue to be employed and may have to leave the U.S. Currently, this will affect one of our employees, and potentially more, if the Executive Order continues or if UMMS wishes to hire other recent graduates from the seven designated countries.
13. As detailed in the press and media, travel by any UMMS employee, faculty member or graduate student, who was born in one of the seven designated countries, will have difficulties, delays and possible detention if they attempt to enter the U.S. (excepting those States that have obtained temporary restraining orders for their ports of entry, which currently includes Boston). If anyone is delayed or detained and they are unable to return to work at UMMS on their assigned date, it may require them to use personal, vacation and/or unpaid time. Further, those of our faculty members who are now in the U.S., but who are from the seven designated countries, are considering cancelling travel to scientifically significant conferences and meetings because of the probability they will not be able to re-enter the U.S.
14. The Executive Order eliminates easy visa renewal for everyone (not just for those from one of the seven designated countries). A person’s visa stamp (needed for entry into the U.S.) may be for a shorter period of time than their underlying visa status. In the past, if

such an individual wanted to travel and their stamp had expired, they could promptly obtain a new visa stamp through the mail, since their same underlying visa status was still in effect. Under the Executive Order, easy visa extensions are no longer allowed, and instead there must be a formal interview and review. UMMS has a large population of employees who are Indian, Chinese or European nationals, and the Executive Order will adversely impact them significantly. Where in the past, one could travel and return in a couple of weeks, this may now take several months.

15. UMMS' Immigration Services Office has data on everyone at UMMS who has had some immigration/visa status during their employment. However, we don't have such data on those individuals who were permanent residents or U.S. citizens at the time of their hire but who were born in one of the seven designated countries. Accordingly, we are not able to definitively state the number of employees and faculty members potentially adversely impacted by the Executive Order.

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

Michael.F. Collins
Michael.F. Collins (Feb 2, 2017)

Michael F. Collins, MD
Senior Vice President for Health Sciences,
University of Massachusetts, and
Chancellor, University of Massachusetts Medical School

Executed this ____ day of February, 2017

Feb 2, 2017

Signature: Michael.F. Collins
Michael.F. Collins (Feb 2, 2017)

Email: michael.collins@umassmed.edu

Title: Senior Vice President for the Health Sciences

Company: University of Massachusetts

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

ARGHAVAN LOUHGHALAM and
MAZDAK POURABDOLLAH TOOTKABONI
Plaintiff-Petitioners,

FATEMEH YAGHOUBI MOGHADAM,
BABAK YAGHOUBI MOGHADAM,
ALI SANIE, ZAHRASADAT MIRRAZI
RENANI, LEILY AMIRSARDARY, and
OXFAM AMERICA, INC.
Plaintiffs,

and

No. 17-cv-10154-NMG

COMMONWEALTH OF MASSACHUSETTS
and UNIVERSITY OF MASSACHUSETTS,
Plaintiff-Intervenors,

v.

DONALD TRUMP, President of the United
States; U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”); U.S. CUSTOMS AND
BORDER PROTECTION (“CBP”); JOHN
KELLY, Secretary of DHS; KEVIN K.
MCALEENAN, Acting Commissioner of CBP;
and WILLIAM MOHALLEY, Boston Field
Director, CBP,

Defendants.

DECLARATION OF MARCELLETTE G. WILLIAMS, Ph. D.

I, Marcellette G. Williams, hereby declare and affirm,

1. I am Senior Vice President for Academic Affairs, Student Affairs, and International Relations at the University of Massachusetts (“UMass”). 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 2005; prior to this position, I served for ten years as Deputy and interim Chancellor of the Amherst campus. My duties include oversight of all the University's academic programs, the offices that serve and support students, and the offices which support and promotion of the University's many international associations and opportunities for both students and faculty. I have personal knowledge of the matters set forth below. In those matters for which I don't have personal knowledge, I have reviewed information gathered from University records by others within organization, including the numbers of students and employees and their various home countries.

2. The January 27, 2017 Executive Order entitled "Protecting the Nation from Terrorist Entry into the United States" ("EO") will negatively affect the ability of the University to continue to offer excellent education in undergraduate, graduate, and professional programs at affordable rates. This in turn will affect UMass' ability to provide a well-educated workforce for the Commonwealth, reducing the significant amount of business and tax revenue these UMass-educated workers provide to the Commonwealth. UMass is the only public land-grant university in the Commonwealth, and the only public university authorized to award doctoral degrees. Additionally, the UMass Medical School at Worcester is the only public medical school in the Commonwealth, and UMass School of Law at the Dartmouth campus is the only public law school in the Commonwealth.

3. The University has approximately 160 employees and approximately 300 students from the countries referenced in the EO namely: Syria, Iraq, Iran, Somalia, Sudan, Libya, and/or Yemen (the "affected countries"). These include individuals who are lawful permanent residents ("LPRs") or who have immigrant or non-immigrant visas or status.

4. Specifically, the approximately 160 employees from the affected countries are employed in academic positions including, but not limited to, Professor, Lecturer, Researcher/Fellow, Post-Doc, Graduate Research Assistant, and Graduate Teaching Assistant. These academic employees are located on all of our campuses and in a wide variety of academic departments.

5. Since the EO was announced, there has been widespread confusion and uncertainty regarding the ability of LPRs to re-enter the U.S., both nation-wide and specifically at Logan Airport in Boston. To date, numerous UMass faculty with LPR status who are from the affected countries, have cancelled or are cancelling travel abroad, including travel for academic purposes. The Administration's statements over the past few days have been unclear and often conflicting regarding impact to LPRs, contributing to an atmosphere of uncertainty and concern.

6. Non-immigrant visa holders at UMass, including students, faculty, researchers, and staff, have additional concerns regarding the EO even if they do not travel. One of our immediate needs is to maintain work authorization for employees currently at UMass. The U.S. Citizenship and Immigration Service (USCIS) has stopped adjudication of, among others, work permits, for 90 days for individuals from the affected countries. Personnel on all our campuses have been scrambling in the week since the EO to determine impact and attempt mitigation. Current preliminary estimates is that 42 cases of UMass employees will need to be adjudicated by USCIS over the next 12 months.

7. USCIS action also affects UMass students from the affected countries who are preparing to graduate in the next several months but may be unable to obtain the Optional Practical Training (OPT) work authorization needed to transition into their first professional

position. This is peak offer, job acceptance, time and delays in obtaining work authorization will likely result in job offers being rescinded.

8. The EO has a significant negative impact on the ability to UMass to operate its core business: education and research. The impact is financial as well as reputational. UMass is a top-ranked research institution and must hire highly qualified research faculty to continue our significant research enterprise. UMass spent over 650 million dollars last year in its research enterprise. The time required to identify, review, and negotiate with potential new faculty and researchers takes many months. Ideally, new teaching faculty will start in the fall semester so that offers will need to be made and finalized months prior to August. Prospects who accept offers will also need to move family and secure housing by summer. UMass needs to fill dozens of tenure track positions, per campus, each academic year. The level of uncertainty about our ability to actively recruit faculty and related personnel will likely translate into thousands of additional dollars for each campus. Uncertainty in the process under the EO will delay and may prevent the University from pursuing prospects, resulting in delays in research efforts and potential delay or loss of federal funding for new research. UMass operates in a very competitive research environment but does not have the financial resources of many of our sister institutions in the Commonwealth. We have limited financial resources to provide affected faculty incentives to come to Massachusetts, or to offer other support or resources which might mitigate the impact of the EO on them or their families.

9. The EO will also negatively affect the University's ability to continue to attract and enroll students from the "seven countries." Indeed, UMass has already extended offers of admission for the 2017-2018 academic year to prospective undergraduate and graduate students who are nationals of these countries. Higher education is highly international. Students and

faculty regularly travel all over the world to participate in conferences, exchange programs, seminars, symposia, or connect with fellow students abroad. The way the EO was issued: as an abrupt ban, with no advance notice and with no guidance, without notice of visa revocations, has made all travelers who are not US citizens concerned about whether they can continue to move about the world. Prospective students and faculty have many options besides the U.S., they can certainly elect to attend or work at schools in the UK, Africa, or the EU, rather than risk travel to the U.S. In the week since the EO was issued UMass has received accounts from employees of travel difficulties, including a Ph.D. student who travelled to an affected country to get married and is now unable to board a return flight to U.S., despite having a copy of the Massachusetts federal court's Temporary Restraining Order in hand, and an affected faculty member who must attend an international conference needed for tenure who is now unsure of the ability to leave and return. The inability to travel may result in a delay of the tenure decision, significantly affecting employment.

10. It has been a challenge to mitigate impact when the federal action is so immediate and constantly changing. Efforts to identify affected UMass individuals outside the U.S. started within hours of notice of the EO. In the days since, UMass has been continually gathering data on the impact from a variety of sources: official federal statements, news reports, internal immigration updates prepared and sent to senior administrators, outreach to international campus community in the form of legal resources and discussions with retained immigration counsel. For academic institutions, the timing of the EO is particularly challenging. UMass campuses have been issuing offers to admissions for some weeks and will continue to do so for the next several months. Students have a short time to review offers and make decisions. Generally, students will be required to confirm their acceptance by paying a fee to secure their space so

some may be hesitant to do so in light of concern about the EO. In turn, the University's calculation of whom to admit is now jeopardized by having to take into account whether a student from an affected country would be willing to accept or at some point will decide not to attend UMass. Campuses are attempting to adjust to the current environment, but are limited in what they can do while the actual terms of the EO remain unclear.

11. These concerns all speak to potential long term financial and reputational damage to UMass – the quality of its students, researchers, faculty and staff will drop, UMass' reputation as a top research institution will drop, federal funding for research will drop, enrollment will drop. The financial loss to the University will in turn affect the Commonwealth's finances. A decrease in applications or enrollments to UMass will reduce revenue to the Commonwealth.

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

13. UMass is united in its commitment to do whatever it can to retain and continue its growth.

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

/s/ Marcellette G. Williams

Marcellette G. Williams, Ph.D, Senior Vice President for
Academic Affairs, Student Affairs, and International
Relations, University of Massachusetts

Executed this 2nd day of February, 2017

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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,

9 v.

10 DONALD J. TRUMP, et al.,

11 Defendants.

CASE NO. C17-0141JLR

DECLARATION OF
RONALD L. ADAMS

12
13 I, Ronald L. Adams, 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 Oregon State University (“OSU”) and serve as Interim Provost and
16 Executive Vice President. I have personal knowledge of the facts set forth in this
17 declaration and I am competent to testify about them.
- 18 3. OSU is an international public research university located in Corvallis, Oregon with a
19 presence in every one of Oregon’s 36 counties and a statewide economic impact of over
20 \$2.3 billion. As a land grant institution committed to teaching, research and outreach and
21 engagement, OSU promotes economic, social, cultural and environmental progress for
22 the people of Oregon, the nation and the world. This mission is achieved by producing
23 graduates competitive in the global economy, supporting a continuous search for new
24 knowledge and solutions and maintaining a rigorous focus on academic excellence,
25 particularly in the three Signature Areas: Advancing the Science of Sustainable Earth
26 Ecosystems, Improving Human Health and Wellness, and Promoting Economic Growth
and Social Progress.

- 1
- 2 4. The OSU Division of International Programs leads the university's internationalization
- 3 through innovation, service, and collaboration. We collaborate with key stakeholders to
- 4 internationalize the OSU community and seek to provide all learners with access to
- 5 international opportunities and experiences to reveal a path to becoming globally minded
- 6 citizens and promote student success.
- 7 5. Based on the Fall 2016 Enrollment Summary, OSU had an enrollment of 30,354 students
- 8 and 11.6% (3,529) were international students.
- 9 6. International students typically pay full non-resident tuition rates and those 3,529
- 10 international students represent approximately \$85 million in annual gross tuition revenue
- 11 to OSU.
- 12 7. I am familiar with the Executive Order entitled "Protecting the Nation from Foreign
- 13 Terrorist Entry into the United States," which I understand to temporarily bar any person
- 14 entering the United States who is a citizen of any of the following seven countries: Syria,
- 15 Iraq, Iran, Somalia, Sudan, Libya, and Yemen ("the affected countries").
- 16 8. OSU International Programs' current enrollment data shows that of the over 3,500
- 17 international students, approximately 165 current students are citizens of the affected
- 18 countries. These 165 students are here under valid student visas. I believe these 165
- 19 affected OSU students, along with all 3,500-plus international students, enhance the
- 20 educational experience of all students, faculty and staff at OSU.
- 21 9. OSU has approximately 500 international scholars every year. International scholars
- 22 include international faculty and staff, visiting faculty, post-doctoral students, and student
- 23 interns. Approximately 210 of these international scholars are university faculty or staff,
- 24 or visiting faculty.
- 25 10. Because of the Executive Order, students, faculty, and staff are requesting information
- 26 from OSU about how the Executive Order may affect them. These concerns include
- understanding the Executive Order and its lack of clarity in implementation and impact,

1 and understanding immigration civil rights.

2 11. Because of the nature of the Executive Order and the number of students, faculty, and
3 staff impacted, OSU is responding to its community's needs by: issuing statements
4 addressing the concerns of students, faculty, and staff; seeking to increase the availability
5 of an immigration attorney to students seeking services through the Associated Students
6 of Oregon State University Legal Services; offering a series of community engagement
7 and educational sessions; providing a website to include frequently asked questions
8 related to the Executive Order; and working to connect students with additional internal
9 resources, such as OSU's Counseling and Psychological Services, and external resources,
10 such as unaffiliated legal immigration resources. As a result, the university is spending
11 time and resources on its response to the Executive Order, which necessarily takes away
12 time and resources from other community needs.

13 12. I am aware of an OSU student from one of the affected countries who travelled home to
14 be married but the student's visa was cancelled under the Executive Order as the student
15 attempted to return to the United States to continue studies at OSU. The student and the
16 student's new spouse are experiencing difficulties in obtaining new visas.

17 13. I am aware of an OSU student from one of the affected countries who returned to the
18 United States with the student's spouse, to continue the student's studies at OSU, only a
19 few hours before the Executive Order went into effect. The student's spouse is also from
20 one of the affected countries and the family is concerned that the spouse may be unable to
21 travel internationally for the spouse's own education because of the spouse's potential
22 inability to return to the United States and reunite with the family, including the family's
23 infant child.

24 14. I am aware of an OSU student who is not from one of the affected countries but is from a
25 Muslim-majority country who postponed an international research trip until there is more
26 clarity on the Executive Order.

15. I am aware of an individual from one of the affected countries who received an admission

offer letter from OSU who was unable to schedule a visa appointment at a U.S. embassy due to the Executive Order. The student is highly concerned about being able to obtain a student visa in time to begin the student's education at OSU.

16. I am aware of an individual who is a foreign university faculty member from one of the affected countries whose visa interview at a U.S. embassy was cancelled under the Executive Order. As a result, the foreign university faculty member was unable to travel to the U.S. for a scheduled meeting with OSU faculty to discuss curriculum and research in a specialized scientific field.

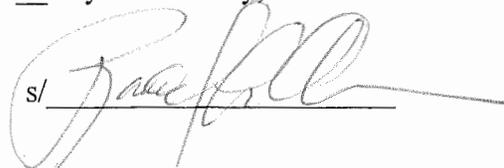
17. I am aware of OSU student, faculty, and staff concerns related to international travel for education, research, outreach, engagement, and personal reasons, such as to visit family, because of the lack of clarity on the Executive Order.

18. I am aware of international students, faculty, and staff from the affected countries and Muslim majority countries experiencing severe distress as to whether they will be able to continue their OSU pursuits.

19. I am concerned about the Executive Order's impacts on the OSU community, including impacts on OSU's students, faculty and staff to continue their OSU pursuits; ability of the OSU community to continue actively engaging in international collaboration; future international student enrollment; and ability of prospective international faculty and staff to accept job offers.

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

Executed this 22 day of February, 2017

s/ 

**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-

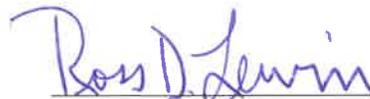
term economic contribution, particularly because the overwhelming majority are in high-demand STEM disciplines.

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

DECLARATION OF DAVID EATON

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

STATE OF WASHINGTON, et al.,

Plaintiffs

v.

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; TOM SHANNON, in his official capacity as Acting Secretary of State; and the UNITED STATES OF AMERICA,

Defendants.

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

DECLARATION OF DAVID L. EATON

I, David Eaton, hereby declare and affirm:

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 Dean of the Graduate School of the University of Washington. I have held this position for more than four years. My responsibilities in this position include overseeing admissions of all graduate students for all three campuses of the University of

1 Washington (Seattle, Bothell, and Tacoma), and the review and evaluation of over 350 different
2 graduate degrees in 126 graduate programs.

3 3. I understand that the newly issued Executive Order 13769 identifies six countries,
4 Syria, Libya, Iran, Sudan, Somalia and Yemen, whose nationals will, for at least 90-days, be
5 categorically restricted from obtaining visas to enter the U.S., subject to certain exceptions. I
6 have reviewed with my staff the updated Graduate School records relating to applications for
7 graduate admissions to the UW for the coming Spring, Summer and Fall academic quarters.
8 Based on that review I have determined that the UW has received, to date, a total of 374
9 applications for those quarters from prospective students from countries who are included on that
10 list, and who are not permanent residents of the United States. One of these applications is for
11 admission for Spring Quarter, 2017 (which begins March 27, 2017). Three of the total are for
12 admission for Summer Quarter, 2017 (which begins June 19, 2017). The remaining 370 have
13 applied for admission for Fall Quarter, and 28 of these applicants have been offered admission to
14 date. (The admissions process is still on-going, so these numbers will change in the coming
15 days.) A chart summarizing these statistics is attached hereto as Exhibit 1.

16 4. We are very concerned that offers made to a significant percentage of these
17 students could end up not being fulfilled because of the restrictions put in place by the
18 Executive Order. I have instructed our graduate programs that they should not use country of
19 origin as a determinant in their admissions decision. However, many are concerned that, if they
20 make an offer and it is accepted, that the student may not be able to come, and it would then be
21 too late to fill the position with another offer. This is especially of concern for some of our fee-
22 based programs, which need to have all of their positions filled each year in order to meet their
23 program budgets. There of course is also concern that many of the top students from these 6
24 countries that receive offers (28 thus far, but that number could go up substantially, since we are
25 still in the ‘offer’ period for 2017-18) will simply turn them down out of a not unreasonable fear
26

1 that they would not be able to travel to the U.S. Thus, we are very concerned that the Executive
2 Order will have a substantial negative impact on both the quality and number of graduate
3 students enrolling in our graduate programs at the UW for the upcoming year. Regular full time
4 tuition for regular non-resident graduate students at the UW is currently \$10,404 for Fall,
5 Winter and Spring Quarters, and \$10,074 for Summer Quarter. These are the tuition amounts
6 that the Graduate School generally provides for international applicants' F-1 visa documents,
7 although the actual amount paid may vary depending on a student's academic program. It is my
8 understanding that, unlike State of Washington residents, International students (i.e., students
9 who are attending under a student visa) cannot qualify for lower in-state tuition under state law,
10 and are required to attend full time in order to maintain their visa status. Thus, for potential
11 forgone revenue for the University of Washington and those graduate programs that depend
12 upon international students as part of their entering class is substantial.

13
14 5. Since the date of the issuance of the original Executive Order on January 27 of
15 this year, a number of applicants from the countries affected by both that Executive Order and
16 the newly issued Executive Order have contacted the Graduate School with concerns that, due to
17 the visa restrictions, their applications will no longer be fully considered or that they will not be
18 able to travel to attend the UW, and some have requested refunds of their application fees and
19 deposits. Exhibits 2 attached hereto contains true and accurate copies of examples of e-mail
20 messages (with names redacted) received by the Dean's Office from a number of such
21 applicants. The Graduate School has set a policy for this admission season to refund the \$85
22 application fee, if requested, from students in the seven listed countries affected by the Executive
23 Order. To date, the Graduate School has provided application fee refunds for at least two
24 affected applicants.
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6. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and complete to the best of my knowledge.

Dated this 12th day of March, 2017.



David Eaton

Declaration of David L. Eaton
Exhibit 1.

Submitted Applications				
	Spring 2017	Summer 2017	Autumn 2017	TOTAL
Iran	1	1	360	362
Libya	0	1	4	5
Somalia	0	0	0	0
Sudan	0	0	4	4
Syria	0	0	2	2
Yemen	0	1	0	1
Total	1	3	370	374

Offers To Date				
	Spring 2017	Summer 2017	Autumn 2017	TOTAL
Iran	0	0	26	26
Libya	0	1	0	1
Somalia	0	0	0	0
Sudan	0	0	1	1
Syria	0	0	0	0
Yemen	0	0	0	0
Total	0	1	27	28

Declaration of David Eaton, Exhibit 2

From: [REDACTED] [mailto:[REDACTED]@ [REDACTED].com]
Sent: Wednesday, March 8, 2017 8:23 AM
To: UW International Student Services <uwiss@uw.edu>
Subject: Question about the new executive order

Dear University of Washington

I have a question about the new executive order, I understand your are busy so I am highly grateful for your time and attention.

I am a M.Sc. student in civil engineering at the University of Tehran (the oldest and the most prestigious university in Iran). I am applying to your PhD program for the next round of your admission. Indeed, the University of Washington is one of the best university in the world and to be one of your PhD students is my dream. To achieve this goal, in recent years, I have striven strikingly to enhance my CV and get excellent scores in the TOEFL and GRE exams. On the other hand, The new executive order occasions a great deal of concern and fear for me because I feel my dream is destroying. Is it feasible for me to apply to your PhD program? Will this order impact upon your admission and decision? Do I have any chance to be one of your student?

I am distraught and I have lost my concentration due to this issue.

I really appreciate your time and attention

Kind regards

From: [REDACTED] [mailto:[REDACTED]@ [REDACTED].com]
Sent: Wednesday, February 8, 2017 5:37 AM
To: Julia Carlson <jcarlson@uw.edu>
Subject: Re: FW: Travel ban Executive order

Dear Julia

Thank you for your kind reply, Although I really wanted to attend the University of Washington, but now I believe that the best course of action is the withdrawal of my application and trying again away from the political conflicts.

I am really grateful to you for helping me and I hope that someday in future I can have the chance to see you in person.

Look forward to hearing from you

Best Regards

On Sun, Feb 5, 2017 at 11:52 AM, [REDACTED] <[REDACTED]@ [REDACTED].com> wrote:

Dear Sir/Madam

My name is [REDACTED], I applied for PhD Psychology program, and I was born in Iran, As you are aware we are banned from entering The US and taking Visa. So, I was wondering if I can refund my application fee.

Thank you for your cooperation

Look forward to hearing from you

Best Regards

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[REDACTED]

M.Sc in Biomedical Engineering: Bio-Electrics, Amirkabir University of Technology

B.S in Electrical Engineering: Control Systems, University of Tehra

From: [REDACTED] [mailto:[REDACTED]@[REDACTED].com]

Sent: Friday, February 17, 2017 12:30 PM

To: Uw Grad Enrollment <uwgrad@uw.edu>

Subject: asking for refund of application fee.

Dear Sir or Madam,

I am [REDACTED], I applied for PHD program.

I request to get a refund for my application fee because I am not willing to pursue my education as a Ph.D. student in education due to Mr.Trump order to ban my country, Iran.

even without this ban, with a more serious vetting for visa in future, my chances to get a visa is minimal right now for my future, so I am completely disappointed and want to withdraw my application.

Thank you

From: [REDACTED] [mailto:[REDACTED]@[REDACTED].com] **Sent:** Thursday, February 23, 2017 1:36 PM

To: gradlaw <gradlaw@uw.edu> **Subject:** Re: [REDACTED]: defer

Dear Aaron,

Thank you so much for your email. Can I aske you a question!. How can imagine and consider joining the program when not only everyone(like me) can not enter into your country because of working for oil companies but also the president ordered to ban entering Iranian people that added another restriction particularely on me.

Although I am in Switzerland right now but I really like University of Washington.

With my best regards. [REDACTED]

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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,

9 v.

10 DONALD J. TRUMP, et al.,

11 Defendants.

CASE NO. C17-0141JLR

DECLARATION OF MARGARET
EVERETT

12
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.

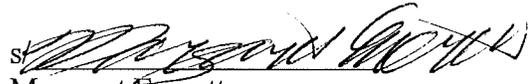
13 16. I understand two of the thirteen admitted international students from the affected
14 countries are graduate students admitted for the Spring 2017 term. The first day of the
15 Spring term is April 3, 2017. These admitted students have been issued F-1 visas, have
16 incurred the costs necessary 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 5th day of February, 2017

10
11 
12 Margaret Everett

Case: 17-15588, 04/20/2017, ID: 10404994, DktEntry: 125, Page 95 of 157
Responses, Replies & Supporting Documents
[2:17-cv-00141-JLR State of Washington, et al., v. Trump., et al](#)

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. H (Everett Declaration)

Case: 17-15589, 04/20/2017, ID: 10404994, DktEntry: 125, Page 96 of 157
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2:17-cv-00141-JLR Notice will not be electronically mailed to:

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 CARMICHAEL, CA 95608

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Ex. H (Everett Declaration)

James J O'Hagan(Terminated)

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GRAYLAND, WA 98547

Case: 17-15589, 04/20/2017, ID: 10404994, DktEntry: 125, Page 97 of 157

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. H (Everett Declaration)

DECLARATION OF HASSAN GHASEMZADEH

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

Executed on this 11th day of March, 2017



Hassan Ghasemzadeh

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Washington State University March 2017

Students concerns about their visa status being affected by MuslimBan

1. I am an Iranian Post-Doc associate in Research at WSU. I have got my doctorate degree from one of the best universities in Germany. In September 2016, I came to US for the first time and started my work here. Since in that time I was still a PhD student, I had to travel back to Germany (end of January, 2017) in order to have my final PhD defense. Unfortunately, after my arrival to Germany, I heard about the executive order against Iranians. After one week, when the ban was suspended by Washington State court, my supervisor at WSU asked me to re-book my ticket and fly back to US immediately! Therefore, I came back to USA on February 8, instead of February 11. My husband is still in Germany. He has applied for a dependent visa (in January) to join me here. Unfortunately, he has not received any response from US embassy yet! He is Iranian too. My German visa will expire in 17 months and that means afterward my husband must go back to Iran, since he is now on a family-visa in Germany. That will make everything more and more complicated. We were living in Germany in the last 5 years; therefore, Germany can easily prepare all needed information for US embassy for issuing a visa, but Iran cannot make that, because there is no US embassy in Iran! I don't know how long is needed for my husband to get a dependent visa. But I am sure the new executive order will definitely affect our life again. Besides, I am afraid to go to Iran to visit my mother there. Every time that I want to go out of America and visit my husband in Germany, there will be a big fear for me and I ask myself: "Am I allowed to come back to my work in USA again...?"
2. I am a student at Washington State University and my fiancé lives in Iran now. She has won the 2017 Green Card Lottery which her interview is scheduled in May 2017. Unfortunately, her interview process will be cancelled by the new travel ban order. Because she had been accepted in the Ph.D. program at the University of Oklahoma, she went to the embassy of Armenia to get her student visa in 2016, but the officer told her that she cannot be approved because she has already won lottery and her immigration's file is under processing and she have to wait for entering via lottery. After all of our efforts to get admission and then waiting for the lottery visa process, now it will be cancelled by the new travel ban. We lost our time and money, and as Lottery 2017 process will be closed in September 2017, she also will lose her chance to study in the US beside me. She and I had planned to study and live together in the US since 3 years ago. I came to the US in 2016 via F1 visa and I already am a student at WSU and I am waiting for her but, now all of our goals will be unreachable by the new order.

3. I am a PhD student in WSU. When we were coming here we knew that single entry visa means you need to reapply for visa when you exit the country. But still we knew that based on law, after a long background check you can re-enter US and continue your PhD. 2 years ago I took my chance went back to Iran and applied for US visa again. Because I knew there is no reason for not getting cleared. Not being able to go back to my country is really frustrating. I can't focus on my research and I'm so disappointed in my future in this country.
4. I am an Iranian PhD student at Washington State University. Given that I am on single-entry visa, even before the EO, going outside US was too risky for me. Now, it is impossible. Now I am under constant stress because I know for the future, no matter what happens to me or my family, I must decide between pursuing my studies or seeing my loved ones. I chose this country for my studies because I knew being the best is the only thing that matters here. But now, after four years of doing successful industrial research, it's almost impossible for me to work in a company here and the whole professional network that I've built in years seems to be useless.
5. When I received my single-entry visa to enter the US to pursue my higher educations, I knew it means staying away from my country, and more importantly my family, for years. However, I did not know it could mean that I will be deprived of seeing my parents for at least 5 years! I had planned to have my parents here this summer, and now I feel too depressed. How can I tell my parents that they are suspected to be a threat to the national security when they just want to come visit their child after 3 years? These EOs have strongly affected not only individuals, but their communities. It has been so difficult to focus on my research, particularly when I see all my friends are stressed and disappointed. These EOs have destroyed our hope to build up a bright future!
6. I am a PhD student at Washington State University (WSU). I chose to pursue my PhD studies at WSU from among many high-ranking institutions in the world, including Australian, Canadian, and European ones. I chose an American institute because of the promise and prospect of American values, including equality, freedom, fair competition, generosity, etc. through a variety of anecdotal accounts I had been collected. I came here and found all the values which had changed my way. I was so excited and happy, and accomplished many goals this and the previous year. I was even considering staying, living, and working here. However, this un-American travel ban has completely changed my plans. I feel imprisoned, marginalized, belittled, and insulted. The grounds on which the Iranians (and other nationals in the order) have been banned from entering the US are entirely baseless, as neither research nor the common sense suggest the political accusations levelled against my people and our thousands years of academic, literary, and humanitarian civilization and history. It is true that the new ban has softened its language and removed some of the most critically legal aspects of it, but it is entirely unfair. It is not only unconstructive but also harmful to American interests, as tens of talented individuals will not be able to come to the US, depriving the American nation from the cultural, academic, and financial contributions they would make. I personally know many scholars who

have/had to change their plans and follow their inspirations elsewhere. I think I will have to reconsider my own plans, too. I hope this insanity stops.

7. Most of first tier conferences in my area happen overseas. This Ban significantly decreases my chances of not only getting published in high quality conferences, but also since the number of targeted conferences (which has to be in the U.S. only) is very limited, I am concerned my studies would take longer than usual.
8. I am on a funding budget related to Environmental research. I heard rumors that I may lose my funding support since my nationality is Iran
9. I am about to graduate and already have a job offer from a startup company in California. Now I am on student Visa, the company stated they will apply for change of my work visa and later on they will appeal for my Green Card. Now with the new situation, I am afraid what is going to happen to me?

FOURTH DECLARATION OF ASIF CHAUDHRY

1 2. I am aware of the revised Executive Order issued March 6, 2017, entitled
2 “Protecting The Nation From Foreign Terrorist Entry Into The United States.” I have personal
3 knowledge of the facts set forth in this declaration, and I am competent to testify about them.

4 3. As Vice President for International Programs at WSU, I have responsibility for
5 WSU’s international research activities, study abroad programs, international students, and
6 student and faculty exchanges. I am the chief international relations officer at WSU and am
7 responsible for the role of International Programs in carrying out WSU’s mission of global
8 engagement, which is “To apply knowledge through local and global engagement that will
9 improve quality of life and enhance the economy of the state, nation, and world.” I also manage
10 WSU’s programs focusing on establishing strategic partnerships with governments and
11 educational institutions across the globe.

12 4. WSU’s global presence includes active research programs in dozens of countries
13 worldwide and study abroad programs in over 70 countries worldwide. The University also has
14 matriculated undergraduate, graduate, and professional students and visiting scholars from many
15 countries worldwide.

16 5. WSU has obtained its final enrollment numbers for the spring 2017 semester.
17 The University has 157 students from the six countries targeted in the revised Executive Order.
18 Many of these students are on single-entry visas and could be denied re-entry if they left the
19 United States. As a result of the Executive Order, these students will be unable to have family
20 and colleagues join or visit them this semester and into the summer. In addition, because of the
21 uncertainty surrounding whether they would be allowed back into the country and what will
22 happen after the 90-day period, many of them have decided to forego international travel or
23 conference activities related to their research, or to visit family.

24 6. As an example, one Iranian graduate student, who is in year two of his Ph.D.
25 program, has decided not to leave the country to visit his family until he finishes his degree,
26 which means he will not see his family for several years. In addition, students who otherwise

1 would leave the country to carry out dissertation research fear they may not be permitted to
2 return to the country to defend their dissertations. These students are under constant stress, their
3 research programs are being negatively impacted, and many are having difficulty focusing on
4 their studies.

5 7. Other students and faculty are impacted as well. WSU has seven (7) visiting
6 scholars from the six affected countries. One Iranian post-doctoral fellow has a husband who is
7 Iranian but currently lives in Germany. He applied for a dependent visa in January to join her in
8 the United States, but it has not yet been issued. The visa likely will not be issued prior to the
9 effective date of the order, which means her husband will not be able to join her. She is afraid
10 to visit her husband in Germany, as well as her mother in Iran, for fear of being denied re-entry
11 into the United States.

12 8. Another WSU student has a fiancé who is Iranian and lives in Iran. The fiancé
13 was scheduled to be interviewed for permanent residency in May 2017. That interview has now
14 been canceled and she cannot come to the United States.

15 9. The revised Executive Order, as well as the previous one, have created an
16 atmosphere in which international students and faculty feel unwelcome in the United States.
17 This is directly affecting WSU. For example, after several years of increasing international
18 enrollments, WSU is seeing a significant decline this year. WSU's Department of Teaching and
19 Learning has reported that this year's international application numbers have dropped
20 dramatically. Last year, the Department processed 63 international student applications for its
21 Special Education program, and this year it processed ten. Applications from international
22 students for other programs also are down. These declines have an economic impact on WSU
23 as well as the individual College and Departments.

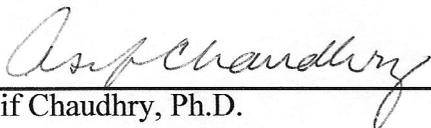
24 10. WSU has six (6) undergraduate student applicants for fall 2017 from countries
25 targeted in the Executive Order, compared with 12 for fall of 2016. Two of these students have
26 been offered admission, and one has confirmed intent to enroll. These students now need to

1 apply for visas and will not be able to for at least 90 days, which may impact their ability to
2 obtain visas in time to come in the fall semester 2017. These students would pay a minimum of
3 \$41,628 per academic year each in tuition and fees to WSU. If the students were unable to obtain
4 visas, were denied entry, or decided that study in the United States was no longer feasible due to
5 the Executive Order, the financial impact to WSU would be substantial.

6 11. WSU also has a number of graduate student applicants for the 2017 fall semester
7 from the six countries targeted by the Executive Order. If these students were offered admission
8 and accepted, they would pay a minimum of \$42,216 each per academic year each in tuition and
9 fees to WSU. If they were unable to obtain visas, were denied entry, or decided that study in the
10 United States was no longer feasible, this would be a significant economic loss to WSU.

11 I declare under penalty of perjury under the laws of the State of Washington that the
12 foregoing is true and complete to the best of my knowledge.

13 Dated this 12th day of March, 2017.

14 
15 _____
Asif Chaudhry, Ph.D.

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.

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.

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

**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.

- 1 3. The City of Rochester, the home of Frederick Douglass and Susan B. Anthony, has a long
2 tradition of support for equal rights for all people, including immigrants and refugees.
- 3 4. In 1986, Rochester City Council Resolution No. 86-29 recognized Rochester as a City of
4 Sanctuaries.
- 5 5. On February 21, 2017, the Rochester City Council passed Resolution No. 2017-5
6 reaffirming the City’s status as a Sanctuary City and adopting Sanctuary City policies. The
7 resolution reiterated that the City is one community that is welcoming and inclusive of all,
8 united and strengthened by its diversity, and committed to upholding and protecting the civil
9 and human rights of all individuals that come within its borders, including immigrants and
10 refugees.
- 11 6. The City of Rochester is the third largest city in New York State with a population of
12 approximately 210,000 people.
- 13 7. Approximately 8.5% of the City’s residents were born outside the United States—more than
14 17,000 Rochesterians, according to 2015 data from the U.S. Census Bureau.
- 15 8. Immigrants in the City of Rochester—members of our community born outside the United
16 States but who have made Rochester their home—contribute significantly to the City
17 economically, socially, and culturally.¹
- 18 9. In the past decade, approximately 6,300 refugees have settled in Rochester, making
19 Rochester one of the top three cities in refugee resettlement in New York State during that
20 period, according to a published report.²

22 ¹ See, e.g., Brief for Association of American Universities as Amicus Curiae in Support of Petitioners’
23 Requested Relief at 28, *Darweesh v. Trump*, No. 17-cv-480 (E.D.N.Y. filed Feb. 16, 2017), ECF No. 139
24 [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).

25 ² See Joseph Spector, *Immigration order hits home across NY*, DEMOCRAT & CHRONICLE (Feb. 3, 2017),
26 <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.
25 Presidential executive orders pertaining to immigration (Jan. 29, 2017), <http://www.rit.edu/immigration>.

26 ⁷ NAFSA, *supra* note 5.

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>.

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

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

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

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

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

18
19 ⁹ *Id.*

20 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-
21 middle-east/98147154](http://www.democratandchronicle.com/story/news/2017/02/20/rit-finds-drop-applications-middle-east/98147154)

22 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/>;
23 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).

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

25 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-
26 content/uploads/2016/06/NYS-economic-impact-report-UR-affiliates-2015.pdf](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 _____
22 Mayor Lovely A. Warren

23
24
25 ¹⁵ NAFSA, *supra* note 5.

26 ¹⁶ *See* Goodman, *supra* note 10.

DECLARATION OF ERIC SCHERZER

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.

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- 4. CIR has over 5,900 members in New York State and is the major union representing medical interns, residents, and fellows in the state. The majority of these CIR members (approximately 5,600) work in hospitals located in New York City. The remainder work in Westchester County.
- 5. A breakdown of CIR members in each of our New York State hospitals and clinics is attached as Exhibit A.

Harm to CIR Members

6. The March 6, 2017 Executive Order, titled “Protecting the Nation from Foreign Terrorist Entry Into the United States” (“March 6th Executive Order”) will be particularly harmful to CIR members. Although we do not collect visa information, I have reason to believe that more than 500 CIR members are foreign nationals with temporary employment visas. Scores of resident physicians in New York City alone are from the countries listed in the Executive Order. Of these, a significant number are from Iran, one of the listed countries. Shortly after the January 27, 2017 Executive Order also titled “Protecting the Nation from Foreign Terrorist Entry Into the United States” (“January 27th Executive Order”) went into effect, CIR issued a notice advising all nationals of the affected counties not to travel outside of the United States. We also warned foreign nationals from other countries not listed in the January 27, 2017 Executive Order to avoid international travel. We cautioned other members on visas to travel outside of the U.S. only after consideration of the possible risks associated with travel during this unpredictable time.

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7. As a result of the January 27th Executive Order, a second-year Internal Medicine resident at Interfaith Medical Center in Brooklyn – one of New York's “safety-net hospitals” that treat some of New York's most vulnerable patients -- was denied entry back into the United States when he attempted to leave Sudan after a visit to his family. This doctor is a Sudanese citizen who has a valid H-1 B visa for foreign workers in specialty occupations. He was unable to return to his residency program until he was allowed to enter the United States on February 5, 2017, after a temporary restraining order was issued by the Western District of Washington at Seattle, halting implementation and enforcement of the Executive Order.
8. The March 6th Executive Order continues to harm CIR members and potential CIR members from the 6 listed countries. Although the March 6th Executive Order allows immigration-enforcement officials to issue waivers to permit admission of nationals of the 6 listed countries if there is proof that denying entry "would cause undue hardship, and that his or her entry would not pose a threat to national security and would be in the national interest," this is done on a case-by-case basis. Therefore, it is unclear how difficult it will be for CIR members or prospective members to obtain a waiver. Also, family members of CIR members from the 6 listed countries may be barred from obtaining a visa as a result of the March 6th Executive Order.
9. The March 6th Executive Order will also likely harm CIR members beyond those from the listed countries. Many CIR members who are foreign nationals from other countries expressed concern that the January 27th and March 6th Executive Orders will be expanded to include their countries of origin. This is particularly the case for CIR

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.

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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.
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1 **Harm to New York Hospitals' Residency Programs**

2 15. There has been a profound chilling effect on international medical students applying to
3 New York hospitals' residency programs and a major disincentive for hospitals to select
4 foreign nationals for their residency programs due to the January 27th and March 6th
5 Executive Orders and the uncertainty about whether they will be expanded to include
6 other nations. CIR is concerned that some of the best and brightest international
7 medical students, who have options to participate in residency programs in the United
8 Kingdom and Canada, for example, will decide not to participate in a U.S. residency
9 program. Many of these international medical students will not want to invest the time,
10 energy and resources into applying for U.S. residency programs as they are concerned
11 that they may not be able to enter the country.
12

13 16. I expect that there will be a significant negative impact on the National Residency
14 Matching Program (“the Match”) which will result in lower ranked medical students
15 working in New York hospitals. During the Match, domestic and international medical
16 school students are matched with residency programs at teaching hospitals throughout
17 the United States. Medical students apply to residency programs and rank their
18 hospitals by preference while teaching hospitals interview and evaluate residency
19 program applicants and also rank them by preference. The result of the Match is that
20 most of these applicants are placed with their most preferred program and, similarly,
21 each program is matched with the most preferred applicants on its list.
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23 17. The March 6th Executive Order places teaching hospitals and residents in an untenable
24 position as they will be uncertain about which medical students will be allowed to enter
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the country to fill their residency positions in July. We will not know for sure what the effects of this uncertainty has been on the selection process until the results are announced on March 17 (“Match Day”), but I suspect that hospitals will be reluctant to rank some of the best and most qualified candidates if they are from the 6 affected countries, or even if they are foreign nationals from other countries, as they may not be able to participate in the program due to the March 6th Executive Order. As it is very difficult to fill a vacant residency position after the Match, programs may determine that it would be too much of a risk for them to rank foreign nationals who might not be able to enter the country, especially those from the affected countries.

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

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

Executed on this 10th day of March, 2017

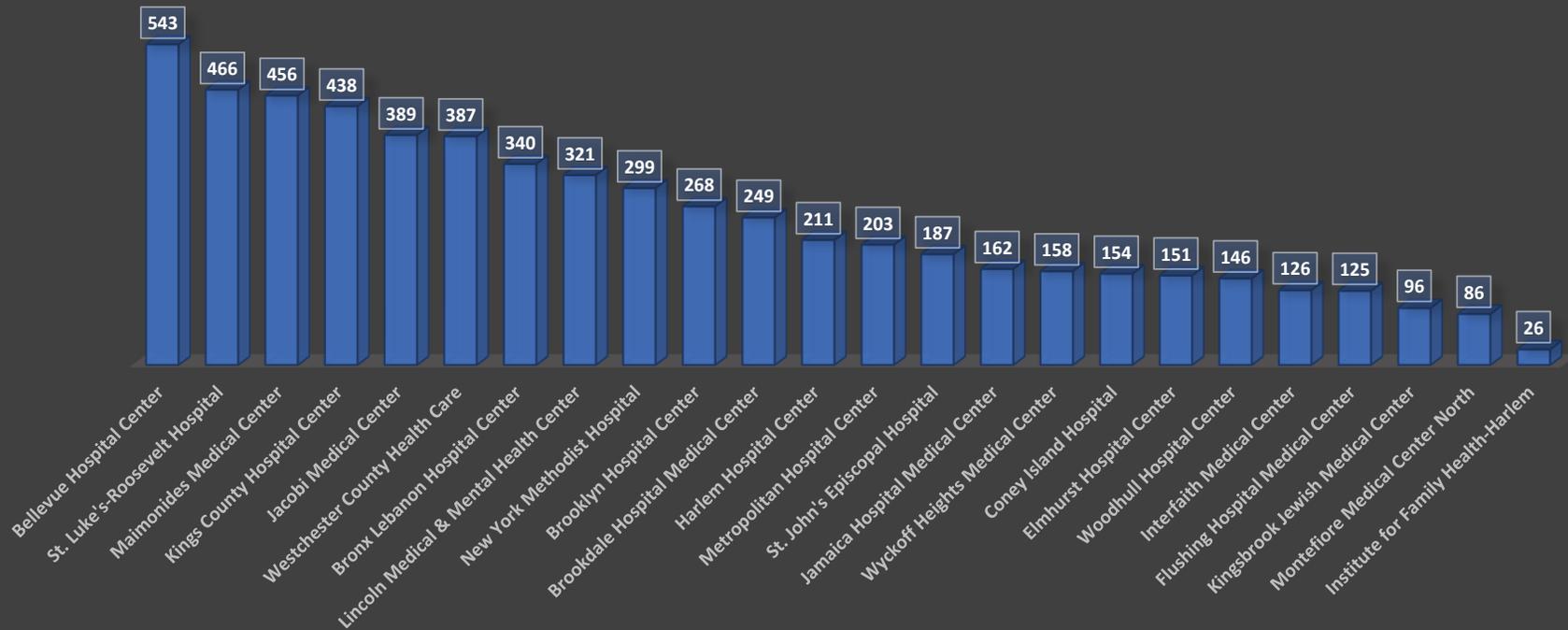


Eric Scherzer
Executive Director
Committee of Interns and Residents/SEIU
Healthcare



Breakdown of CIR Residents in New York State

CIR RESIDENTS IN NEW YORK STATE



DECLARATION OF TIM JOHNSON

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, Tim Johnson, hereby declare as follows.

1. I am a Senior Vice President and the Executive Director of the Center for GME Policy and Services with the Greater New York Hospital Association (GNYHA.) I help develop and oversee GNYHA’s policy development and advocacy work in the area of graduate medical education (GME) and health care workforce.

Background on GNYHA and the New York State Health Care Workforce

2. GNYHA is a trade association comprised of 160 hospital members, approximately 140 of which are located in New York State. Virtually every academic medical center and major teaching hospital in New York is a GNYHA member.
3. Our members are worldwide leaders in GME and medical research, in addition to providing patient care. Foreign nationals form a very important segment of our members’ workforce. The J-1 and H-1B visas are among the most common types of nonimmigrant visas held by international professionals employed by our membership.
4. A large number of these visa holders are physician trainees in residency and fellowship programs. Physician trainees’ primary goal is to learn to be independent, practicing physicians. They learn by taking care of patients under supervision, and as they progress through their training, they are given greater autonomy in caring for patients.

1 Physician trainees are an integral part of New York’s health care workforce, working in
2 hospital emergency rooms, inpatient units, and outpatient clinics. They provide
3 culturally competent care in a variety of settings and communities, caring for many
4 underserved New Yorkers of great need as part of their training.

- 5 5. Foreign nationals applying to physician training programs are subject to rigorous
6 screening. The Educational Commission for Foreign Medical Graduates (ECFMG)
7 sponsors foreign nationals in physician training programs on J-1 visas. It is my
8 understanding that all credentials are verified and the foreign nationals are screened in
9 partnership with the Specially Designated Nationals (SDN) list maintained by the
10 Office of Foreign Assets Control of the U.S. Department of Treasury. Only after
11 successful completion of this screening and passing certain examinations are the
12 candidates certified by ECFMG to apply for a residency position.
- 13 6. Certified candidates submit applications and supporting documentation, including
14 diplomas and licenses, through a centralized, electronic system, the Electronic
15 Residency Application Service, that is sponsored by the Association of American
16 Medical Colleges. Each year, hospitals with such programs and applicants for residency
17 positions participate in a process known as “the match,” which is conducted by the
18 National Resident Matching Program (NRMP). Selection of residents and fellows for
19 physician training programs is largely a centralized, controlled process with set
20 milestone dates during the year. The NRMP is the conduit for matching applicants to
21 residency and fellowship training programs that begin on July 1 each year. Each year in
22 February, residency program directors must submit a rank order list of candidates to the
23 NRMP. The residency program directors develop these rank order lists using objective
24 criteria based on qualifications and likelihood of success in meeting the demands of the
25 physician training programs. Candidates and programs are then “matched” by the end
26 of March. At that point, any applicant who has matched with a program and who is in
need of a visa must take steps to secure it prior to commencement of training on July 1.
7. Our members will sometimes hire physician trainees outside of the match as well, as
there may be a need to recruit independently in certain cases for a variety of reasons. In
addition to physician trainees, hospitals and their affiliated medical schools and
research institutes also employ and sponsor other foreign professionals, including
attending physicians, nurses, and scientific researchers. These organizations therefore
recruit and hire physician trainees and other health care professionals continuously
through each year.

24 GNYHA Member Survey

- 25 8. In the days following the issuance of President Trump’s original travel ban, Executive
26 Order 13769, on January 27, 2017, GNYHA immediately identified three broad

1 categories of individuals associated with our member hospitals who were being or
2 could be impacted by the Executive Order: current visa holders prohibited from
3 traveling or denied reentry to the U.S.; current visa holders whose renewals could be
4 denied during the ban; and applicants for residency positions who may not be able to
5 secure visas to commence their training. This last category was of particular importance
6 because of impending deadlines in the resident match process. GNYHA determined
7 that we should survey our membership to assess the potential impact of the Executive
8 Order in these areas.

- 9 9. On February 1, 2017, GNYHA surveyed its members on, among other things, the
10 number of visa holders in their workforce from the seven countries designated for the
11 ban in Executive Order 13769 and the types of positions and visas they hold. We also
12 asked whether any of our members had interviewed, or planned to interview, nationals
13 from any of the seven countries for residency positions during the current match
14 process. The survey closed on February 13.
- 15 10. Thirty-two New York State respondents from GNYHA's membership submitted data in
16 response to the survey. Because some of the respondents are hospital systems that
17 responded on behalf of multiple hospitals, the data represents submissions on behalf of
18 80 individual New York State hospitals.
- 19 11. Among these 80 hospitals, the survey found that there are 72 physician trainees from
20 the six countries now subject to the ban under President Trump's new Executive Order
21 13780, who are on nonimmigrant visas. According to the survey results, there are 38
22 other health care workers from the six countries who are on nonimmigrant visas.
- 23 12. Fourteen of the 32 respondents (representing as many as 56 individual hospitals)
24 responded that they had interviewed foreign nationals from the original seven countries
25 for residency or fellowship positions during the current match process. We did not ask
26 respondents to identify which countries the candidates were from or how many
candidates from each of the designated countries the respondents had interviewed or
planned to interview during the match.

Impact of Executive Order 13780

13. As the GNYHA survey results demonstrate, many of our member hospitals rely on
foreign nationals from the six countries designated for the ban under Executive Order
13780 to fill physician trainee and other staff positions. Moreover, they likely have
considered such nationals for physician trainee positions in the current match process.
This year's match results will be announced on March 17. There may well be foreign
nationals from the six countries who have successfully matched to our members'
training programs, and those individuals will not be allowed to begin training in New
York unless they fit into an exception or can get a waiver, in accordance with Executive

1 Order 13780. If they cannot identify a means to get a visa, the training programs will be
2 forced to seek out other, potentially less qualified, candidates from the applicants
3 remaining who have not been matched.

4 14. Executive Order 13780 may also affect our members if it results in a diminution or
5 delay in processing renewals of visas currently held by nationals from the six
6 designated countries. The implications for visa renewals are not entirely clear under the
7 new order or the Department of Homeland Security's related Q&A document, and this
8 uncertainty is deleterious to our members' ongoing need to conduct important research,
9 provide quality patient care, and have a robust staff in place to take care of their
10 communities.

11 15. Much will depend on how the authorities interpret and implement the new order and
12 how they exercise their discretion to grant waivers. We continue to be concerned about
13 the longer-term effects on our members' workforce, particularly if the ban is expanded
14 or extended as allowed by the terms of the new order. Executive Order 13780 addresses
15 some but not all of GNYHA's original concerns.

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

17 Executed on this 11th day of March, 2017

18 _____
19 

20 Tim Johnson

DECLARATION OF EVA HASSETT

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, Eva Hassett, hereby declare as follows:

1. I am Eva Hassett, Executive Director of the International Institute of Buffalo (“IIB”). I am responsible for overall financial and programmatic activities of the organization as well as for setting its strategic direction in conjunction with the IIB Board of Directors.
2. I have worked as Executive Director of IIB for over 7 ½ years. I completed my MBA at the Yale University School of Management, and have held senior executive positions in the private, public and nonprofit sectors for the majority of my career. I was the Commissioner of Finance and Administration and Chief of Staff to the Mayor for the City of Buffalo from 1994-2006.

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3. The International Institute of Buffalo was founded in 1918 to serve immigrant women coming to the U.S. with their American soldier husbands after WW1; these “war brides” faced cultural and language barriers as well as resistance from the native born community, but wanted to integrate into America and start new lives.
4. Within 15 years of its founding, IIB expanded to serve immigrant men and families as well. IIB has welcomed and supported the integration of 100 years of immigrants to Western New York (WNY), including immigrants from Poland, Hungary, Italy, and more, long before there was a federal refugee resettlement program. IIB’s mission, now 99 years after our founding, is to “make Western New York a better place for, and because of, immigrants and refugees.”
5. IIB’s major service areas at present are: Refugee Services (resettlement, employment, community leadership development, receiving community welcoming), Survivor Support Services (support for foreign born survivors of domestic violence and any survivor of human trafficking), Language Services (interpretation and translation services as well as advocacy for the right to language access), and Education and International Visitors Services (including cultural competency training).
6. As of this writing, IIB has approximately 40 full time employees and an operating budget just under \$4 million. Our offices are located at 864 Delaware Avenue in Buffalo, New York.

- 1 7. Since its founding, IIB has helped to welcome thousands of refugees and immigrants to
2 WNY. IIB has participated in the U.S. Department of State refugee resettlement program
3 (formally called the Reception and Placement program) since the program's inception in
4 1980. During federal fiscal year 2015-2016 (October 1, 2015 to September 30, 2016), IIB
5 resettled 352 individuals from all over the world, including refugees from Iraq, the Congo
6 and Syria.
7
- 8 8. During that same fiscal year, 5,026 refugees were resettled to New York State; this
9 represents 5.91% of the total number of refugees resettled nationally in 2015-16. Upstate
10 NY received 94% of the refugees resettled to New York State; Erie County received 1800
11 refugees in total in 2015-16 (source: WRAPS data). And in addition to the 1800 refugees
12 resettled directly in Erie County in 2015-16, approximately 400-500 secondary migrants –
13 i.e., refugees resettled elsewhere in the US – came to Buffalo. Secondary migrants are
14 attracted to Buffalo because there are jobs, homes, communities and agencies with case
15 managers that can help them integrate and become successful.
16
- 17 9. The March 6, 2017 Executive Order suspending entry into the U.S. based on an
18 individual's country of origin, religion, and/or refugee status has caused direct and
19 substantial harm to the refugee and immigrant communities that IIB serves and to the
20 organization's ability to fulfill its mission to meet their needs.
21
- 22 10. First, the Executive Order prevents family reunification and, in some instances, strands
23 vulnerable family members in countries where even the United States has found their
24 well-being to be in danger. Second, fear and uncertainty surrounding refugees' legal
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1 status, rights, and future in the U.S. reintroduces the type of persecutory and government-
2 instilled fear that caused refugees to flee their countries of origin in the first place. Third,
3 the reduction in the total number of refugees that the US will accept for the year, and the
4 resulting cap on refugee admissions, which is cut by 55% in the middle of the federal
5 fiscal year, constitutes a significant funding cut to IIB as well as to each of the
6 approximately 300 organizations across the U.S. contracted with and funded by the
7 federal government to provide refugee resettlement services.
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10 11. This loss of funding also represents a significant loss of money that would otherwise be
11 spent in and have impact on the Western New York economy. The four refugee
12 resettlement agencies in WNY (Catholic Charities of Buffalo, Journey’s End refugee
13 Services, Jewish Family Service and IIB) rent hundreds of apartments annually for
14 refugees resettling to the area, using federal refugee resettlement funding. Refugees
15 resettled to WNY use program funds to buy food, clothing, and bus passes. Eventually,
16 refugees buy homes and cars. Without refugee resettlement, these funds, and the people
17 who spend them, will not be in Western New York.
18

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20 12. The Executive Order prevents family reunification; families are often separated during
21 the refugee application process, because the program does not resettle families together.
22 Now, family members prevented from traveling due to the Executive Order will be
23 delayed abroad even longer. After the 120-day suspension, tens of thousands of refugees
24 who had completed the security screening process will likely no longer be “green lighted”
25 and will be required to restart the entire screening process again, potentially delaying
26

1 their travel for years. Furthermore, during this period of delay, the family members may
2 continue to face the same threats to their safety or official persecution that prompted their
3 family to seek refugee status in the first place.
4

5 13. Second, the prospect of sudden changes to and uncertainty surrounding refugees’ safety,
6 rights and future in the U.S. reintroduces the type of government-instilled fear that caused
7 many to flee their homes to begin with. Refugees are initially given that status by the
8 United Nations High Commission on Refugees (UNHCR), using the UNHCR definition
9 of a refugee: “A refugee is someone who has been forced to flee his or her country
10 because of persecution, war, or violence. A refugee has a well-founded fear of
11 persecution for reasons of race, religion, nationality, political opinion or membership in
12 a particular social group.” For a refugee to flee persecution, survive, live in a refugee
13 camp, complete 18-24 months of security screening, and be chosen to resettle to the US
14 -- then fear they will be persecuted, discriminated against or be the subject of violence,
15 for the same reasons, is anxiety-producing, fear-inducing and generally re-traumatizing.
16
17

18 14. In fact, several hundred individuals who had legal authorization to be in the U.S. have
19 crossed into Canada over recent weeks, to claim asylum. The refugees and migrant agencies
20 in Canada attribute the exodus in large part to the recent Executive Order and the fear caused
21 in non-native communities living in the U.S.¹
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26 ¹ <http://www.newsweek.com/canada-border-asylum-seekers-united-states-immigration-566640>

1 15. Refugees undergo multiple security and health screenings before they even become
2 candidates for resettlement in the U.S. They are vetted by the U.S. Department of
3 Homeland Security, the FBI, the CIA, and the National Center on Counterterrorism. The
4 screening process involves background checks, database checks, medical tests, document
5 validation and revalidation, and multiple in-person interviews. Additional screening is
6 required for refugees from Syria. Only if refugees pass these screenings are they then
7 identified as individuals who are eligible for resettlement in the United States.
8

9
10 16. The entire security screening process can take up to two years and even longer for
11 refugees from Syria, especially since not all the required checks are coordinated. In
12 addition, the validity of one type of screening may expire before another approval comes
13 through – when this happens, the individual must go through all the screenings again. It
14 is not unusual for a refugee to go through several rounds of security screenings.
15

16 17. For federal fiscal year 2016-17, which began October 1, 2016, IIB was approved by the
17 federal and state government to resettle 380 refugees in the Western New York. This
18 number was agreed to in consultation with our national resettlement partner, USCRI, and
19 was approved by the U.S. Department of State Bureau of Population Resource Migration,
20 as well as the NYS refugee coordinator, as it is every year. IIB budgeted for the revenue
21 associated with this number of arrivals and hired resettlement case managers and other
22 support staff to meet the U.S. Department of State’s recommended staffing ratio of 65-
23 75 cases per manager.
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1 18. As of March 15, 2017, IIB will have resettled 190 individuals. Before the Executive
2 Order was issued, IIB would have expected to resettle an additional 190 individuals
3 between now and September 30, 2017. However, as a result of the Executive Order's
4 reduction of the national refugee resettlement program from 110,000 to 50,000, IIB has
5 been informed by USCRI that we will be resettling approximately 9 more individuals for
6 the balance of the fiscal year. The 120-day suspension in all resettlement, and the
7 difficulty of restarting the program after the pause, will likely reduce these numbers to
8 zero.

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11 19. The reduction in resettlement caseload has already begun to impact IIB and sister
12 resettlement organizations in New York State. Many agencies have already laid off staff.
13 The Reception and Placement (refugee resettlement) program is a per capita funded
14 program; for federal fiscal Year 2016-2017, the per capita funding amount is \$2025 per
15 refugee. Of this total, \$950 per capita funds are used for agency administrative costs,
16 principally the salaries of case managers, support, and supervisory staff. These employees
17 are the people who carry out the work we are contracted to do under the Reception and
18 Placement program.

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21 20. By both suspending the refugee admissions program for 120-days and cutting the total
22 number of individuals slated for resettlement (through the new 50,000 cap), the Executive
23 Order forces a significant reduction in IIB's revenue, which is leading to staff layoffs and
24 also harming case management services to refugee individuals already living in New York
25 and participating in the local economy and community.

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21. As a direct result of the reduction in administrative funding, IIB will be laying off six employees over the next 90 days; all of these employees are critical to the resettlement program and are themselves local residents and community members. It will be difficult if not impossible to rehire these employees after the 120-days suspension period.

22. The reduction in federal funding for the refugee resettlement program in our region, which constitutes over \$2.1 million dollars just this year for the four resettlement agencies in Buffalo, most certainly has a negative effect on the local economy. Rent for apartments will not be paid; food, clothing, transportation services will not be purchased. Local interpreters will not earn tens of thousands of dollars – last year, IIB spent \$70,000 on interpreters for resettlement clients. This year, the purchase of these services from vendors will amount to substantially less.

23. In addition, and significantly, the economic contribution of refugees to the WNY economy - as employees, business owners, homeowners, professionals, students, and more – will not occur. Western New York has long struggled with population decline. A shrinking population is one of the most salient and consistent attributes of the WNY economy over the last 60 years. Declining population manifests as a negative in many ways: vacant houses and storefronts, lack of purchasing power, declining populations in schools, lack of employees for local companies, declining tax base for local government, and more. Across the U.S., and in Western New York, refugees are a main reason for a reversal of that decline.

1 24. For instance, the population of Erie County, New York – which is where Buffalo is located
2 – grew slightly, by about 12,000, in 2014. This growth has been attributed to the in-
3 migration of refugees and immigrants. Similarly, the Buffalo metropolitan area’s rate of
4 population decline is slowing. According to a report released in February 2017, 32% of the
5 foreign-born population in Buffalo in 2014 were refugees.² Projections are that the city will
6 gain population in 2020, due in large part to refugees and immigrants.³
7

8 25. Entire neighborhoods which used to be dominated by vacant homes and storefronts are
9 vibrant, populated and diverse—and desirable places to live, thanks to refugees. Refugee-
10 owned and immigrant-owned businesses have been part of the early forces revitalizing long
11 empty commercial streets all over Buffalo. As of 2014, the 2,691 self-employed refugees
12 and immigrants in Buffalo generated \$121 million in business income.⁴ Census and
13 economic data also indicate that foreign-born residents in Buffalo – refugee and immigrant
14 – contributed \$3.1 billion to the metro area’s gross domestic product in 2014.⁵
15
16

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

18 Executed on this 11th day of March, 2017

19 /s

20 _____
21 Eva Hassett

22
23 ² *New Americans in Buffalo and Syracuse*, NEW ECON. PROJECT 3 (Feb. 22, 2017),
24 http://www.newamericaneconomy.org/wp-content/uploads/2017/02/BuffaloSyracuse_brief_Final.pdf. IIB and
25 CenterState Corporation for Economic Opportunity, a leadership organization and chamber of commerce in New
26 York State, obtained a competitive grant for the New American Economy to conduct research about the economic
27 impact of refugee and immigrant population in the Buffalo and Syracuse metropolitan regions of New York State.

³ *Id.*

⁴ *Id.* at 5.

⁵ *Id.* at 2.

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DECLARATION OF DAVID DUEA

1 of America and the Lutheran Church – Missouri Synod. Our mission is to partner with
2 individuals, families and communities for health, justice and hope. LCSNW’s
3 commitment is to reach out, sharing God’s love, in service to our neighbors.

4 3. LCSNW have ministered to over 40,000 refugees since 1975 by helping them resettle in
5 the United States.

6 4. We accomplish this, in part, through helping refugees learn basic living skills and
7 providing mental health services to those who have experienced traumatic events that led
8 them to flee their country of origin. We welcome and provide services to refugees of all
9 faiths as part of our ministry, as we see all refugees as God’s children.

10 5. One of the refugee programs at LCSNW is Multicultural Community Services (“MCS”).
11 MCS is contracted with the U.S. Department of State to help refugees rebuild their homes
12 and their lives by providing reception and placement services. These services include
13 securing housing, furnishings and food in preparation for the refugees’ arrival. After
14 arrival, MCS case managers refer refugees to social services, including medical screening,
15 employment programs, job coaching, English Language Learner classes, registering
16 children in school and temporary cash assistance.

17 6. Since August 1, 2016, LCSNW has provided resettlement assistance to 15 newly-arriving
18 refugees from Syria. During that time, we have provided assistance to 169 newly-arriving
19 refugees from Iran, Iraq, Somalia, Sudan, Libya and Yemen.

20 7. We estimate that as a result of the President’s second Executive Order that becomes
21 effective on March 16, we will be unable to provide assistance to between 100 and 200
22 refugees who would otherwise have come to the U.S. and for whom LCSNW would
23 provide services.

24 8. As I stated above, LCSNW is a ministry of the Lutheran Church. As Christians, our work
25 with refugees is a religious calling and is one way in which we serve our faith. We take to
26 heart the parable of the Good Samaritan, and see our efforts to help refugees as a way of

1 exercising our religious beliefs. The President’s second Executive Order, by preventing
2 refugees for whom we would have otherwise provided services from traveling to the
3 United States, will prevent me and other employees of LCSNW from practicing our faith
4 by ministering to these refugees.

- 5 9. The President’s second Executive Order, by preventing the arrival of refugees to whom
6 we would have otherwise provided services, will have a significant negative financial
7 impact on LCSNW, as LCSNW is paid for providing services to refugees. This is lost
8 revenue to LCSNW, as there is not a “pool” of refugees that we can assist to make up for
9 the lost revenue from those refugees who have been prevented from travelling to the
10 United States as a result of the Executive Order. We have notified 15 out of our 35 refugee
11 assistance staff that they will be laid off after the second executive order goes into effect.

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

14
15 Executed on this 10th day of March, 2017 at Seattle, Washington.

16 

17 DAVID DUEA
18 President and CEO
19 Lutheran Community Services Northwest

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**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 MARC OVERBECK

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

1. I am over the age of 18 and competent to testify.
2. I am the Director, Primary Care Office, of the Oregon Health Authority. The mission of the Primary Care Office (“PCO”) is to promote health equity and access to quality medical, dental and behavioral health services for all people living in Oregon. The PCO works under a Cooperative Agreement with the US Health Resources and Services Administration (“HRSA”) to identify shortages of health care professionals in various communities around the state and help coordinate efforts to recruit and retain needed professionals in these areas. As part of that agreement with HRSA, each state is required to identify a PCO Director. One program within the PCO is the J-1 Visa Waiver (Physician Waiver) Program.
3. Oregon’s health care system, particularly in rural and underserved areas, is dependent on the presence of an adequate supply of health care providers to serve the population. 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.

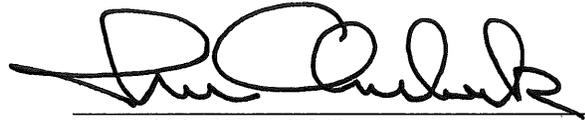
23 6. Currently, physicians from Iran and Iraq are practicing in underserved areas.
24 Without J-1 visa physicians, Oregon patients will have to either delay treatment or travel farther
25 to obtain it, resulting in additional Oregon Health Plan and Medicare costs to the State. Because
26

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.

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9 _____
10 MARC OVERBECK

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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. P (Overbeck Declaration)

Case: 17-15589, 04/20/2017, ID: 10404994, DktEntry: 125, Page 150 of 157
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07b9233793669c4bfca4d41cc5762cb440e523f1af8144e5ddd60a7881704]]

Ex. P (Overbeck Declaration)

DECLARATION OF MITRA AKHTARI

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, Mitra Akhtari, hereby declare as follows:

1. I am a 6th year Ph.D. candidate in economics at Harvard University. I received my B.A. in applied mathematics and economics from the University of California, Berkeley. My teaching and research fields are labor economics, political economy, development economics, and public finance. I am an affiliate of the Weatherhead Center for International Affairs, the largest international science center within Harvard’s Faculty of Arts and Sciences. I am also affiliated with the Institute for Quantitative Social Science, Harvard’s largest social science research center. I have personal knowledge of the facts set forth in this declaration, and I am competent to testify about them.
2. I am one of the founding members of the Immigrant Doctors Project, as well one of the researchers. The Project comprises ten economists and doctoral candidates in economics

1 at Harvard, the Massachusetts Institute of Technology, and the University of Chicago.

2 3. I have reviewed the Executive Order titled “Protecting the Nation from Foreign Terrorist
3 Entry Into the United States,” signed by the President on March 6, 2017 (hereinafter, “the
4 Second Executive Order”). I am aware that the Order purports to temporarily bar entry
5 into this country by nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen.

6
7 4. The Immigrant Doctors Project was formed to analyze the impact of the President’s
8 Executive Orders on the provision of health care in the United States.

9 5. Our work shows that the Second Executive Order is likely to hurt the health of millions of
10 Americans—including New Yorkers—who rely on physicians trained in Iran, Libya,
11 Somalia, Sudan, Syria, and Yemen.

12 6. The data underlying our results comes from Doximity, an online networking site for
13 doctors. Doximity assembles the data from a variety of sources, including the American
14 Board of Medical Specialties, specialty societies, state licensing boards, and collaborating
15 hospitals and medical schools. Doximity data has been verified to be highly reliable and
16 has been used in research published in leading peer-reviewed journals, such as the Journal
17 of the American Medical Association.¹

18
19 7. The Doximity data is comprehensive, covering 1,005,419 physicians—virtually all
20 practicing physicians in the United States. (It includes every doctor assigned a National
21 Provider Identifier by the Centers for Medicare and Medicaid Services.) We restrict our
22 analysis to the subset of observations in the Doximity data with both current zip code and
23 country of medical school information, leaving us with a final sample of 827,522 doctors.

24
25 ¹ See, e.g., Anumpam B. Jena, M.D., Ph.D. et al., *Sex Differences in Academic Rank in US Medical Schools*
26 *in 2014*, *Journal of the Am. Med. Ass’n*, 314(11):1149-1158 (Sept. 15, 2015).

- 1 8. Doctors are classified as immigrants from one of the six designated countries based on the
2 country in which they attended medical school. Although this is not a perfect measure of
3 citizenship, it is a useful—and even conservative—estimate for the total number of
4 affected doctors.
- 5 9. We count 7,000 doctors presently working in America who attended medical school in
6 one of the designated countries. We believe that our count underestimates the total number
7 of doctors who immigrated to the United States from the six countries named in the
8 Second Executive Order. In practice, many citizens of these countries attend medical
9 school in the United States or other non-designated countries. Others are among the 18%
10 of doctors excluded from our counts because they we do not know their up-to-date zip
11 code or the country in which they attended medical school. These factors would cause us
12 to undercount the number of affected doctors.
- 13 10. One factor that could cause us to overcount the number of affected doctors would be if a
14 citizen of a non-designated country (e.g., Egypt) attended medical school in a designated
15 country (e.g., Syria). Since we observe only the country in which the doctor attended
16 medical school we would be counting that person as affected. However, we believe that
17 this number is likely exceeded by the number of doctors we exclude from our count (e.g.,
18 doctors from the designated countries who trained in the United States). An analysis by
19 Medicus using country-of-birth information contained in licensing data supports this
20 conclusion.
- 21 11. Doximity contains data on the address of a doctor’s practice. We group doctors based on
22 the commuting zone of their practice address. Commuting zones are groups of adjacent
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1 counties that have close economic ties; for instance, seven counties in the eastern part of
2 Massachusetts make up the Boston commuting zone.

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4 12. To estimate the number of appointments provided to patients each year by doctors from
5 the designated countries, we multiply the number of doctors by 2,000. This estimate is
6 based on research by Hannah Neprash, who finds that an average doctor serves just over
7 40 appointments per week (40 appointments/week x 50 weeks worked = 2,000
8 appointments/year).² Estimates from other sources, such as the 2016 Survey of America's
9 Physicians, generate similar estimates.³

10
11 13. We characterize commuting zones as having a shortage of doctors if the population of the
12 commuting zone is more than 3,500 times the number of doctors with an internal medicine
13 specialty in the commuting zone. This definition corresponds closely with one of the main
14 criteria used in the federal Health Professional Shortage Area (HPSA) designation:
15 whether the ratio of the population to primary care providers exceeds 3,500. Population
16 information is obtained from the 2015 American Community Survey, conducted by the
17 U.S. Census Bureau.

18
19 14. In New York State, about 550 doctors trained in the six designated countries offer 1.1
20 million medical appointments each year. In New York City alone, there are about 400
21 doctors who trained in the six designated countries; they offer about 800,000
22 appointments each year.

23 ² See Hannah T. Neprash, *Better Late than Never? Physician Response to Schedule Disruptions* (Nov.
24 15, 2016), available at http://scholar.harvard.edu/files/hannahneprash/files/neprash_jmp_november2016.pdf.

25 ³ See The Physicians Foundation, *2016 Survey of America's Physicians: Practice Patterns &*
26 *Perspectives* (Sept. 2016), available at http://www.physiciansfoundation.org/uploads/default/Biennial_Physician_Survey_2016.pdf.

1 15. There are 741 commuting zones in the United States. Three of New York’s commuting
2 zones—Syracuse, Poughkeepsie, and Buffalo—are among the top 20 commuting zones in
3 in terms of the percentage of doctors who trained in the six designated countries:

4 a. In Buffalo, there are about 60 doctors who trained in the six designated countries;
5 they offer about 120,000 appointments each year.

6 b. In Syracuse, there are about 30 doctors who trained in the six designated countries;
7 they offer about 60,000 appointments each year.

8 c. In Poughkeepsie, there are about 30 doctors who trained in the six designated
9 countries; they offer about 60,000 appointments each year.

10 16. Even smaller commuting zones are affected by the Second Executive Order. For example,
11 both Olean and Watertown, NY are medically underserved commuting zones. Although
12 they each have less than ten physicians from the designated countries, they stand to lose as
13 many as 20,000 appointments each year.

14 17. In rural and medically underserved areas like Olean and Watertown, the shortage of
15 doctors can have a devastating impact on the health of residents. Cardiology and
16 neurology are two of the three specialties with the highest share of doctors from the six
17 designated countries. Proximity to cardiologists and neurologists is critical to the survival
18 and recovery of patients suffering from heart attacks and strokes. In these cases, there is a
19 short window—the so-called “golden hour”—during which immediate treatment can
20 prevent permanent damage to the heart or brain. Longer drives to the nearest specialist
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1 mean higher rates of permanent disability and death.⁴ Beyond emergency situations, long
2 distances can prevent patients from seeking routine, but essential care.⁵
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5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed on this _11th_ day of March, 2017
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Mitra Akhtari
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22 ⁴ A 2002 survey found that increased distances from medical care in rural areas contributed to higher
fatalities from car accidents. See U.S. Dep’t of Agriculture, *Health Care Status and Health Care Access of Farm
and Rural Populations* 31 (Aug. 2009), https://www.ers.usda.gov/webdocs/publications/eib57/9371_eib57_1_.pdf
(footnote omitted).

23 ⁵ See, e.g., William F. Rayburn M.D. et al., *Drive Times to Hospitals with Perinatal Care in the United*
24 *States*, *Obstetrics & Gynecology*, 119(3):611-616 (March 2012) (evaluating driving times to hospitals offering
perinatal services in the United States); Laura-Mae Baldwin, M.D. MPH et al., *Low Birth Weight Rates in the*
25 *Rural United States, 2005*, Rural Health Research Center, Univ. of Wash. (Oct. 2013),
http://depts.washington.edu/uwrhrc/uploads/RHRC_PB138_Baldwin.pdf (explaining that barriers to low-birth weight
26 prevention include insufficient provider supply and longer distances to provider offices).