

Supplemental
Brief
Exhibit F

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The Honorable James L. Robart

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

STATE OF WASHINGTON,

Plaintiff,

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.

NO. 2:17-cv-00141-JLR

DECLARATION OF
JENNIFER STRUS

I, Jennifer Strus, hereby declare and affirm:

1. I am the Assistant Secretary of the Department of Social and Health Services (DSHS) Children’s Administration. I have personal knowledge of the facts set forth in this declaration, and I am competent to testify about them.

2. As Assistant Secretary, I have a leadership and administrative responsibility for the DSHS Children’s Administration—the public child welfare agency for Washington State.

1 3. I have reviewed the Executive Order entitled “Protecting the Nation from Foreign
2 Terrorist Entry Into the United States,” and I am aware that the Order purports to temporarily bar
3 entry into this country of any person who is a citizen of any one of seven countries—Syria, Iraq,
4 Iran, Somalia, Sudan, Libya and Yemen—regardless of whether there is any evidence that the
5 individual in question had any connection with any terrorist organization or activity.

6 4. DSHS is the agency charged by the State Legislature to protect and care for
7 abused and neglected children. The Children’s Administration is the entity within DSHS that
8 receives reports of abuse or neglect; conducts investigations and assessments; seeks removal of
9 children from their homes when children are not safe; provides placements for children placed
10 in DSHS’s custody; purchases care for children placed in DSHS’s custody; provides remedial
11 services to parents to prevent removal of children and to facilitate reunification of the family;
12 pays for care of children in foster care; and achieves permanency for foster children.

13 5. The Children’s Administration serves over 233,000 clients statewide each year,
14 receives over 98,000 reports of abuse or neglect annually, and provides care and supervision of
15 over 10,800 foster children who are under the placement and care authority of the state.

16 6. The Children’s Administration has served families in which the parents
17 immigrated or were visiting from Somalia, Sudan, Syria, and Iran. In addition, the Children’s
18 Administration has served families in which the parents lived in, or immigrated or visited from,
19 many other countries and areas within countries where there is great civil unrest and/or very little
20 infrastructure.

21 7. The Children’s Administration does not currently have administrative data
22 indicating whether children or families receiving services are from the seven countries identified
23 in the Executive Order. However, it does have administrative data indicating children and parents’
24 preferred language. The Children’s Administration’s data system contains individuals who speak
25 the following languages: Arabic, Farsi, Somali, and Sudanese. According to the United States
26 Central Intelligence Agency World Factbook, available at: <https://www.cia.gov/library/>

1 | publications/resources/the-world-factbook/ (last visited 1/31/17), these languages are spoken in
2 | the seven affected countries. The Children's Administration's data system identifies 231 active
3 | participants in open child welfare cases whose preferred language is Arabic, Farsi, Somali, or
4 | Sudanese. Of the 231 individuals, 29 are identified as U.S. citizens. Thus, 202 of these individuals
5 | are identified as either non U.S. citizens or having unknown citizenship. When the Arabic
6 | language (which is spoken in other countries than the seven identified in the Executive Order) is
7 | removed from the analysis, the data system identifies 173 individuals whose preferred language is
8 | Farsi, Somali or Sudanese, which are identified by the CIA Factbook as the languages primarily
9 | spoken in Iran, Somalia, and Sudan. Of these 173 individuals, 28 are identified as U.S. citizens
10 | and 145 are identified as either non U.S. citizens or having unknown citizenship. When the
11 | Arabic and Farsi languages are removed from the analysis, the data system identifies 161
12 | individuals whose preferred language is Somali or Sudanese. Of these 161 individuals, 25 are
13 | identified as U.S. citizens and 136 are identified as either non U.S. citizens or having unknown
14 | citizenship.

15 | 8. Washington State spends approximately \$15,000 per year to provide foster care
16 | and related services to one foster child. This estimate does not include the cost of employing
17 | Children's Administration social services specialists who provide case management services for
18 | these children. The state has budgeted over \$116 million for foster care services for state fiscal
19 | year 2017 (July 1, 2016 to June 30, 2017), which includes payments to support the cost of
20 | placements and related care, therapy, transportation, parent-child and sibling visits, and more.

21 | 9. Pursuant to RCW 74.13.031(3), the Children's Administration must investigate a
22 | complaint of a recent failure to act by a parent or caretaker that results in "serious risk of
23 | imminent harm," and must, in response, offer social services including out-of-home care and case
24 | management, and/or bring the matter to the attention of an appropriate court. Thus, even if a
25 | parent, due to no fault of their own but merely because he or she has been detained or deported by
26 | the United States government, cannot arrange for a safe home for their child, DSHS would be

1 required to respond in order to provide child welfare services, and/or bring the matter to the
2 attention of the appropriate court.

3 10. If a child of an individual who is barred from the country is located in Washington
4 and cannot be safely cared for by a parent, DSHS would be required to offer social services
5 including out-of-home care and case management, and/or bring the matter to the attention of the
6 courts through a dependency proceeding. DSHS has no authority to independently remove
7 children from their homes, or to retain children for longer than 72 hours if they were removed by
8 a law enforcement officer or hospital administrators, without initiating a dependency proceeding.

9 11. When DSHS initiates a dependency proceeding, parents must be served with
10 notice as provided in RCW 13.34.070. For parents located outside Washington State, service may
11 be accomplished through personal service, certified mail, or in some circumstances, publication.

12 12. Thus, if a child of a parent who is barred from the country is placed in DSHS's
13 custody and DSHS must initiate a dependency proceeding in order to have authority to retain the
14 child in its care, DSHS would also be required to attempt to serve the parent with notice of the
15 proceeding. DSHS would be required to exercise due diligence to locate the parent in order to
16 serve him or her with notice of the proceeding. This is especially difficult when a parent has been
17 deported to a country or area that is unstable due to civil unrest and/or to an extremely remote
18 location because there is limited or no infrastructure. As a result, the mechanisms by which DSHS
19 can achieve actual service or service by certified mail of a parent in such a country are likely
20 limited or nonexistent, depending on the country and the location of the parent.

21 13. When children are placed in DSHS custody, state and federal law require DSHS to
22 make reasonable efforts to provide remedial services to remedy parental deficiencies. For a parent
23 residing outside the United States, the services are provided by coordinating with the child welfare
24 agency located where the parent resides. It is particularly difficult to coordinate the provision of
25 remedial services to a parent who has been deported to a country that is unstable due to civil
26

1 unrest and/or to an extremely remote location because there is limited or no infrastructure. As a
2 result, such a country often lacks the capacity to coordinate and provide these services.

3 14. When a parent has remedied parental deficiencies, a child may be returned to
4 him/her if doing so is in the child's best interests. Before reunification, the safety of the parent's
5 home and the parent's ability to safely care for the child in their home must be evaluated.

6 15. For a parent who resides outside the United States, reunification is accomplished
7 by coordinating with the child welfare agency in the country where the parent resides. It is
8 particularly difficult to coordinate the evaluation of the safety of a parent and his/her home when
9 the parent has been deported to a country or area that is unstable due to civil unrest and/or to an
10 extremely remote location because there is limited or no infrastructure. As a result, such a country
11 often lacks the capacity to coordinate an evaluation of the parent and his/her home. Further, if the
12 parent has been deported to a war-torn country that was unsafe for the family in the first place,
13 there is little chance the child would be safe if returned there, as well.

14 16. If a child cannot be safely reunified with a parent, DSHS must seek an alternate
15 permanent home for the child—through adoption, guardianship, or custodianship. If a suitable
16 relative is not available, DSHS must identify a non-relative adoptive home. All parental rights
17 must be terminated prior to adoption. To terminate parental rights, a proceeding must be initiated,
18 which again requires service of notice to the parents.

19 17. Service of notice of the parental rights termination proceeding is especially
20 difficult for a parent deported to an unstable country or remote area that lacks infrastructure.

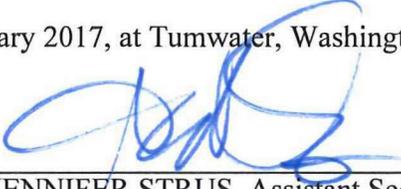
21 18. Children who await permanency are in the limbo of temporary foster care while
22 the state attempts to complete the legally required steps to achieve permanency. During this time,
23 the State of Washington incurs the expense associated with providing on-going case management,
24 and foster care and social services to the child.

25 19. Washington State has declared that "the family unit is a fundamental resource of
26 American life which should be nurtured." RCW 13.34.020. Barring legal immigrants from

1 returning home to their children could result in families being permanently torn apart, and an
2 increased burden on Washington State's foster care system.

3 I declare under penalty of perjury under the laws of the United States that the foregoing
4 is true and correct.

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6 DATED this 1st day of February 2017, at Tumwater, Washington.

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10 JENNIFER STRUS, Assistant Secretary
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