

THE HONORABLE JAMES L. ROBERT

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**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 Secretary of State; and the  
UNITED STATES OF AMERICA,

Defendants.

STATE OF OREGON,

Intervenor-Plaintiff,

v.

DONALD TRUMP, et al.,

Intervenor-Defendants.

Civil Action No. 2:17-cv-00141-JLR

**MOTION FOR LEAVE TO FILE  
SECOND AMENDED COMPLAINT**

Motion Noted: March 31, 2017

1                   **I.       INTRODUCTION AND PROCEDURAL HISTORY**

2                   On March 6, 2017, President Trump signed Executive Order 13780 (Second Executive  
3 Order) “revoking” and “replacing” Executive Order No. 13769 (First Executive Order), the  
4 subject of the First Amended Complaint. Second Executive Order § 1(i), ECF No. 108-1. At  
5 least two provisions of the Second Executive Order violate the law, like their enjoined  
6 predecessors in the First Executive Order: (1) a 90-day ban on entry of persons from several  
7 Muslim-majority countries, and (2) a 120-day suspension of the U.S. Refugee Admissions  
8 Program. *See* First Executive Order §§ 3(c), 5(a) (imposing these bans), *and* ECF No. 52, at 5  
9 (enjoining §§ 3(c), 5(a)), *and* Second Executive Order §§ 2(c), 6(a) (reinstating these bans).

10                  The State of Washington (Washington) requests leave to amend its complaint to  
11 (1) allege that the Second Executive Order suffers from many of the same constitutional and  
12 statutory deficiencies as the First Executive Order,<sup>1</sup> (2) add the States of California, Maryland,  
13 Massachusetts, New York, and Oregon<sup>2</sup> (collectively, the States), as plaintiffs, and (3) reassert  
14 that the Executive Orders injure the States’ proprietary interests, sovereign interests, and  
15 residents.<sup>3</sup> Washington respectfully requests that the Court grant leave to file the  
16 accompanying proposed Second Amended Complaint.

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21                  <sup>1</sup> In light of changes in the Second Executive Order, the proposed Second Amended Complaint drops  
22 what were the Fifth Cause of Action (for violation of the Immigration and Nationality Act based on Denial of  
Asylum and Withholding of Removal) and Sixth Cause of Action (for violation of the Foreign Affairs Reform and  
Restructuring Act based on Denial of Convention Against Torture Relief).

23                  <sup>2</sup> On March 9, 2017, the Court granted Oregon’s motion to intervene as a plaintiff as of right. ECF No.  
24 112. However, to streamline this action procedurally, Oregon and the existing plaintiffs have agreed to join  
Oregon as a plaintiff rather than having Oregon proceed separately as a plaintiff-intervenor. Therefore, if this  
Motion is granted, Oregon will withdraw its Complaint-in-Intervention.

25                  <sup>3</sup> Washington, California, Maryland, Massachusetts, New York, and Oregon are the Plaintiffs in the  
26 proposed Second Amended Complaint. Minnesota joins Washington’s motion in accordance with Federal Rules  
of Civil Procedure 15 and 21 to reflect that it is not a party to the proposed Second Amended Complaint.

## II. ARGUMENT

### A. Leave to Amend is Proper

The Federal Rules of Civil Procedure allow parties to seek leave to amend their pleadings before trial, and “[t]he Court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). Indeed, “[f]ederal policy favors freely allowing amendment so that cases may be decided on their merits.” *Wizards of the Coast LLC v. Cryptozoic Entm’t LLC*, 309 F.R.D. 645, 649 (W.D. Wash. 2015) (citing *Martinez v. Newport Beach City*, 125 F.3d 777, 785 (9th Cir. 1997)). “This policy is ‘to be applied with extreme liberality.’” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (quoting *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (additional citation omitted)). “This liberality in granting leave to amend is not dependent on whether the amendment will add causes of action or parties.” *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987).

When leave to amend is sought before the defendants have filed a responsive pleading, as here, the presumption in favor of granting leave is at its highest. “Under Rule 15(a), leave to amend should be granted freely until the defendant files a responsive pleading.”<sup>4</sup> *Martinez v. Newport Beach City*, 125 F.3d 777, 785 (9th Cir. 1997); *see also Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (“Under Rule 15(a), leave to amend should be granted as a matter of course, at least until the defendant files a responsive pleading.”); *Eminence Capital, LLC*, 316 F.3d at 1052 (holding that, in circumstances like these, “there exists a *presumption* under Rule 15(a) in favor of granting leave to amend”) (emphasis in original)). The party opposing amendment bears the “burden of showing that amendment is not warranted.” *Wizards of the Coast*, 309 F.R.D. at 649 (citing *DCD Programs*, 833 F.2d at 187).

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<sup>4</sup> “After that point, leave to amend should be granted unless amendment would cause prejudice to the opposing party, is sought in bad faith, is futile, or creates undue delay.” *Martinez*, 125 F.3d at 785 (citing *Ascon Props., Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989)); *Johnson*, 975 F.2d at 607 (same).

1 Here, Washington has promptly sought leave to amend within seven days of the  
2 President's issuance of the Second Executive Order, which shares constitutional and statutory  
3 infirmities of its predecessor and continues to harm Washingtonians. The States of California,  
4 Maryland, Massachusetts, New York, and Oregon have suffered, and continue to suffer,  
5 similar harms. Defendants have not yet filed a responsive pleading and will not be prejudiced.  
6 For these reasons, the Court should grant the request for leave to file the accompanying Second  
7 Amended Complaint.

8 **B. The States Should Be Granted Leave to Seek Redress for Their Ongoing Harms**

9 Defendants' continuing course of conduct harms the States. Like the First Executive  
10 Order, the Second Executive Order harms the States' families, educational institutions,  
11 economies, businesses, health care systems, religious organizations, and sovereign interests.

12 **1. Residents**

13 When President Trump issued the First Executive Order, it immediately tore families  
14 apart, causing significant stress and financial hardships. Many families will suffer a similar fate  
15 under the Second Executive Order. They will be unable to reunite with relatives, receive visits,  
16 and plan for the future.

17 As a direct result of the Second Executive Order, many of the States' residents will be  
18 kept separated from immediate family members. One Washington resident, a U.S. citizen, is  
19 separated from his new wife and elderly parents who live in Iran and are awaiting green cards.  
20 Decl. of A. Shayegan ¶¶ 2-10. His plans to start a life together with his wife in Seattle were  
21 suddenly halted, and both he and his wife are suffering greatly as they do not know when they  
22 will be together. *Id.* at ¶¶ 8-12. Similarly, a New York resident, also a U.S. citizen, is separated  
23 from her new husband, a Yemeni national. Decl. of R. Althaibani ¶¶ 1, 3-6. Their separation  
24 has caused a great deal of anxiety, and all of their plans have been put on hold. *Id.* at ¶¶ 4, 14.

25 For many residents, the separation is particularly agonizing because their family  
26 members are in vulnerable situations. Another New York resident, a U.S. citizen, is separated

1 from his wife and four children who are stranded in Yemen, a country in the midst of war.  
 2 Decl. of A. Elfgeeh ¶¶ 1, 4-9. He is terrified for their safety. *Id.* at ¶ 9. Another Washington  
 3 resident, a dual U.S./Iranian citizen, is separated from her elderly parents who live in Iran and  
 4 need her care. Decl. of S. Parsian ¶¶ 4-6, 8-11. She is heartbroken that she is unable to care for  
 5 her parents in their time of need. *Id.* at ¶ 11. Similarly, another resident has elderly parents who  
 6 live in Iran and are very sick. Decl. of B. Callaghan ¶ 3. She planned for them to come to the  
 7 United States so that she could care for her father, but those plans are now on hold. *Id.* at ¶ 4. A  
 8 third Washington resident has a 2-year-old niece who has a rare and deadly disease. Decl. of S.  
 9 Dadgari ¶¶ 2-4. Her niece is in California for a clinical trial, but her niece's visa is set to expire  
 10 before the clinical trial is complete. *Id.* at ¶¶ 5-6. If her niece does not get a visa extension, she  
 11 will have to return to Iran and likely be unable to return for treatment. *Id.*

12         These are just a handful of the many heartbreaking stories. There are countless other  
 13 individuals who are desperately hoping that family members will be able to join them in the  
 14 United States, or are unable to travel to visit relatives because they are in the United States on  
 15 single-entry visas. *See e.g.* Decl. of Z. Rasouli ¶¶ 2, 7-8 (Washington resident waiting for  
 16 sister); Decl. of N. Fallah ¶ 11 (Washington resident hoping mother can visit); Decl. of H.  
 17 Ghasemzadeh Ex. A (students at Washington State University on single-entry visas and  
 18 separated from families); Decl. of S. Amin ¶¶ 2, 4 (PhD Student at Cornell University on  
 19 single-entry visa and separated from family); Decl. of S. Mubarez ¶¶ 2, 12 (New York resident  
 20 waiting for husband); Decl. of J. Sime ¶ 9 (New York families separated because they received  
 21 refugee status at different times); Decl. of E. Hassett ¶ 12 (New York families may face  
 22 reunification delay of several years).

## 23           **2. Educational Institutions**

24         The Second Executive Order will harm the States' educational institutions in several  
 25 ways. They have hundreds of students and faculty members from the six countries affected by  
 26 the Second Executive Order. *See* 4th Decl. of A. Chaudhry ¶¶ 5, 7 (Washington State

1 University); Decl. of J. Riedinger ¶ 5, 3d Decl. J. Riedinger ¶ 2 (University of Washington);  
 2 Decl. of J. Boesenberg ¶¶ 4, 6 (Washington State community and technical colleges); Decl. of  
 3 D. Galvan ¶ 7 (University of Oregon); Decl. of R. Adams ¶ 8 (Oregon State University); Decl.  
 4 of M. Everett ¶ 7 (Portland State University); Decl. of D. Heatwole ¶¶ 4-6 (University of  
 5 Massachusetts); Decl. of R. Lewin ¶¶ 3-4 (University of Maryland College Park); Decl. of N.  
 6 Zimpher ¶ 9 (State University of New York); Decl. of V. Rabinowitz ¶ 6 (The City University  
 7 of New York); 2d Amend. Compl. ¶ 55 (University of California, California State University  
 8 System, and University of Southern California).

9 For students and faculty without multiple-entry visas, foreign travel for personal or  
 10 academic reasons risks an inability to return. Decl. of V. Shah ¶¶ 5-6; Decl. of R. Lewin ¶¶ 4-  
 11 6; Decl. of S. Amin ¶¶ 2, 4; 2d Decl. of R. Branon ¶ 11. As a result, some are forced to decline  
 12 important academic opportunities. *See, e.g.*, Decl. of A. Mehrizi-Sani ¶ 3 (Iranian Ph.D.  
 13 student planning on turning down 8,500 Euro research scholarship due to uncertainty about his  
 14 visa). Students and faculty members will also be unable to receive visitors from the affected  
 15 countries, creating significant emotional hardships and impacting their studies. *See* Decl. of V.  
 16 Shah ¶ 6; Decl. of R. Lewin ¶ 5; Decl. of S. Amin ¶¶ 5-7; Decl. of S. Hemmati ¶ 7.

17 In addition, by banning travelers from certain countries, the Second Executive Order  
 18 prevents the States' educational institutions from considering attractive student candidates or  
 19 faculty from the affected countries. As a result, these institutions will lose out on exceptional  
 20 student candidates, will be unable to employ faculty members with specialized expertise, and  
 21 will be unable to host visiting scholars from the affected countries, which they have done in the  
 22 past. *See, e.g.*, 2d Decl. of A. Chaudhry ¶ 7; 2d Decl. of J. Riedinger ¶¶ 9-10; Decl. of M.  
 23 Everett ¶ 13. This deprives the institutions of the diverse perspectives that such students and  
 24 scholars bring and harms the universities' educational missions as a whole.

25 The ban on travel also harms research projects and academic programs. University  
 26 faculty members regularly conduct research in the affected countries and collaborate with

1 foreign scholars from those countries. *See, e.g.*, Decl. of J. Riedinger ¶ 8 (University of  
 2 Washington); 2d Decl. of J. Wasserheit ¶ 7 (University of Washington Department of Global  
 3 Health); Decl. of D. Galvan ¶ 10 (University of Oregon); Decl. of V. Rabinowitz ¶¶ 14-18  
 4 (City University of New York). This research will be impaired if scholars are unable to travel  
 5 or return here, harming the universities' funding and reputation. *See, e.g.*, Decl. of D. Galvan  
 6 ¶¶ 10, 12 (decrease in international collaboration will likely reduce international grants,  
 7 contracts, and donations); Decl. of R. Lewin ¶ 13 (decrease in collaborative research or  
 8 international students and faculty will likely affect University of Maryland College Park's  
 9 global university rankings).

10 The universities will also have difficulty attracting and retaining faculty members and  
 11 scholars. *See* Decl. of D. Galvan ¶ 11-12 (students outside the affected countries are "already  
 12 signaling interest in non-US alternatives" and the University of Oregon's admissions  
 13 department has reported a 15% decrease in international applications); Decl. of R. Lewin ¶ 8  
 14 (researcher with "singular expertise" accepted offer to join team at the University of Maryland  
 15 College Park but backed out because of the First Executive Order). Valued faculty who are  
 16 here may not be able to stay. Some faculty members have family members in the banned  
 17 countries and may have to leave their jobs in the United States if their family members can no  
 18 longer visit. *See* Decl. of J. Riedinger ¶ 4 (University of Washington faculty member may find  
 19 it necessary to leave the University, which would be a "very significant loss"). Other faculty  
 20 members and scholars may face difficulties maintaining work authorization or renewing their  
 21 visas. Decl. of M. Williams ¶ 6; Decl. of V. Rabinowitz ¶ 10. This harms the universities'  
 22 ability to effectively compete with other institutions around the world.

23 Finally, the States' educational institutions will suffer financial harm, as they did with  
 24 the First Executive Order. *See* Decl. of D. Eaton ¶ 5 (refunds on application fees); Decl. of J.  
 25 Wood ¶ 8 (visa costs related to cancelled internship). Many have received applications or  
 26 extended offers of admission to prospective students from these countries. *E.g.* 3d Decl. of A.

1 Chaudhry ¶ 4 (Washington State University); Decl. of R. Branon ¶¶ 5-6, 2d Decl. of R. Branon  
 2 ¶¶ 6-10 (University of Washington’s Continuum College); Decl. of D. Eaton ¶ 3 (The Graduate  
 3 School of the University of Washington); Decl. of D. Galvan ¶ 11 (University of Oregon);  
 4 Decl. of R. Adams ¶ 15 (Oregon State University); Decl. of M. Everett ¶¶ 15-16 (Portland  
 5 State University); Decl. of M. Williams ¶ 9 (University of Massachusetts); Decl. of R. Lewin ¶  
 6 10 (University of Maryland College Park). If these students are unable to enroll, the  
 7 universities will lose application fees, program fees, and tuition revenue. *See, e.g.*, 2d Decl. of  
 8 R. Branon ¶¶ 9-10 (Continuum College will lose program fees if accepted students cannot  
 9 obtain visas in time).

### 10 **3. Economy and Businesses**

11 The States’ economies will also be harmed by the Second Executive Order. Barring  
 12 visitors from the six countries will cost the States a substantial amount of lost tax revenue from  
 13 travelers who would otherwise visit the States. *See* Decl. of D. Soike ¶ 11 (in 2016, more than  
 14 6,000 passengers traveled between Washington and the six banned countries); Decl. of K.  
 15 Oline ¶¶ 3-7 (in 2015, travelers from the Middle East spent \$96 million in Washington,  
 16 including more than \$9 million in state and local tax revenue); 2d Am. Compl. ¶ 126 (Oregon  
 17 received 670,000 international travelers in 2016); 2d Amend. Compl. ¶ 63 (in 2015, California  
 18 received 286,000 visitors from the Middle East, who spent approximately \$681 million  
 19 generating \$49,372,500 in tax revenue); *see also* Decl. of A. Lavine ¶ 17 (would-be foreign  
 20 tourists have canceled plans to attend events in New York because of executive orders).  
 21 Tourism is particularly critical to the economy of California, supporting more than 500,000  
 22 jobs in Los Angeles alone. 2d Amend. Compl. ¶ 66. In addition, the States will lose income tax  
 23 revenue from lost jobs, as several organizations will be forced to terminate employees who  
 24 work with refugees. *See* Decl. of R. Birkel ¶ 8; Decl. of L. Po Cha ¶ 7; Decl. of H. Kenyon ¶¶  
 25 7-8; Decl. of E. Hassett ¶ 21. The States may also lose tax revenue as a result of decreasing  
 26 hospital revenues caused by physician shortages. Decl. of R. Fullerton ¶ 22.



1           Additionally, the States' businesses will be harmed by the Second Executive Order. For  
2 example, many companies are dependent on foreign workers to operate and grow their  
3 businesses. *See, e.g.*, Decl. of A. Blackwell-Hawkins ¶¶ 3-4 (Amazon); Decl. of R. Dzielak ¶¶  
4 4, 7 (Expedia); Decl. of J. Simeone ¶¶ 5, 7 (Etsy); Decl. of J. Truppman ¶¶ 2-4 (Casper Sleep  
5 Inc.). The Second Executive Order affects their ability to retain employees from the six  
6 affected countries as well as from other Muslim-majority nations, which affects their ability to  
7 compete in the global marketplace. *See e.g.*, Decl. of M. Rosenn ¶¶ 2-4, 8 (Kickstarter, a New  
8 York company, anticipates that the Second Executive Order will negatively impact its ability to  
9 recruit and retain employees from Muslim-majority nations); Decl. of D. Pashman ¶¶ 4, 6-8  
10 (Meetup, New York based company, expressing similar concerns); Decl. of J. Simeone ¶¶ 5, 7  
11 (Etsy, New York corporation, same). The uncertainty created by the Second Executive Order  
12 also impacts business operations. *E.g.* Decl. of S. Buell ¶ 8 (uncertainty about employees'  
13 ability to travel harms the ability of MongoDB, a New York company, to serve its customers);  
14 *see also* Decl. of J. Truppman ¶¶ 5-6 (uncertainty about immigration policy imposes financial  
15 and administrative burdens on Casper Sleep Inc.).

16           Other businesses that will be harmed include those in real estate. Real estate companies  
17 have already lost customers over concerns about immigration policy and President Trump's  
18 Executive Orders. Decl. of M. Saunders ¶¶ 7-15 (Washington based real estate brokerage  
19 company Redfin has lost at least five potential customers who decided not to purchase homes);  
20 *See also* Decl. of P. Johnson ¶¶ 3-7 (Washington mortgage consultant lost two clients due to  
21 First Executive Order). These businesses lose potential revenue each time a customer ends his  
22 or her home buying search before buying a home, and they will continue to incur business  
23 costs assisting and advising customers who may be affected by the Second Executive Order.  
24 *See* Decl. of M. Saunders ¶¶ 7, 13.

25           Local travel companies will also be devastated by the Second Executive Order. The  
26 uncertainty and anxiety created by the First Executive Order forced travel companies to cancel

1 many trips, which significantly impaired their business and operations. Decl. of R. Zawaideh  
 2 ¶¶ 3-6 (Washington travel company forced to cancel more than 20 tours, company has lost  
 3 “almost all of its revenue,” and business “has completely evaporated”); Decl. of S. Topiwala ¶¶  
 4 6-9 (by forcing travel company to cancel pilgrimage to Iraq, the First Executive Order had a  
 5 “significant negative financial impact” on travel company); *see also* Decl. of R. Dzielak ¶¶ 12-  
 6 14 (uncertainty surrounding First Executive Order created “significant difficulties for the  
 7 operation of Expedia’s business”). These harms will continue as a result of the Second  
 8 Executive Order.

#### 9 **4. Health Care**

10 The Second Executive Order will harm the States’ health care systems. For one, it  
 11 impedes the States’ efforts to ensure that residents in rural and underserved areas receive health  
 12 care. Recruitment of foreign-born physicians is critical to the States’ efforts to address Health  
 13 Professional Shortage Areas and their need for primary care, dental health, and mental health  
 14 physicians. Decl. of R. Fullerton ¶¶ 5-7, 14-19; Decl. of M. Akhtari ¶¶ 13, 16-17; Decl. of M.  
 15 Overbeck ¶¶ 3-5; 2d Amend. Compl. ¶¶ 60-61. The Second Executive Order, like the first, will  
 16 significantly harm recruitment efforts. *See* Decl. of M. Overbeck ¶¶ 4-7; Decl. of R. Fullerton  
 17 ¶¶ 17-19. This, in turn, will harm patients in underserved areas. When there is a shortage of  
 18 physicians, patients may have to delay treatment, travel long distances for care, or go without  
 19 care altogether. Decl. of R. Fullerton ¶¶ 18-19.

20 The Second Executive Order will also harm the States’ best-known health care  
 21 institutions. Hundreds of physicians from the banned countries work in the States. Decl. of M.  
 22 de Leon ¶¶ 6-8; Decl. of M. Akhtari ¶¶ 5-9, 14; Decl. of E. Scherzer ¶¶ 6, 12; Decl. of T.  
 23 Johnson ¶ 13. The States’ health care institutions will have trouble retaining these physicians  
 24 and recruiting other qualified physicians. The States’ health care employers have already lost  
 25 highly qualified physicians due to the uncertainty created by the First Executive Order. *E.g.*  
 26 Decl. of R. Fullerton ¶¶ 17, 19 (multiple Washington healthcare employers lost physician

1 candidates from the affected countries). These losses will undoubtedly continue. *See* Decl. of  
 2 S. Hemmati ¶¶ 1, 4, 7-8 (postdoctoral research fellow at Cancer Research Center at Albert  
 3 Einstein College of Medicine in New York may not be able to renew visa and will likely leave  
 4 United States); Decl. of R. Eskandari ¶ 6 (postdoctoral scientist at Memorial Sloan Kettering  
 5 Cancer Center unsure whether she will be able to renew visa and continue cancer research);  
 6 Decl. of E. Scherzer ¶¶ 10 (medical students will likely elect to do residency abroad). As a  
 7 result, these institutions will also suffer a reduction in revenue, as physicians are the central  
 8 revenue generators for hospitals. Decl. of R. Fullerton ¶ 22.

9 The Second Executive Order will also harm the States' medical schools, particularly  
 10 those that participate in the National Resident Matching Program, which includes schools in  
 11 the States. *E.g.* Decl. of M. Collins, MD ¶¶ 6-9 (Massachusetts); Decl. of E. Scherzer ¶¶ 15-17  
 12 (New York); 2d Amend. Compl. ¶ 59 (California). After the First Executive Order, these  
 13 institutions had significant concerns about extending residency offers to medical students from  
 14 the banned countries. *See* Decl. of M. Collins, MD ¶¶ 6-9. These concerns are still present, as  
 15 the Second Executive Order will ban travel for nationals from six of the seven countries.

## 16 5. Religious Organizations

17 The Second Executive Order will harm members of the States' diverse faith  
 18 communities and religious organizations. Many of the States' residents perform refugee  
 19 resettlement or ministry as part of an organizational or religious mission. Decl. of D. Duea ¶¶  
 20 2, 8 (Lutheran Community Services Northwest); Decl. of Rabbi W. Berkovitz ¶¶ 1-5, 10, 12  
 21 (Jewish Family Service of Seattle); Decl. of R. Birkel ¶ 3 (Catholic Charities of Oregon). The  
 22 Second Executive Order will prevent these organizations from administering services to  
 23 hundreds of refugees. Decl. of D. Duea ¶¶ 7-8 (Lutheran Community Services Northwest will  
 24 be unable to provide assistance to between 100 and 200 refugees); *see also* Decl. of Rabbi W.  
 25 Berkovitz ¶ 13 (Jewish Family Services of Seattle expects to resettle 65 additional refugees in  
 26 fiscal year 2017). By preventing these individuals and organizations from providing services to

1 refugees, the Second Executive Order prevents them from exercising their beliefs and fulfilling  
 2 their missions. *See, e.g.*, Decl. of D. Duea ¶ 8 (work with refugees “is a religious calling” and  
 3 one way in which [Christians] serve [their] faith”); Decl. of Rabbi W. Berkovitz ¶¶ 10 (refugee  
 4 resettlement services “is a critical way that Jewish individuals and families in the Puget Sound  
 5 region are able to fulfill their religious, cultural, and historical obligations”).

6 In addition, the Second Executive Order will have a financial impact on religious  
 7 organizations that provide refugee services. If refugees are not permitted to enter the United  
 8 States, these organizations will lose revenue. Decl. of R. Birkel ¶¶ 5-7 (Catholic Charities of  
 9 Oregon will lose \$310,000 of government funding during the 120 day period); Decl. of H.  
 10 Kenyon ¶ 8 (Ecumenical Ministries of Oregon would lose \$75,000 per year in government  
 11 funding). The refugee ban will also result in staffing reductions and will threaten the  
 12 organizations’ continued ability to operate. Decl. of D. Duea ¶ 9 (Lutheran Community  
 13 Services Northwest will be forced to terminate half of its refugee assistance staff); Decl. of H.  
 14 Kenyon ¶¶ 7-8 (Ecumenical Ministries of Oregon will have to terminate entire refugee  
 15 resettlement staff and may have to reduce staffing in other areas); Decl. of R. Birkel ¶ 8  
 16 (Catholic Charities may terminate 7 full time employees); Decl. of L. Warren ¶¶ 17-18  
 17 (Catholic Family Center of Rochester, New York, may have to terminate employees). Reduced  
 18 staffing, in turn, may also directly impact previously resettled refugee clients. Decl. of R.  
 19 Birkel ¶ 10; *see also* J. Sime ¶ 12 (reduction in resources jeopardizes continued services for  
 20 refugees in United States).

## 21 **6. Sovereign interests**

22 Finally, the Second Executive Order will violate the States’ sovereign interests in  
 23 preventing the federal government from establishing a favored or disfavored religion and in  
 24 creating and enforcing anti-discrimination laws. Through their state statutory schemes, the  
 25 States all prohibit discrimination on the basis of religion and national origin. *See generally*  
 26 Rev. Code Wash. § 49.60.030(1); Cal. Gov. Code § 12900 *et. seq.*; Cal. Civ. Code §51; Md.

1 Code Ann., State Gov't § 20-101 to 1203; Md. Code Ann., State Fin. & Proc. § 19-101; Mass.  
2 Gen. Laws, ch. 151B; N.Y. Exec. Law, art. 15; Or. Rev. Stat. § 659A.006. In addition to  
3 enforcing these laws, the States are bound by them in their capacities as employers, educators,  
4 and providers of public services. The breadth and generality of the ban on admission of  
5 individuals from six countries effectively nullifies provisions of state anti-discrimination law  
6 applicable to state-regulated entities and the States themselves. This displacement of state law  
7 injures the core sovereignty of the States.

### 8 III. CONCLUSION

9 For the foregoing reasons, Washington respectfully requests that the Court grant leave  
10 to file the Second Amended Complaint submitted concurrently herewith.

11  
12 RESPECTFULLY SUBMITTED this 13th day of March 2017.

13  
14 ROBERT W. FERGUSON  
15 Washington Attorney General

16 *s/ Robert W. Ferguson*  
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18 Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

March 13, 2017

*s/ Noah G. Purcell*  
NOAH G. PURCELL, WSBA 43492

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THE HONORABLE JAMES L. ROBERT

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

STATE OF WASHINGTON; STATE  
OF CALIFORNIA; STATE OF  
MARYLAND; COMMONWEALTH  
OF MASSACHUSETTS; STATE OF  
NEW YORK; and STATE OF  
OREGON,

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

Defendants.

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

SECOND AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF

**I. INTRODUCTION**

1. The States of Washington, California, Maryland, Massachusetts, New York, and Oregon (“States”) bring this action to protect the States—including their residents, employers, hospitals, and educational institutions—against illegal actions of the President and the federal government.







1 Executive Order will do the same. The Second Executive Order's six-country ban and refugee  
2 suspension provisions prevent our colleges and universities from welcoming talented students  
3 and staff from around the world, separate our residents from their families, thwart businesses  
4 that recruit or serve foreign nationals from the six-listed countries, interfere with religious  
5 organizations practicing their faith, and negatively impact state tax revenue.

6 15. According to the most current American Community Survey data from the U.S.  
7 Census Bureau, as of 2015, approximately 7,280 non-citizen immigrants from Iran, Iraq, Syria,  
8 Somalia, Sudan, Libya, and Yemen reside in Washington—1,409 Iranian immigrants, 360  
9 Libyan immigrants, 2,883 Somalian immigrants, 165 Sudanese immigrants, and 187 Syrian  
10 immigrants. In addition, 2,275 immigrants in Washington are from Iraq—which was included  
11 in the First Executive Order, but, for now, falls outside the Second Executive Order's six-  
12 country ban.

13 16. The Second Executive Order will negatively impact Washington's economy.  
14 Immigration is an important economic driver in Washington. Many workers in Washington's  
15 technology industry are immigrants, and many of those immigrant workers are from Muslim-  
16 majority countries. Immigrant and refugee-owned businesses employ 140,000 people in  
17 Washington. Many companies in Washington are dependent on foreign workers to operate and  
18 grow their businesses.

19 17. The technology industry relies heavily on the H-1B visa program, through  
20 which highly skilled workers like software engineers are permitted to work in the United  
21 States. Microsoft, a corporation headquartered in Redmond, Washington, is the State's top  
22 employer of H-1B visa-holders and employs nearly 5,000 people through the program. Other  
23 Washington-based companies, including Amazon, Expedia, and Starbucks, employ thousands  
24 of H-1B visa-holders.

25 18. The market for highly skilled workers and leaders in the technology industry is  
26 extremely competitive. Changes to U.S. immigration policy that restrict the flow of people may

1 | inhibit these companies' ability to adequately staff their research and development efforts and  
2 | recruit talent from overseas. If recruiting efforts are less successful, these companies' abilities  
3 | to develop and deliver successful products and services may be adversely affected.

4 |         19. Microsoft's U.S. workforce is heavily dependent on immigrants and guest  
5 | workers. At least 76 employees at Microsoft are citizens of Iran, Iraq, Syria, Somalia, Sudan,  
6 | Libya, or Yemen and hold U.S. temporary work visas (and many more are lawful permanent  
7 | residents or green card holders who were the subjects of the First Executive Order). These  
8 | employees may no longer be able to renew their visas, travel overseas, or attend meetings at  
9 | the company's offices in Vancouver, British Columbia.

10 |         20. Seattle-based company Amazon also employs workers from every corner of the  
11 | world. Amazon's employees, dependents of employees, and candidates for employment with  
12 | Amazon will be impacted by the Second Executive Order.

13 |         21. Bellevue-based company Expedia operates a domestic and foreign travel  
14 | business. At the time of the First Executive Order, Expedia had approximately 1,000 customers  
15 | with existing flight reservations in or out of the United States who held passports from the  
16 | seven originally banned countries. The Second Executive Order will again restrict business,  
17 | increase business costs, and impact current employees and customers.

18 |         22. Like the First Executive Order, the Second Executive Order will separate our  
19 | residents' families. Under the First Executive Order, at least three Washington residents from  
20 | the seven originally affected countries were prevented from traveling to Washington or  
21 | detained at air, land, and sea ports of entry across the United States. One Somali refugee, who  
22 | had lived in Seattle for 12 years, went to Sea-Tac airport to pick up her Somali husband who  
23 | was flying from Vienna, but never saw him before he was sent back on a flight to Vienna.  
24 | Another detainee was prevented from seeing her Iraqi brother who lives in Seattle, after 15  
25 | years apart. Still other Washington residents were prevented from being reunited with family  
26 |

1 members. One Syrian family who recently resettled in Seattle was left waiting for an older  
2 child arriving from a refugee camp because of the First Executive Order.

3 23. Once implemented, the Second Executive Order will again prevent residents  
4 from receiving visits from or reunifying with family members from the six-targeted countries.  
5 For example, the fiancée of one WSU student lives in Iran. Though his fiancée long ago  
6 applied for a green card and is scheduled for an interview in May 2017, her interview will  
7 likely be cancelled under the Second Executive Order. Another long-time Washington resident,  
8 an aerospace engineer, is suffering the same plight. His Iranian wife, though scheduled for an  
9 interview, will likely be unable to enter due to the Second Executive Order.

10 24. Similarly, Washington residents will be unable to receive visits from their  
11 families abroad. For example, a U.S. citizen originally from Iran applied for a green card for  
12 her parents on November 9, 2016. One of her parents is sick and requires 24-hour care. Under  
13 the Second Executive Order, neither of her parents—nor her Iranian sister who was recently  
14 accepted to seven different Ph.D. programs in the U.S.—will be allowed to enter the United  
15 States for at least 90 days, if not longer. Another Iranian-American resident, a doctor  
16 specializing in diagnostic radiology, recently applied for green cards for her parents, whom she  
17 has not seen in three years. Although her mother arrived in the United States on March 11,  
18 2017, after the First Executive Order was enjoined, her father's application is still being  
19 processed. The Second Executive Order will likely preclude him from entering the United  
20 States.

21 25. Even more, Washington residents will be torn apart from their family members  
22 in the United States who are on temporary visas. One Washington green card holder, for  
23 example, will be separated from her Iranian sister and her two-year old daughter. The daughter  
24 suffers from a rare and deadly disease called Niemann-Pick Disease Type C. Although her  
25 sister and niece were able to obtain visas from Iran to enroll the niece in a clinical trial at  
26 Oakland Children's Hospital in California, those visas are set to expire on March 24, 2017.

1 Since it is unclear whether they will be extended under the Second Executive Order, sister and  
2 niece are required to return to Iran having not finished the clinical trial.

3 26. The Second Executive Order will also impact physicians in Washington and our  
4 health care system as a whole. The Washington State Medical Quality Assurance Commission  
5 regulates 27,001 physicians whose licenses are in active status. At least 105 of these physicians  
6 were born in one of the seven countries named in the First Executive Order, with seven  
7 additional licenses pending approval. In addition, 45 active licensees received all or part of  
8 their medical education in one of the affected countries. The Medical Commission has also  
9 issued several limited licenses to residents, fellows and physicians serving as teaching-research  
10 members from the affected countries.

11 27. Washington currently has many Health Professional Shortage Areas  
12 (“HPSAs”), which are areas in which there are shortages in the number of primary care, dental  
13 health, or mental health physicians needed to treat patients. In many situations, a county is  
14 triply designated as having shortages in primary care, dental, and mental health clinicians.  
15 Washington also has a number of Medically Underserved Areas/Populations, which are areas  
16 in which there are too few primary care providers, high infant mortality rates, high poverty, or  
17 high elderly populations. Washington has undertaken a number of initiatives to recruit  
18 physicians to treat these underserved populations and communities. Despite these initiatives,  
19 however, Washington continues to have shortages in the number of physicians and dentists  
20 available. These shortages are expected to increase in the coming years. Recruitment of  
21 foreign-born physicians is one of the ways that Washington has attempted to address these  
22 shortages. The First Executive Order significantly harmed these recruitment efforts and harmed  
23 Washington’s efforts to ensure that residents in rural and underserved areas receive health care.  
24 The Second Executive Order will do the same. When a position goes unfilled, patients may  
25 have to wait months for appointments, travel long distances to receive care, or simply do  
26

1 without the care. The inability to hire foreign-born physicians reduces patient access to  
2 healthcare in Washington.

3 28. In fact, Washington healthcare employers have already lost needed physician  
4 candidates due to uncertainty created by the First Executive Order. For example, one health  
5 center was ready to sign a contract with a family medicine physician from Libya but after the  
6 First Executive Order was issued, the physician decided that it was too risky to change  
7 employers. Another large healthcare system in Washington with multiple hospitals and clinics  
8 lost a physician candidate who decided to pursue a position in Canada given the uncertainty of  
9 the First Executive Order. The same healthcare system also has several physicians who are in  
10 process to receive their permanent resident status who are considering leaving the U.S. for  
11 opportunities in Canada. Physicians are central revenue generators for Washington hospitals  
12 and clinics. The shortage of physicians reduces the revenue of these hospitals and clinics and  
13 reduces the taxes the State is able to collect.

14 29. In addition to affecting Washington residents, families, and its businesses, and  
15 health care system, the Second Executive Order will harm Washington's proprietary interests.

16 30. According to data from several travel companies and research firms, there  
17 appears to have been a "chilling effect" on tourism to the United States. Since January 27,  
18 2017, the demand for travel to the United States has taken a "nosedive." (*See Shivani Vora,*  
19 *After Travel Ban, Interest in Trips to U.S. Declines*, N.Y. Times (Feb. 20, 2017), *available at*  
20 [https://www.nytimes.com/2017/02/20/travel/after-travel-ban-declining-interest-trips-to-united-](https://www.nytimes.com/2017/02/20/travel/after-travel-ban-declining-interest-trips-to-united-states.html)  
21 [states.html](https://www.nytimes.com/2017/02/20/travel/after-travel-ban-declining-interest-trips-to-united-states.html), attached hereto as Exhibit 1).

22 31. Tourism is Washington's fourth largest economic sector. It is estimated to  
23 generate nearly \$21 billion annually, and it is estimated that each international route to Sea-Tac  
24 airport generates about \$89 million in economic revenue to our region. In 2015, travelers from  
25 the Middle East spent approximately \$96 million in Washington. This spending generated  
26 more than \$6 million in state tax revenue and more than \$2 million in local tax revenue. In

1 2016, more than 6,000 passengers travelled between Sea-Tac airport and the six countries  
2 targeted in the Second Executive Order.

3 32. The Second Executive Order will negatively impact Washington's tourism  
4 industry. After the First Executive Order, for example, one Washington tour company that  
5 operated trips to Iran for thirty years had to cancel four trips scheduled for Iran. Customers—  
6 some U.S. citizens—told the tour company's CEO that they cancelled because they were afraid  
7 to travel in light of the First Executive Order. Another tour company was similarly forced to  
8 cancel a pilgrimage to Iraq. This fear will only continue under the Second Executive Order and  
9 Washington's tourism industry will suffer.

10 33. Similarly, the Second Executive Order will depress Washington's real estate  
11 businesses. For example, Redfin, a Seattle-based real estate brokerage company, is aware of at  
12 least five potential Redfin customers who decided not to purchase a home due to concerns  
13 about the future following President Trump's Executive Orders. Each time a customer ends  
14 their home-buying search before buying a home, Redfin loses potential revenue and the State  
15 loses taxable revenue.

16 34. The Second Executive Order will also harm countless students and faculty at the  
17 States' public colleges and universities, as well as harm the institutions themselves.

18 35. The University of Washington ("UW") and Washington State University  
19 ("WSU") are the two largest public universities in the State. At least 95 students from Iran,  
20 Syria, Somalia, Sudan, Libya, and Yemen attend the University of Washington, based in  
21 Seattle. Fourteen of these scholars are nonimmigrant visa-holders from the six countries  
22 specified in the Second Executive Order. Two of these fourteen scholars are not currently in  
23 the United States. More than 135 students from the seven original countries targeted by the  
24 First Executive Order attend Washington State University, based in Pullman. At least 188  
25 students from the seven countries attend Washington's public community and technical  
26

1 colleges. In addition, Washington's public universities and colleges have faculty members and  
2 visiting scholars from the seven countries.

3 36. The Second Executive Order will restrict these students, scholars, and faculty  
4 members, who rely on their ability to renew their visas, from traveling abroad for research or  
5 scholarship. The First Executive Order, for example, prevented one graduate student from  
6 participating in critical research in Greenland, prevented visiting scholars from traveling to the  
7 United States for research, and prevented faculty members and students from participating in  
8 international conferences. These cancellations resulted in financial losses to the universities  
9 and will continue under the Second Executive Order.

10 37. By restricting travel, the Second Executive Order will hinder students'  
11 educational experience as well as limit students' ability to fully participate in their programs of  
12 study and will prevent faculty members from fulfilling university responsibilities. UW's  
13 Global Health program, for example, has worked with Sudan's Ministry of Health since 2001,  
14 hosting approximately 25 Sudanese professionals as scholars for as much as one academic  
15 quarter. The presence of Sudanese students at UW's Global Health program strengthens the  
16 educational experience of all the students, but will likely be discontinued under the Second  
17 Executive Order.

18 38. In addition, numerous graduate students from the six-targeted countries are  
19 studying here on single-entry visas. The Second Executive Order will impact their ability to  
20 attend academic conferences, visit their families abroad, or have their families visit them. It  
21 may cause some students or faculty to leave the universities, which damages research projects,  
22 academic programs, and the educational missions of Washington's institutions of higher  
23 education.

24 39. Like the First Executive Order, the Second Executive Order will also harm the  
25 universities' ability to recruit, employ, and retain, scholars from the affected countries.  
26 Washington has a proprietary interest in securing the best possible employees. Washington



1 agencies and institutions of higher education (including UW and WSU) often recruit people,  
2 based on their specialized skills and qualifications, from the countries affected by the Second  
3 Executive Order.

4 40. For example, UW started the process of sponsoring three prospective employees  
5 to work in the fields of medicine and engineering. Two of these scholars were expected to start  
6 in February 2017, but the First Executive Order prevented them from entering the U.S. UW  
7 also sponsored two interns to work with faculty in medicine and science who were scheduled  
8 to start their internships during the 90-day ban imposed by the First Executive Order. One of  
9 these interns would not have been able to enter the U.S. if the temporary restraining order had  
10 not issued. The second intern cancelled his internship because of the First Executive Order.

11 41. UW incurs costs for processing each application, including visa-related fees and  
12 the costs of the human resources required to assist the international scholars. If a person whom  
13 UW has sponsored cannot enter the country or carry out their work because of the Second  
14 Executive Order, UW will lose the benefit of its investment. UW may also lose associated  
15 registration fees and program expenses. For example, UW will lose the quarterly registration  
16 fee for each of the academic quarters that the intern who cancelled was to be engaged in his  
17 internship.

18 42. Likewise, Washington's educational institutions will have difficulty in retaining  
19 its faculty members. UW, for example, has one faculty member who regularly visits family  
20 members in Iran. If she can no longer do so, she may have to leave and her loss would be a  
21 very significant loss to UW.

22 43. The Second Executive Order will also prevent individuals from the listed  
23 countries from enrolling in Washington's public universities or colleges. This could result in  
24 lost tuition revenue or other fees. As of March 12, 2017, UW's Graduate School has received  
25 374 applications from prospective students from the six-targeted countries—and has already  
26 extended offers to twenty-eight of them. If these students are unable to attend UW, the quality

1 and number of graduate students enrolling in UW graduate programs will decrease. Further,  
2 UW will likely forgo revenue it would otherwise have obtained from these international  
3 students' revenue. Regular full-time tuition is currently \$10,404 for Fall, Winter, and Spring  
4 Quarters, and \$10,074 for Summer Quarter.

5 44. Similarly, the UW Continuum College's International English Language  
6 Program routinely enrolls students from several of the affected countries. The students pay a  
7 program fee of \$3,680 per quarter. Five students from the targeted countries had been accepted  
8 for either the Spring quarter, which will begin on March 22, 2017, or the Summer quarter,  
9 which will begin in June 2017, but none has yet received a valid visa. The students will not be  
10 able to travel to the U.S. under the Second Executive Order, and Continuum College will lose  
11 the associated program fees.

12 45. A number of applicants from the countries targeted by the First and Second  
13 Executive Orders have been contacting the Graduate School at UW with concerns about the  
14 Executive Orders. Some have requested refunds of the \$85 application fee. To date, the  
15 Graduate School has provided application fee refunds to two affected applicants.

16 46. Likewise, the Second Executive Order will depress the number of applications  
17 universities receive from international students in the first place. Since the First Executive  
18 Order was issued, UW Continuum College has not received any applications from any of the  
19 six countries named in the Second Executive Order. WSU's Special Education program,  
20 likewise, had been receiving more and more applications from international students until this  
21 year. The program received over 60 applications last year, before the First Executive Order  
22 issued. This year, WSU's program processed only 10 applications.

23 47. The Second Executive Order will harm members of Washington's diverse faith  
24 communities and non-profit religious organizations that provide services to refugees and  
25 immigrants as part of their religious beliefs and/or mission. By barring the arrival of refugees  
26

1 to whom these individuals and organizations would have otherwise provided services, the  
2 Second Executive Order will have a negative financial impact on their revenue.

3 48. This impact will be immediate. Lutheran Community Services Northwest  
4 (“Lutheran Services”), for example, was directly prevented from providing services to at least  
5 eight refugees after the First Executive Order was implemented for just one week. If the  
6 Second Executive Order’s refugee ban is implemented, Lutheran Services will be prevented  
7 from providing services to an additional 100 to 200 refugees and 15 of its 35 refugee  
8 resettlement staff will be laid off. The Jewish Family Service of Seattle, which views its  
9 service to refugees to be a part of Jewish religious and cultural commands to “welcome the  
10 stranger,” will suffer similar harms.

11 49. Finally, the Second Executive Order renders the State unable to honor its own  
12 sovereign laws, policies, and commitments. Specifically, Washington and its employers,  
13 housing providers, and businesses have long been prohibited from discriminating against  
14 people based on national origin and/or religion in employment, housing, and in places of public  
15 accommodation. If the Second Executive Order is implemented, Washington will suffer the  
16 indignity of the federal government expressing a religious and nationality preference in a way  
17 that violates Washington’s prerogatives.

18 **PLAINTIFF STATE OF CALIFORNIA**

19 50. The State of California, represented by and through its Attorney General, is a  
20 sovereign State of the United States. California is home to more than 10 million immigrants,  
21 welcomed almost 8,000 refugees last year, and hosts the greatest number of international  
22 students—almost 150,000—of any state.

23 51. California joins this litigation as a Plaintiff following the issuance of the Second  
24 Executive Order. California suffered harm as a result of the First Executive Order and will  
25 continue to suffer injuries from the Second Executive Order.  
26

1           52. California has an interest in protecting the well-being of its populace and in  
2 ensuring that its residents are not excluded from the benefits that flow from participation in the  
3 federal system, including the rights and privileges provided by the United States Constitution  
4 and federal law. California also has an interest, as evidenced by its Constitution and state law,  
5 in prohibiting discrimination on the basis of religion or national origin. The Constitution of the  
6 State of California provides that “[f]ree exercise and enjoyment of religion without  
7 discrimination or preferences are guaranteed,” and that the “Legislature shall make no law  
8 respecting an establishment of religion.” Cal. Const. art. I, § 4. California’s Constitution also  
9 prohibits any discrimination on the basis of national origin. *Id.* §§ 7-8, 31. California state law  
10 also prohibits discrimination on the basis of religion or national origin. *See, e.g.*, Cal. Gov’t  
11 Code §§ 11135-11137, 12900 et seq; Cal. Civ. Code § 51, subd. (b).

12           53. According to a 2015 study, 27 percent of California’s population was foreign  
13 born, about twice that of the nation as a whole. Foreign-born residents represented more than  
14 30 percent of the population in eight California counties (Santa Clara, San Mateo, Los  
15 Angeles, San Francisco, Alameda, Imperial, Orange, and Monterey). According to the 2015  
16 American Community Survey, 213,689 California residents were born in Iran; 25,903 in Syria;  
17 7,859 in Yemen; 5,505 in Somalia; and 1,761 in Sudan. The foreign-born population, including  
18 those individuals from the six countries affected by the Second Executive Order, contributes  
19 significantly to the State’s economy and workforce.

20           54. California, as the sixth largest economy in the world, houses many small  
21 businesses, large corporations, non-profit organizations, public and private hospitals, and  
22 colleges and universities that will be adversely affected by the Second Executive Order. These  
23 institutions employ and enroll individuals from the affected countries and rely on their  
24 expertise, skill, and labor. The Second Executive Order will harm California by reducing  
25 investment and industry in California and decreasing travel by students, scholars, and tourists.  
26 These outcomes will harm California’s economy as a whole and will decrease state tax and

1 other revenues. The Second Executive Order is also fundamentally inconsistent with and  
2 undermines California's commitment to diversity and nondiscrimination.

3 55. California's state colleges and universities will be adversely affected by the  
4 Second Executive Order. These institutions enroll many students from the affected countries  
5 and the Second Executive Order substantially interferes with the continued matriculation of  
6 these students to California's universities and colleges. The University of California ("UC"),  
7 which has ten campuses, has numerous undergraduate students, graduate students, and medical  
8 residents who are nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen. There are 436  
9 students on student visas from these countries at UC's six largest campuses (Los Angeles,  
10 Berkeley, San Diego, Irvine, Davis, Santa Barbara). The California State University System  
11 has approximately 250 students on visas from these countries. The University of Southern  
12 California ("U.S.C.") typically has 150-200 graduate students and post-doctoral scholars from  
13 the six affected countries. In the 2015-2016 academic year, U.S.C. had enrolled approximately  
14 157 students from these countries—153 students from Iran, three from Libya, and one from  
15 Yemen. Because of the Second Executive Order, students admitted to California universities  
16 and colleges who are unable to obtain a visa by March 15, 2017, will likely be unable to  
17 matriculate for the 2017-2018 academic year. Some international students already have  
18 withdrawn applications due to uncertainty caused by the First and Second Executive Orders.

19 56. The Second Executive Order also disrupts the ability of California's universities  
20 and colleges to meet staffing needs. As a result of the Second Executive Order, California  
21 colleges and universities may be unable to hire the best faculty, lecturers, research assistants,  
22 and visiting scholars from the affected countries. Without these faculty, graduate students, and  
23 post-doctoral scholars, it will be far more difficult for these institutions to conduct important  
24 research, instruction, and administration. Many of these individuals have specialized expertise  
25 that cannot easily be replaced or duplicated. The Second Executive Order will interfere with  
26

1 the ability of those who seek to study, train, research, and teach at California colleges and  
2 universities, to the detriment of these communities.

3 57. The Second Executive Order hinders the mission and purpose of California's  
4 colleges and universities. As the UC President stated, the Second Executive Order's  
5 restrictions on travel are an "anathema to advancing knowledge and international cooperation"  
6 and infringe on "the free flow of students, faculty, scholars and researchers that are at the core  
7 of the universit[ies'] education, research and public service missions." (*See* UC Statement and  
8 preliminary guidance on revised executive order, UC Office of the President (Mar. 6, 2017)  
9 *available at* <http://nhlrc.ucla.edu/institute/article/172916>, attached hereto as Exhibit 2).  
10 Universities throughout the State have had to expend money and resources on providing  
11 support to impacted students and faculty in their communities. The universities have also had  
12 to instruct their international students, faculty, scholars, and employees to consult with  
13 immigration lawyers, register with their campus office of International Affairs, and generally,  
14 show caution before traveling out of the country. Further, the atmosphere of fear and  
15 uncertainty created by the Second Executive Order is antithetical to the diversity of  
16 perspectives and the freedom of thought and expression that are essential to (higher) education.

17 58. The Second Executive Order will also deprive California colleges and  
18 universities, and California, of significant revenue. The estimated expenditure in 2016 by  
19 foreign students in California was \$5,215,216,463. The University of Southern California  
20 takes in, and now faces the potential loss of, millions of dollars in tuition and costs from  
21 international students.

22 59. The Second Executive Order, like the First Executive Order, will disrupt  
23 medical residency staffing. The University of California, for example, has five teaching  
24 hospitals that participate in the "match" program for purposes of placing residents in various  
25 university hospital programs. These medical residents perform crucial services, including, in  
26 many cases, providing medical care for underserved state residents. Decisions on ranking these

1 future residents were due on February 22, and the computerized “match” is scheduled to occur  
2 on March 17, one day after the Second Executive Order goes into effect. Matched residents are  
3 expected to begin work on July 1. On information and belief, UC hospitals historically have  
4 taken residents from the six affected countries and planned to do so this year. However, a  
5 potential resident who is unable to obtain a visa by March 15, 2017, will not be able to  
6 participate in UC residency programs. Particularly for smaller programs, some of which may  
7 have only five residents, this will create a significant gap in staffing.

8         60. The Second Executive Order will also harm California residents’ access to  
9 health care. California, like many other states, relies on doctors who are foreign nationals,  
10 especially in underserved rural areas. According to one survey, of the non-U.S.-citizen doctors  
11 in California’s physician workforce, 191 are from the six countries affected by the Second  
12 Executive Order.

13         61. Like all other states, California is allotted 30 J-1 Visa Waiver recommendations  
14 and administers this program through the State Department of Health Care Services. Because  
15 of a critical need for primary care physicians in underserved communities, California gives  
16 priority to those willing to serve in these communities. The Second Executive Order, by  
17 limiting the pool of applicants who may be selected for its 30 slots, will impede California’s  
18 future ability to effectively use this program to benefit its citizens, especially those in rural and  
19 other underserved areas.

20         62. The Second Executive Order may also have a negative impact on staffing in the  
21 California State Hospital System, which provides mental health services to patients in secure  
22 correctional medical facilities, and could make serving this patient population more difficult.

23         63. The Second Executive Order, like the First Executive Order, will cause  
24 California to lose significant revenue from tourism. In 2015, there were approximately 286,000  
25 visitors from the Middle East, which includes Iran, Syria, and Yemen, to California.  
26

1 Collectively, visitors from the Middle East spent approximately \$681,000,000 in California in  
2 2015.

3 64. The \$681,000,000 spent by visitors from the Middle East is subject to state and  
4 local taxes in California. As a result of this spending, it is estimated that the state sales tax, at a  
5 rate of 6.0 percent, generated \$40,860,000 in tax revenue for the State in 2015. In addition to  
6 the state sales tax, California imposes a mandatory local tax rate of 1.25 percent, bringing the  
7 total sales and use tax base to 7.25 percent. In some municipalities, additional local taxes can  
8 raise the sales and use tax rate as high as 9.75 percent. At the minimum 1.25 percent local tax  
9 rate, travelers from the Middle East are estimated to have generated \$8,512,500 million in local  
10 tax revenue in 2015. Altogether, 2015 spending by Middle East travelers is conservatively  
11 estimated to have generated a total of \$49,372,500 in state and local tax revenue.

12 65. Using the estimated total of \$49,372,500 in state and local tax revenue  
13 generated annually by visitors from the Middle East, during a 90-day period, Middle East  
14 travelers generate \$12,174,041 in state and local tax revenue. Due to the Second Executive  
15 Order, California will be deprived of a significant portion of this revenue. In addition, because  
16 tourism supports employers in California, the Second Executive Order may cause the  
17 elimination of tourism-related jobs.

18 66. For example, on information and belief, the Los Angeles Tourism and  
19 Convention Board estimated that it might see 300,000 fewer international visitors in 2017, a  
20 three to four percent decrease from expectations, at least in part as a result of the Executive  
21 Orders. This decrease would amount to an estimated loss of \$220 million, which jeopardizes  
22 the employment of the hundreds of thousands of Los Angeles residents whose jobs rely on  
23 tourism. Tourism is particularly critical to the economy of Los Angeles, supporting more than  
24 500,000 jobs in the city's leisure and hospitality sector. In 2016, Los Angeles attracted 47.3  
25 million visitors. In 2015, Los Angeles's approximately 45.5 million visitors spent a total of  
26 \$20.6 billion. In 2016, the Los Angeles Tourism and Convention Board announced a marketing



1 campaign to increase tourism from the Middle East. In 2014 alone, 128,000 Middle Eastern  
2 travelers visited Los Angeles, accounting for approximately \$410 million in direct spending.

3 67. The Second Executive Order also negatively impacts California's Refugee  
4 Resettlement Bureau ("RRB"), which administers the state's Refugee Resettlement Program  
5 ("RRP"). RRB works with county and local refugee service providers to aid the displaced in  
6 achieving successful resettlement and self-sufficiency in California. The RRB is responsible  
7 for managing and coordinating the delivery of benefits and services to the State's refugee  
8 population in coordination with county and local refugee service providers. Among the  
9 benefits administered by RRB are those for low-income refugees such as Refugee Cash  
10 Assistance, California Work Opportunity and Responsibility to Kids ("CalWORKs") aid for  
11 children, and Refugee Medical Assistance.

12 68. According to data collected by the RRB, from 1995-2015, California accepted  
13 179,016 refugees—37,953 from Iran, 6,916 from Somalia, 1,269 from Sudan, and 256 from  
14 Syria. Between 2012 and 2015, California accepted 23,393 refugees including 5,668 from Iran,  
15 225 from Syria, and 119 from Sudan. Between July 1, 2015 and June 30, 2016, California re-  
16 settled 1,454 Syrian refugees, more than any other State. The Second Executive Order's  
17 restrictions on travel from countries such as Syria and Iran, and the four-month suspension of  
18 the United States Refugee Admissions Program ("USRAP"), means that the family members  
19 of the State's large refugee population will be unable to travel to the United States to provide  
20 financial and other support, placing additional strain on RRB.

#### 21 **PLAINTIFF STATE OF MARYLAND**

22 69. This suit is brought on behalf of the State of Maryland ("Maryland") by its chief  
23 legal advisor and representative, Brian E. Frosh, the Attorney General of Maryland. Md. Code  
24 Ann., State Government § 6-106. Under the Constitution of Maryland, and as directed by the  
25 Maryland General Assembly, the Attorney General has the authority to file suit to challenge  
26 action by the federal government that threatens the public interest and welfare of Maryland

1 residents, including this suit, which seeks to protect Maryland residents against illegal and  
2 unconstitutional federal immigration and travel restrictions. Md. Const. Art. V, § 3(a)(2); 2017  
3 Md. Laws, Joint Resolution 1.

4 70. Maryland joins this litigation as a Plaintiff following issuance of the Second  
5 Executive Order. Maryland suffered harm as a result of the First Executive Order and will  
6 continue to suffer injuries from the Second Executive Order.

7 71. Maryland has a quasi-sovereign interest in protecting the welfare and safety of  
8 its residents and ensuring that its residents are not excluded from the benefits that flow from  
9 participation in the federal system, including the rights and privileges provided by the U.S.  
10 Constitution and federal laws.

11 72. Immigrants have always been vital to Maryland's economy and its very identity,  
12 and in recent years the relative importance of immigrants' contribution has increased  
13 substantially. According to the U.S. Census Bureau, the percentage of Maryland residents who  
14 are foreign-born grew from 6.6% in 1990 to 9.8% in 2000, and then rose to 14.5% of the  
15 population in the period 2011-15. Immigrants comprise nearly one-third of the residents in  
16 Maryland's most populous county, Montgomery County.

17 73. Maryland's foreign-born population contributes disproportionately to its  
18 economy.

19 74. According to the Census Bureau, in 2013 the 14.5% of Maryland's population  
20 that was foreign-born provided 18.2% of Maryland's total workforce. In 2014 alone,  
21 immigrants working in Maryland earned \$33.7 billion and paid \$3.1 billion in state and local  
22 taxes; of these amounts, \$1.5 billion in earnings and \$134.8 million in state and local taxes  
23 were attributable to immigrants from the Middle East and North Africa. Approximately 26% of  
24 all entrepreneurs in Maryland are foreign-born. An Urban Institute study examining 2006 data  
25 found that foreign-born residents accounted for 27% of Maryland's scientists, 21% of health  
26 care practitioners, 19% of mathematicians and computer specialists; a quarter of construction

1 and agricultural workers; a third of all building and grounds maintenance workers; and almost  
2 a quarter of food preparation and healthcare support workers.

3 75. According to the Census Bureau's most current American Community Survey  
4 data, as of 2015, approximately 2,829 non-citizen immigrants residing in Maryland are from  
5 countries subject to the ban set forth in Section 2(c) of the Second Executive Order. The non-  
6 citizen immigrants who are Maryland residents include 1,930 persons from Iran, 93 from  
7 Libya, 152 from Somalia, 344 from Sudan, and 310 from Syria.

8 76. The Maryland Office for Refugees and Asylees ("MORA"), a state agency  
9 operating pursuant to a cooperative agreement with the U.S. Department of State, has helped  
10 more than 40,000 refugees make Maryland their home. MORA works through a network of  
11 public and private service providers to plan, administer, and coordinate transitional services  
12 aimed at helping refugees become self-sufficient contributors to the national and local  
13 economy as quickly as possible. According to MORA's records, during the five-year period  
14 ending September 30, 2016, 1,121 refugees from the countries designated in Section 2(c) of  
15 Second Executive Order were resettled in Maryland, including 404 refugees from Syria.

16 77. Maryland is home to non-profit organizations that provide services to refugees  
17 and immigrants in Maryland and throughout the world. The Second Executive Order directly  
18 impacts the ability of those organizations to fulfill their mission. For example, the International  
19 Rescue Committee, located in Baltimore, Maryland since 1990, contracts with the federal  
20 government to assist with refugee resettlements. Among those persons the Committee has  
21 helped with resettlement are at least 10,000 refugees in Baltimore and 4,000 in Silver Spring,  
22 Maryland. The Committee's clients have included 400 Syrian refugees. The Committee  
23 currently has 70 recipients of its services waiting for asylum, and it is anticipated that the  
24 Executive Order will cause delays in processing applications. Some as yet unknown portion of  
25 the Committee's 70 Maryland employees may be facing unemployment as a result of the  
26 Second Executive Order.

1 Also directly impacted by the Second Executive Order is World Relief, a Baltimore-  
2 based non-profit organization that helps resettle refugees. It announced on February 16, 2017  
3 that it will lay off more than 140 staff as a result of the provision in the First Executive Order  
4 allowing fewer refugees to enter the United States. The Second Executive Order contains the  
5 same provision. World Relief will close five offices across the country, including one in Glen  
6 Burnie, Maryland. The organization employed 741 people in 2014, according to its latest tax  
7 filing.

8 78. The Second Executive Order will also adversely impact economic investment in  
9 Maryland by foreign investors. For example, the First Executive Order already has hindered  
10 the planned construction of a data center in Hagerstown, Maryland, developed by a permanent  
11 resident from Iran, with funding to be supplied by \$50 million raised from 20 Iranian citizens.  
12 Though the necessary real property has been acquired and design of the improvements has  
13 begun, the First Executive Order prompted the Iranian investors to withdraw their informal  
14 commitments.

15 79. In addition to its quasi-sovereign interest, Maryland has an interest in the  
16 subject matter of this suit both as the proprietor of various facilities, institutions, and entities  
17 that will be adversely impacted by the Second Executive Order and as a taxing entity that  
18 stands to lose revenue from persons denied admission or dissuaded from travelling due to the  
19 Second Executive Order and from businesses that serve such persons. Among the most  
20 significant of these interests is the State of Maryland's proprietary interest in securing the best  
21 possible employees. Maryland agencies and institutions of higher education, including the  
22 University System of Maryland, employ a number of people from the countries subject to the  
23 ban set forth in Section 2(c) of the Second Executive Order.

24 80. The Second Executive Order will have a direct and substantial impact on the  
25 State of Maryland's 14 state universities and colleges and their faculty, staff and students who  
26 are foreign-born.

1 81. Maryland's flagship state university, the University of Maryland College Park  
2 ("UMCP"), currently enrolls more than 6,100 international students and employs  
3 approximately 1,500 international faculty from 137 countries. Each year, UMCP sends more  
4 than 2,000 students abroad to more than 60 countries. It currently has 273 active international  
5 agreements with more than 213 partners in 53 countries. According to the 2016 NAFSA  
6 Association of International Educators report, international students contribute \$150 million  
7 annually to UMCP in payments for tuition, housing, and academic materials.

8 82. The implementation of the Second Executive Order directly impairs UMCP's  
9 ability to carry out its mission of teaching, research, and support for the State's economic  
10 development. It will prevent some students and faculty from traveling for academic activities  
11 and will impede some students' academic progress and the progress of scholarly research. It  
12 will also prevent students from seeing family members, including visits for graduation and  
13 other significant events. It is already causing anxiety, depression, and alienation among  
14 international members of the campus community.

15 83. UMCP students from the designated six countries whose visas have expired or  
16 will soon expire will not be eligible to apply for new visas until the 90-day ban has elapsed,  
17 thus delaying any travel abroad for academic or personal reasons. The Second Executive Order  
18 likely will delay the return to UMCP of a student who has already applied for renewal of his  
19 expired student visa. That process typically requires a 90-day waiting period. If this student's  
20 visa is not issued prior to the effective date of the Second Executive Order, the 90-day ban will  
21 increase his wait time to return to the United States to 180 days, thus impeding his academic  
22 progress and the University research in which he is engaged.

23 84. The Second Executive Order also poses a significant chilling effect on other  
24 out-of-country faculty and students who fear traveling abroad due to the possibility that they  
25 will be denied reentry. Even UMCP students with valid visas have expressed hesitancy to  
26 travel abroad for fear that they will be subjected to heightened scrutiny upon their return to the

1 United States, or that there may be additional executive orders forthcoming that will affect  
2 their immigration status.

3 85. Due to the anxiety generated by the Second Executive Order, UMCP has  
4 mobilized a team of professionals to provide special counseling services and has engaged legal  
5 counsel specializing in immigration.

6 86. The Second Executive Order also threatens enrollment at UMCP. Nearly 400  
7 individuals from the six countries subject to the Second Executive Order's ban have submitted  
8 applications for Fall 2017 admission. More than 90% are from Iran. If just half of these  
9 students are admitted and accepted but choose not to attend UMCP because of the Second  
10 Executive Order's chilling effect, UMCP will incur a revenue loss of approximately \$1.6  
11 million for academic year 2017-18.

12 87. The Second Executive Order also will adversely impact other publicly funded  
13 institutions of higher education and the people they serve. For example, Baltimore City  
14 Community College ("BCCC"), a State-sponsored community college, maintains a Refugee  
15 Youth Project that currently serves 92 students from the six countries affected by the Second  
16 Executive Order. Of those students, 54 are from Syria, 36 are from Sudan and two are from  
17 Somalia. A relative of a member of the BCCC community, a woman from Syria, was separated  
18 from her husband during their transition, and he remains stranded in Jordan. She filed an  
19 application with the United States Citizenship and Immigration Service ("USCIS") for him to  
20 be reunited with her in the U.S. but because he is a Syrian national, it is unclear if the couple's  
21 application will be processed at this time.

22 88. Students at private universities in Maryland also are impacted by the Second  
23 Executive Order. As one example, the Johns Hopkins University is a private, not-for-profit  
24 institution of higher education located primarily in Baltimore, Maryland. Johns Hopkins has  
25 over 5,000 international students from more than 125 different countries, and over 1,350  
26 international scholars from more than 85 different countries. Johns Hopkins has more than 70

1 students and scholars from the six countries that are the subject of the Second Executive  
2 Order.

3 **COMMONWEALTH OF MASSACHUSETTS**

4 89. The Commonwealth of Massachusetts, represented by and through its Attorney  
5 General, is a sovereign State of the United States.

6 90. Massachusetts joins this litigation as a Plaintiff following issuance of the  
7 Second Executive Order. Massachusetts suffered harm as a result of the First Executive Order  
8 and will continue to suffer injuries from the Second Executive Order.

9 91. Massachusetts is home to more than one million immigrants, hosts tens of  
10 thousands of international students, and welcomes approximately two thousand refugees each  
11 year. According to the 2015 American Community Survey: 5,371 Massachusetts residents  
12 were born in Iran; 2,202 in Syria; 743 in Sudan; 33 in Yemen; and 2,353 in Somalia. In 2015  
13 alone, the Commonwealth accepted hundreds of new refugees and asylees from the affected  
14 countries. It is the policy of Massachusetts “to promote the full participation of refugees and  
15 immigrants as self-sufficient individuals and families in the economic, social, and civic life of  
16 the commonwealth.” Mass. Gen. Laws ch. 6, § 205.

17 92. Massachusetts has a significant interest in treating its residents equally, as  
18 required by its constitution and laws, and in ensuring that its residents are not excluded from  
19 the benefits that flow from participation in the federal system, including the rights and  
20 privileges secured by the U.S. Constitution and federal law. Massachusetts also has a  
21 sovereign interest in protecting the health, safety, and well-being of all its residents, including  
22 against the special harms caused by discrimination based on race, religion, and national origin.

23 93. Massachusetts is also home to hundreds, if not thousands, of small businesses,  
24 large corporations, non-profit organizations, public and private hospitals, and colleges and  
25 universities that will be affected by the Executive Orders. These institutions employ and enroll  
26 individuals from the affected countries and rely on their expertise, skill, labor, and other

1 contributions to the State’s civic society and economy. These institutions also engage in a  
2 constant exchange of information, personnel, and ideas with international partners and  
3 collaborators. Such exchanges with institutions, organizations, businesses, and persons in the  
4 six affected countries will be hampered or precluded altogether by the Executive Order.

5 94. The Second Executive Order will thus affect these organizations’ operations and  
6 productivity, in turn adversely affecting Massachusetts’ overall competitiveness, including vis-  
7 à-vis international competitors who will become more attractive locations for investment,  
8 conferences, meetings, and other engines of economic growth. In turn, these harms will reduce  
9 Massachusetts’ tax and other revenues.

10 95. The Second Executive Order will also harm Massachusetts by decreasing travel  
11 to the State by students, scholars, tourists, and business travelers. Every person who forgoes a  
12 trip to Massachusetts means hotel bookings cancelled, meals not purchased, retail purchases  
13 not made, and related taxes not collected. These outcomes will harm Massachusetts’ economy  
14 as a whole and will immediately decrease state tax and other revenues.

15 96. In higher education and the health care industry in particular, Massachusetts  
16 depends upon the unique specialized knowledge and experience of foreign nationals, including  
17 from the affected countries, such as doctors, scholars, teachers, and other contributors to these  
18 institutions.

19 97. Massachusetts supports an extensive system of twenty-nine public colleges and  
20 universities, including the University of Massachusetts (“UMass”). One in ten households in  
21 Massachusetts has a direct connection to UMass, given its 360,000 students, alumni, or  
22 employees residing in the state. UMass graduates 17,000 students per year, with 30 percent in  
23 Science, technology, engineering and mathematics (“STEM”) fields, and spends \$632 million  
24 annually on research.

25 98. UMass currently has approximately 130 employees from the six affected  
26 countries who are neither lawful permanent residents nor U.S. citizens, including professors,



1 researchers, and postdoctoral fellows across a wide variety of academic departments. To the  
2 extent these employees hold expired or single-entry visas, they now face unprecedented delays  
3 in the renewal of their visas, precluding them from international travel—whether for personal  
4 reasons or to fulfill professional obligations—during the implementation of the entry ban.

5 99. The Second Executive Order’s 90-day entry ban also coincides with the peak  
6 period of the hiring season, during which UMass is interviewing top candidates and extending  
7 offers to faculty for the 2017-2018 year. Because of the Second Executive Order, UMass may  
8 be unable to hire top-ranked potential faculty, lecturers, or visiting scholars from the affected  
9 countries, because the Second Executive Order may preclude them from reaching the United  
10 States to fulfill their teaching obligations.

11 100. UMass has approximately 155 graduate and undergraduate students who are  
12 nationals of the affected countries and who are neither legal permanent residents nor U.S.  
13 citizens. Approximately 100 of these students are among the University’s 130 visa-holding  
14 employees, including, for example, graduate teaching and research assistants. The Second  
15 Executive Order jeopardizes the continued enrollment of these current students, who may face  
16 unprecedented delays in the renewal of visas due to the implementation of the Second  
17 Executive Order. These students may also be effectively precluded from traveling outside the  
18 United States, because the entry ban threatens their ability to return.

19 101. UMass also regularly receives applications from prospective students who are  
20 nationals of the affected countries. Indeed, although the admissions process is on-going,  
21 UMass has already extended at least 40 offers of admission for the 2017-2018 academic year  
22 to prospective undergraduate and graduate students who are nationals of these countries.  
23 Admitted students in the affected countries who are unable to obtain a visa on or before March  
24 15, 2017, will likely be unable to matriculate at UMass, or at any other college or university in  
25 the United States, for the 2017-2018 academic year.

26 **PLAINTIFF STATE OF NEW YORK**

1           102. The State of New York, represented by and through its Attorney General, is a  
2 sovereign state of the United States.

3           103. According to the most recent American Community Survey, New York has  
4 more than 4.4 million foreign-born residents, more than 13,000 of whom were born in one of  
5 the six countries named in the Second Executive Order. Approximately two percent of New  
6 Yorkers (just under 400,000) identify as Muslim.

7           104. New York joins this litigation as a Plaintiff following issuance of the Second  
8 Executive Order. New York suffered harm as a result of the First Executive Order and will  
9 continue to suffer injuries from the Second Executive Order.

10           105. The Second Executive Order hampers the ability of colleges and universities in  
11 New York State—including the City University of New York (“CUNY”), State University of  
12 New York (“SUNY”), and Rochester Institute of Technology (“RIT”)—to recruit, accept, and  
13 retain top international students and scholars from anywhere in the world, and to promote the  
14 exchange of ideas across international boundaries. CUNY currently enrolls more than 8,000  
15 international students from over 100 countries, including more than 850 students born in the  
16 affected countries. SUNY enrolls more than 22,000 international students from 160 different  
17 countries, including approximately 232 students from the six designated countries. As a result  
18 of the Second Executive Order, many scholars and students from Muslim-majority countries  
19 now have reservations about relocating to the United States. CUNY’s Graduate School, for  
20 example, expects the yield on its outstanding offers to applicants to decline as a result of the  
21 uncertainty that just-admitted students from the affected countries face over their ability to  
22 travel to the United States.

23           106. The Second Executive Order also interferes with the ability of New York-based  
24 scholars and students to travel for research and to participate in international programs. CUNY  
25 students from Muslim-majority countries are afraid to travel abroad, including for study-abroad  
26 programs, because they fear being unable to return to the United States. CUNY’s Spitzer

1 School of Architecture at City College already has suspended a partnership with institutions in  
2 Mexico City because the School cannot risk sending its students outside the United States  
3 when some may not be able to return. The uncertainty created by the Second Executive Order  
4 means that study-abroad programs dependent on minimum levels of enrollment will find it  
5 more difficult to meet critical targets, which will cause program cancellations and deny  
6 irreplaceable educational experiences to New York-based students.

7 107. The international students and faculty who are directly affected by the Second  
8 Executive Order substantially contribute to New York State's economy. Based on information  
9 from Open Doors and the U.S. Department of Commerce, the Institute of International  
10 Education estimates that in 2015, international students from the six designated countries who  
11 were enrolled in New York State institutions contributed \$28.8 million to New York State's  
12 economy, which includes direct payments for tuition and fees and living expenses, and  
13 excludes indirect economic benefits such as contributions of international students and scholars  
14 to innovation in academic and medical research.

15 108. The Second Executive Order also harms health care institutions in the State,  
16 which rely on foreign nationals—including those from the six designated countries—to  
17 provide health care to New Yorkers, and to train and teach the next generation of medical  
18 professionals in New York. According to the Immigrant Doctors Project, about 550 doctors  
19 who trained in the six designated countries provide 1.1 million medical appointments each year  
20 in New York State. The Greater New York Hospital Association ("GNYHA") reports that 80  
21 member hospitals in the State employ 72 physician trainees and 38 other health care workers  
22 who have nonimmigrant visas from the six designated countries.

23 109. The uncertainty created by the Second Executive Order—and its January 27,  
24 2017, predecessor—is already having a negative effect on New York hospitals participating in  
25 this year's National Residency Matching Program ("the Match"). Some hospitals are reluctant  
26 to highly rank some of their best candidates, who are from foreign countries (including the six

1 designated countries), because it will be very difficult to fill a vacant residency position after  
2 the Match. Hospitals that take the risk of highly ranking foreign nationals from the affected  
3 countries may successfully match with foreign nationals who will not be allowed to begin  
4 training and serving patients in New York on July 1, 2017. If the matching foreign nationals  
5 cannot obtain visas, the hospitals will be forced to identify other, potentially less-qualified,  
6 candidates from the remaining applicants who have not been matched.

7 110. New York's "safety-net" hospitals—i.e., those in one of 97 medically  
8 underserved communities in New York with high-need populations—rely particularly heavily  
9 on foreign national resident physicians. For example, of the 91 resident physicians in the  
10 Department of Internal Medicine at Interfaith Medical Center, a safety-net hospital in  
11 Brooklyn, 43 are on H-1B visas, 12 are on J-1 visas, and 20 are legal permanent residents.  
12 Interfaith's medical staff includes four Sudanese residents who are concerned about leaving the  
13 country for fear of not being allowed to return, and whose family members may not be able to  
14 visit them here because of the Second Executive Order.

15 111. The Committee of Interns and Residents ("CIR") reports that CIR members  
16 who are foreign nationals of non-designated nations with large Muslim populations have  
17 inundated CIR's counsel with calls, expressing concern that the Executive Orders will be  
18 expanded to include their countries of origin. As CIR's experience shows, the Second  
19 Executive Order has made foreign nationals fearful about coming to New York to train and  
20 work. This has significant public health implications for New York as even the shortage of one  
21 physician can have a significant impact on safety-net hospitals and the patients they treat.

22 112. The Second Executive Order also endangers critical research being conducted  
23 by New York-based foreign nationals from the designated countries, including research into  
24 techniques to diagnose kidney cancer at early stages, drug candidates for diabetes, and  
25 treatments for leukemia. The ban is forcing these New York-based scientists to choose between  
26 continuing their life-saving research and being able to see their family members who are still in

1 the designated countries. A postdoctoral research fellow studying leukemia also is fearful that  
2 she will not be able to renew her visa when it expires next year. And a scientist working on  
3 diabetes drugs cannot leave the United States on her single-entry F1 student visa because she  
4 would risk being unable to return to her research and her fiancé if she left.

5 113. The Second Executive Order also hurts New York State's tourism industry,  
6 which is the fourth largest employer in the State. In 2015, the tourism industry sustained  
7 764,072 jobs, provided workers with a total income of \$33.1 billion, and generated \$8 billion  
8 in state and local taxes—saving each household an average of \$1,100 in taxes; overseas  
9 travelers accounted for 30 percent (\$19 billion) of the tourism spending supporting those  
10 economic benefits. In New York City alone, the tourism industry supported more than 362,000  
11 waged and salaried employees in 2015.

12 114. The Second Executive Order already is chilling foreign nationals from visiting  
13 New York State, and could cost the State and its residents hundreds of millions of dollars in  
14 lost revenue. For the first time in seven years, New York City officials are expecting a drop in  
15 the number of foreign visitors. New York City now expects to draw 300,000 fewer foreigners  
16 this year than in 2016, a decline that will cost New York City businesses at least \$600 million  
17 in sales. Smaller cities such as Ithaca also anticipate a decline in tourism revenues as would-be  
18 foreign tourists have contacted the Chamber of Commerce to inform the Chamber that  
19 President Trump's Executive Orders have caused them to cancel plans to attend and visit  
20 Ithaca-regional events and attractions.

21 115. The Second Executive Order harms New York companies by—among other  
22 things—interfering with business travel and undermining the ability of New York companies  
23 to recruit top talent from countries with significant Muslim populations, putting those  
24 companies at a disadvantage in the competitive international hiring market. For example,  
25 Kickstarter—the world's largest funding platform for creative projects—is concerned that the  
26 Second Executive Order will impede travel to Kickstarter-hosted events for creators around the

1 world, including the approximately 50 current creators who live in a Muslim-majority country.  
2 Meetup, one of the largest networks of local community groups in the world, has among its  
3 employees 12 visa-holders who are now worried about their future status in this country.  
4 MongoDB, a database software company, employs 700 individuals in 27 offices across 13  
5 countries; the Second Executive Order hinders MongoDB's efforts to serve customers and  
6 users around the world and to recruit internationally. The non-citizen employees of Casper  
7 Sleep Inc., an e-commerce seller of mattresses and other sleep-related products, worry about  
8 what is coming next, making it difficult for them to focus on their work.

9 116. Etsy, a global creative commerce platform, currently employs more than 175  
10 employees outside the United States, some of whom may be prevented from traveling to and  
11 from Etsy's U.S.-based offices as a result of the Second Executive Order. Moreover, the  
12 Second Executive Order has caused Etsy employees of the Muslim faith to feel ostracized. The  
13 same issue has surfaced at ATM World Corp., which operates 4,500 Automated Teller Machines  
14 ("ATMs"), and services approximately 2,000 Yemeni-owned businesses across the five boroughs  
15 of New York City. Many of the company's employees are uncomfortable traveling throughout the  
16 city to service customers because the anti-immigrant and anti-Muslim rhetoric surrounding the  
17 Second Executive Order and its predecessor makes them fearful about being targeted based on  
18 their background and religion.

19 117. The Second Executive Order separates New York residents from their family  
20 members in the designated countries. Rabyaah Althaibani, a Yemeni-American community  
21 organizer with U.S. citizenship, knows many New York City residents who now face  
22 uncertainty as to their ability to travel outside the United States and to be re-united with family  
23 members abroad. Ms. Althaibani's own husband, a Yemeni national and journalist, is currently  
24 stranded in Kuala Lumpur, Malaysia. Another Yemeni-American U.S. citizen and New York  
25 resident, Abdo Elfgeeh, fears that he will not be reunited with his wife and four children, who  
26 are in Sana'a, Yemen. Both Ms. Althaibani and Mr. Elfgeeh have filed an I-130 Petition for

1 Alien Relative on behalf of their family members, and have already had interviews with  
2 USCIS; Ms. Athaibani was even told her husband's petition was approved. But the Executive  
3 Order's 90-day ban on Yemeni nationals entering the United States has put their applications in  
4 limbo.

5 118. The Second Executive Order's suspension of the USRAP directly harms  
6 refugees residing in New York. As of the Second Executive Order's issuance, the United States  
7 had already vetted 60,000 individuals for resettlement in the country. These refugees are now  
8 stranded in crisis zones, even though they have established to the satisfaction of consular  
9 officers that their lives are in danger and they pose no threat to the United States.

10 119. In 2016, New York received 5,830 refugees, of whom 44 were refugees from  
11 Iran, one was a refugee from Libya, 989 were refugees from Somalia, 141 were refugees from  
12 Sudan, seven were refugees from Yemen, and 803 were refugees from Syria. Some refugee  
13 families have been separated because their members obtained refugee status at different times.

14 120. In addition, the suspension of the USRAP interferes with the ability of refugee  
15 resettlement organizations in New York State to fulfill their mission. Such agencies include the  
16 International Rescue Committee ("IRC") in New York; the Rochester-based Catholic Family  
17 Center; Catholic Charities Tompkins/Tioga Immigrant Services Program; and the International  
18 Institute of Buffalo. For example, the IRC in New York has 25 cases (56 people) in its pipeline  
19 waiting for resettlement in New York, from countries such as Iraq, Afghanistan, Syria, El  
20 Salvador and Cuba. However, as a result of the Second Executive Order's limits on USRAP,  
21 these people may not be resettled. Similarly, arrangements for the arrival in Ithaca of at least  
22 three refugee families were impeded by the First Executive Order, and the Second Executive  
23 Order has further delayed the arrival of these families by at least four months.

24 121. The Second Executive Order's reduction in the number of refugee arrivals this  
25 fiscal year (ending September 30, 2017) from 110,000 to 50,000 translates into funding cuts  
26 and staff layoffs for refugee resettlement organizations. This will, in turn, jeopardize the

1 capacity of these organizations to provide essential services—such as English-language  
2 instruction and job skills training—to refugees who are already in the State. A decrease in the  
3 number of arriving refugees also may negatively affect employers, such as in Rochester where  
4 Kraft, Wegmans Food Markets, and the University of Rochester have a practice of hiring  
5 refugees. The reduction also will hurt local economies as landlords will rent out fewer  
6 apartments and retailers will make fewer sales.

7 122. Finally, the Second Executive Order causes fear and uncertainty for refugees  
8 about their legal status, rights, and future in the United States, and thus reintroduces the type of  
9 persecutory and government-instilled fear that caused these refugees to flee their countries of  
10 origin in the first place.

#### 11 **PLAINTIFF STATE OF OREGON**

12 123. The State of Oregon joins this action to protect its residents, its employers, its  
13 agencies, its educational institutions, and its state constitution and laws against both the First  
14 and Second Executive Orders, which harm the State, its economy, its institutions, its families,  
15 its laws, and its sovereign interest in serving as a welcoming home to people from all over the  
16 world. The Governor is the State's chief executive officer and is responsible for overseeing the  
17 State's operations and ensuring that its laws are faithfully executed. The Attorney General is  
18 the State's chief legal adviser whose powers and duties include acting in federal court on  
19 matters of public concern.

20 124. According to the American Community Survey data from the U.S. Census  
21 Bureau, as of 2015, thousands of Oregon residents were born in Iran, Libya, Somalia, Sudan,  
22 Syria, and Yemen. Oregon's companies employ immigrants, refugees, and others who would  
23 be affected by the ban in more indirect ways (spouses of immigrants, for example). Threats to  
24 Oregon's companies will result in serious risks to Oregon's financial investments, its credit  
25 rating, its companies, and its tax revenue from those companies and their employees.  
26



1           125. Portland International Airport, located in Portland, Oregon, served over 670,000  
2 international travelers in 2016. It has been estimated that international travelers from just one  
3 major airline contribute over \$172 million in business revenue to Oregon. The Second  
4 Executive Order will cause significant economic injury to Oregon by interfering with  
5 international travel and deterring international travelers from coming to Oregon.

6           126. Since 2010, more than 8,500 refugees have arrived in Oregon; two of the six  
7 most common refugee groups come from Iran and Somalia. After a refugee is granted legal  
8 status and permission to enter the U.S., state agencies and community organizations handle the  
9 “resettlement and acculturation process.” The Federal Office of Refugee Resettlement provides  
10 up to eight months of cash and medical assistance. Those federal funds are administered  
11 through the Oregon Department of Human Services.

12           127. A number of organizations—including Ecumenical Ministries of Oregon,  
13 Catholic Charities of Oregon, and the Immigrant and Refugee Community Organization—  
14 assist hundreds of refugees with resettlement in Oregon every year. If refugees are no longer  
15 permitted to enter the United States for 120 days or longer, these organizations may lose  
16 federal funding and may have to lay off some or all of their staff. For example, even if the ban  
17 lasts just 120 days, Catholic Charities stands to lose between \$200,000 and \$350,000 in  
18 funding and is already considering reducing its workforce by almost half. The State of Oregon  
19 will accordingly lose the income taxes that were paid as a result of those jobs existing in  
20 Oregon.

21           128. The University of Oregon (“UO”) is a public research university with more than  
22 3,000 students from countries other than the United States, including the countries affected by  
23 the First and Second Executive Orders. International students typically pay substantially more  
24 than in-state students; those students pay more than \$100 million in tuition each year, in total.  
25 This tuition allows UO to subsidize Oregon students, who pay about three times less than  
26 international students. Even students from outside the immediately affected countries have

1 expressed a loss of enthusiasm for the prospect of studying in the United States. UO's  
2 Admissions Department has already seen a 15 percent decrease in applications from  
3 international students. UO is also facing the likely loss of participants in two international  
4 conferences already scheduled for UO campuses, because attendees and international schools  
5 are hesitant to schedule travel to the United States.

6 129. Portland State University (PSU) is a public research university with nearly  
7 2,000 students from countries other than the United States, including the countries affected by  
8 the First and Second Executive Orders. Approximately \$33 million of PSU's tuition and fee  
9 revenue in academic year 2015-16 was derived from international students. The First  
10 Executive Order already had an adverse impact on, among others, a visiting researcher who  
11 traveled to Finland over the winter break and was prevented from returning and continuing his  
12 research, and a recent graduate who was unable to return to PSU to present his research at PSU  
13 with his graduate advisor. The presentation will likely occur outside the country now, which  
14 requires PSU to bear the cost of having the research presented in another country.

15 130. Oregon State University (OSU) has 3,529 international students enrolled,  
16 comprising more than 11 percent of its student body and including students who are citizens of  
17 the countries affected by the First and Second Executive Orders. As with other students from  
18 outside Oregon, those students typically pay full non-resident rates; OSU's international  
19 students represent approximately \$85 million in annual gross tuition revenue to OSU. OSU's  
20 efforts to address the effects of the First Executive Order and, now, the Second Executive  
21 Order on its students and faculty are draining away time and resources that otherwise would be  
22 spent on other community needs.

23 131. Other public and private schools face similar harms. For example, Lewis &  
24 Clark College, a private institution in Portland, has more than 200 international students. Like  
25 the First Executive Order, the Second Executive Order will harm the college's ability to attract  
26 and retain students from the countries subject to the immigration ban, and are likely to have a

1 chilling effect on Lewis & Clark’s ability to recruit international students, causing both fiscal  
2 harm (loss of tuition) and harm to the college’s ability to foster a diverse and global student  
3 body.

4 132. Oregon Health & Sciences University (“OHSU”), a public academic medical  
5 center, had at least 15 individuals at its campus from the seven countries affected by the First  
6 Executive Order: six students, two post-doctoral fellows, one professor, and six medical  
7 residents. Many of these individuals remain affected by the Second Executive Order. The  
8 school is expecting two more post-doctoral fellows from Iran. The medical residents are  
9 performing critically needed medical care in the fields of surgery, pathology, and cardiology; if  
10 they left the country due to the effects of the First or Second Executive Orders, OHSU likely  
11 would not be able to replace them.

12 133. The Second Executive Order will also harm Oregon’s ability to recruit doctors,  
13 particular in rural and underserved areas. Oregon depends on international medical graduates  
14 who have been given a J-1 visa to complete a medical residency or fellowship in the United  
15 States. A stipulation of the J-1 visa is that, upon completion of training, the physicians must  
16 return to their home country for two years, but this requirement may be “waived” for a  
17 physician willing to work in a shortage area. Since 2002, approximately 320 J-1 visa  
18 physicians have practiced in Oregon, including 15 physicians from the countries affected by  
19 the First Executive Order. As required by the visa, these physicians serve regions such as rural  
20 areas of southern and eastern Oregon that have difficulty recruiting physicians domestically,  
21 particularly physicians who are willing to accept the Oregon Health Plan or Medicare payment.  
22 Currently, a physician from Iran is practicing in underserved areas. Without J-1 visa  
23 physicians, Oregon patients will have to either delay treatment or travel farther to obtain it,  
24 resulting in additional Oregon Health Plan and Medicare costs to the State.

25 134. There is a great deal of competition to obtain physicians willing to work on the  
26 J-1 program. In the past, Oregon has been unable to fill all of its 30 available slots, and the

1 Second Executive Order will make this even more difficult. Already, one physician from a  
2 country affected by the First Executive Order who had been willing to work in Florence,  
3 Oregon, an area affected by a physician shortage, has indicated through his counsel that  
4 because of the First Executive Order, he was unlikely to obtain a visa. Oregon has not received  
5 any information that this situation has changed.

6 135. The uncertainty created by the First and Second Executive Orders are causing  
7 additional workload, costs, and delay for the Oregon Health Authority in ensuring successful  
8 placement and employment of J-1 visa physicians. Even with a waiver of the requirement to  
9 return home, a J-1 visa physician must obtain an H-1B visa to remain in the United States.  
10 USCIS recently announced that it would end “premium processing” of these H-1B requests, so  
11 it will now take four to eight months—rather than just a couple of weeks—to process such a  
12 request. The Oregon Health Authority is proactively reaching out to employers and prospective  
13 employers to update them about the new difficulties in recruiting J-1 waiver physicians.

#### 14 **DEFENDANTS**

15 136. Defendant Donald Trump is the President of the United States, and issued the  
16 First and Second Executive Orders. He is sued in his official capacity.

17 137. Defendant U.S. Department of Homeland Security (“DHS”) is a federal cabinet  
18 agency responsible for implementing and enforcing the Immigration and Nationality Act  
19 (“INA”). DHS is a Department of the Executive Branch of the U.S. Government, and is an  
20 agency within the meaning of 5 U.S.C. § 552(f). The U.S. Customs and Border Protection is an  
21 Operational and Support Component agency within DHS. The U.S. Customs and Border  
22 Protection is responsible for detaining and/or removing non-citizens arriving at air, land, and  
23 sea ports across the United States.

24 138. Defendant John F. Kelly is the Secretary of the Department of Homeland  
25 Security. He is responsible for implementing and enforcing the INA, and oversees the U.S.  
26 Customs and Border Protection. He is sued in his official capacity.

1 139. Defendant Rex Tillerson is the Secretary of State. The Secretary of State has  
2 authority to determine and implement certain visa procedures for non-citizens. He is sued in  
3 his official capacity.

4 140. Defendant the United States of America includes all government agencies and  
5 departments responsible for the implementation of the INA and responsible for the admission,  
6 detention, removal of non-citizens who are traveling to or returning to the States via air, land,  
7 and sea ports across the United States.

#### 8 IV. ALLEGATIONS

##### 9 **President Trump's Campaign Promise: "[A] Total and Complete Shutdown of Muslims 10 entering the United States"**

11 141. Prior to his election, Donald Trump campaigned on the promise that he would  
12 ban Muslims from entering the United States. On July 11, 2015, candidate Trump stated in a  
13 speech in Las Vegas that, "If you're from Syria and you're a Christian, you cannot come into  
14 this country, and they're the ones that are being decimated. If you are Islamic ... it's hard to  
15 believe, you can come so easily." (See Louis Jacobson, *Donald Trump says if you're from  
16 Syria and a Christian, you can't come to the U.S. as a refugee*, Politifact (July 20, 2015)  
17 available at [http://www.politifact.com/truth-o-meter/statements/2015/jul/20/donald-  
18 trump/donald-trump-says-if-youre-syria-and-christianyou-/](http://www.politifact.com/truth-o-meter/statements/2015/jul/20/donald-trump/donald-trump-says-if-youre-syria-and-christianyou-/), attached hereto as Exhibit 3).

19 142. On December 7, 2015, candidate Trump issued a press release calling for "a  
20 total and complete shutdown of Muslims entering the United States." As of the date of this  
21 filing, the press release remains available on Trump's campaign website. (See Donald J. Trump  
22 Campaign, *Donald J. Trump Statement on Preventing Muslim Immigration* (Dec. 7, 2015)  
23 available at [www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-  
24 muslim-immigration](http://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration), attached hereto as Exhibit 4).

25 143. In defending his decision shortly thereafter, candidate Trump compared the  
26 Muslim ban to former President Franklin Roosevelt's decision to intern Japanese Americans

1 during World War II, and stated, “This is a president highly respected by all, [Roosevelt] did  
2 the same thing.” (See Jenna Johnson, *Donald Trump says he is not bothered by comparisons to*  
3 *Hitler*, The Washington Post (Dec. 8, 2015) available at [https://www.washingtonpost.com/new](https://www.washingtonpost.com/news/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-hitler/?utm_term=.8182339a69c3)  
4 [s/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-](https://www.washingtonpost.com/news/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-hitler/?utm_term=.8182339a69c3)  
5 [hitler/?utm\\_term=.8182339a69c3](https://www.washingtonpost.com/news/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-hitler/?utm_term=.8182339a69c3) , attached hereto as Exhibit 5).

6 144. When a news reporter further asked candidate Trump what the customs process  
7 would look like for a Muslim non-citizen attempting to enter the United States, candidate  
8 Trump stated, “[T]hey would say, ‘are you Muslim?’” And, if they said they were Muslim,  
9 candidate Trump confirmed they would not be allowed into the country. (See Nick Gass,  
10 *Trump not bothered by comparisons to Hitler*, Politico (Dec. 8, 2015) available at  
11 <http://www.politico.com/trump-muslims-shutdown-hitler-comparison> , attached hereto as  
12 Exhibit 6).

13 145. When asked during the Republican primary debate on January 14, 2016,  
14 whether he wanted to rethink his position regarding Muslims entering the country, candidate  
15 Trump said, “No.” (See The American Presidency Project, *Presidential Candidates Debates:*  
16 *Republican Debate in North Charleston, South Carolina* at 16 (Jan. 14, 2016) available at  
17 <http://www.presidency.ucsb.edu/ws/index.php?pid=111395> , attached hereto as Exhibit 7).

18 146. In February 2016, candidate Trump asked Lieutenant General Michael Flynn to  
19 advise him on a range of issues, including national security and foreign policy. That same  
20 month, Lt. Gen. Flynn posted the following message (“tweet”) on his Twitter account: “Fear of  
21 Muslims is RATIONAL: please forward this to others: the truth fears no questions...” and  
22 linked to a YouTube video that argues Islamophobia is an oxymoron. Lt. Gen. Flynn would  
23 later become Trump’s National Security Advisor. The February 2016 tweet is available at the  
24 following link: <https://mobile.twitter.com/genflynn/status/703387702998278144?lang=en>,  
25 attached hereto as Exhibit 8).  
26

1           147. On March 9, 2016, candidate Trump stated during an interview with Anderson  
2 Cooper that he “think[s] Islam hates us.” *See Anderson Cooper 360 Degrees: Exclusive*  
3 *Interview with Donald Trump* at 17 (CNN television broadcast, Mar. 9, 2016) *available at*  
4 <http://www.cnn.com/TRANSCRIPTS/1603/09/acd.01.html> , attached hereto as Exhibit 9).

5           148. On June 13, 2016, candidate Trump reiterated his promise to ban all Muslims  
6 entering this country until we “as a nation . . . are in a position to properly and perfectly screen  
7 those people coming into our country.” (*See Read Donald Trump’s Speech on the Orlando*  
8 *Shooting*, *Time*, at 2 (Jun 13, 2016) *available at* [http://time.com/4367120/orlando-shooting-](http://time.com/4367120/orlando-shooting-donald-trump-transcript/)  
9 [donald-trump-transcript/](http://time.com/4367120/orlando-shooting-donald-trump-transcript/), attached hereto as Exhibit 10).

10           149. On July 17, 2016, candidate Trump and Vice Presidential candidate Mike Pence  
11 appeared on *60 Minutes* and were interviewed by Lesley Stahl. After Ms. Stahl referenced  
12 Mike Pence’s December 2015 tweet stating a Muslim ban would be offensive and  
13 unconstitutional, candidate Trump stated: “So you call it territories. OK? We’re gonna do  
14 territories. We’re not gonna let people come in from Syria that nobody knows who they are.”  
15 When Ms. Stahl asked candidate Trump if he was changing his position on the Muslim ban,  
16 candidate Trump stated, “—No, I—call it whatever you want. We’ll call it territories, OK?”  
17 When Ms. Stahl further asked whether he no longer included Muslims, candidate Trump  
18 stated, “You know—the Constitution, there’s nothing like it. But it doesn’t necessarily give us  
19 the right to commit suicide, as a country, OK? And I’ll tell you this. Call it whatever you want,  
20 change territories [sic], but there are territories and terror states and terror nations that we’re  
21 not gonna allow the people to come into our country.” (*See 60 Minutes*, CBS News at 10 (July  
22 17, 2016) *available at* [http://www.cbsnews.com/news/60-minutes-trump-pence-republican-](http://www.cbsnews.com/news/60-minutes-trump-pence-republican-ticket/)  
23 [ticket/](http://www.cbsnews.com/news/60-minutes-trump-pence-republican-ticket/), attached hereto as Exhibit 11).

24           150. Asked again during a July 24, 2016, interview about whether he was “backing  
25 off on his Muslim ban[,],” candidate Trump stated, “I actually don’t think it’s a pull-back. In  
26 fact, you could say it’s an expansion.” He further stated, “I’m looking now at territories.

1 People were so upset when I used the word Muslim. Oh you can't use the word Muslim.  
2 Remember this. And I'm okay with that, because I'm talking territory instead of Muslim." (*See*  
3 *Meet the Press – July 24, 2016*, NBC News at 1 (July 24, 2016) available at  
4 <http://www.nbcnews.com/meet-the-press/meet-press-july-24-2016-n615706> , attached hereto  
5 as Exhibit 12).

6 151. In a foreign policy speech delivered on August 15, 2016, candidate Trump  
7 noted that the United States could not "adequate[ly] screen[]" immigrants because it admits  
8 "about 100,000 permanent immigrants from the Middle East every year." Candidate Trump  
9 proposed creating an ideological screening test for immigration applicants, which would  
10 "screen out any who have hostile attitudes towards our country or its principles – or who  
11 believe that Sharia law should supplant American law." During the speech, he referred to his  
12 proposal as "extreme, extreme vetting." (*See Donald Trump Foreign Policy Speech in*  
13 *Youngstown*, C-SPAN (Aug. 15, 2016) available at [https://www.c-span.org/video/?413977-](https://www.c-span.org/video/?413977-1/donald-trump-delivers-foreign-policy-address)  
14 [1/donald-trump-delivers-foreign-policy-address](https://www.c-span.org/video/?413977-1/donald-trump-delivers-foreign-policy-address) ) (quoted remarks at 50:46).

15 152. On October 9, 2016, candidate Trump was asked during the St. Louis  
16 presidential debate to explain whether or not his proposed Muslim ban still applied. Candidate  
17 Trump replied: "It's called extreme vetting." (*See The American Presidency Project,*  
18 *Presidential Debates: Presidential Debate at Washington University in St. Louis, Missouri* at 9  
19 (October 9, 2016) available at <http://www.presidency.ucsb.edu/ws/index.php?pid=119038> ,  
20 attached hereto as Exhibit 13).

21 153. On December 21, 2016, President-Elect Trump was asked whether he had  
22 decided to "rethink or re-evaluate [his] plans to create a Muslim registry or ban Muslim  
23 immigration to the United States." President-Elect Trump responded by stating, "You know  
24 my plans. All along, I've been proven to be right." (*See President-Elect Trump Remarks in*  
25 *Palm Beach, Florida*, C-SPAN (Dec. 21, 2016) available at <https://www.c->  
26



1 [span.org/video/?420583-101/presidentelect-trump-speaks-reporters-palm-beach-florida](http://span.org/video/?420583-101/presidentelect-trump-speaks-reporters-palm-beach-florida) ,  
2 attached hereto as Exhibit 14).

### 3 **President Trump Issues the First Executive Order**

4 154. On January 20, 2017, Donald Trump was inaugurated as the President of the  
5 United States. In his first television interview as President, on January 25, 2017, he again  
6 referred to his commitment to “extreme vetting.” (*See ABC News Anchor David Muir*  
7 *Interviews President Trump*, ABC News at 13 (Jan. 25, 2017) available at  
8 [http://abcnews.go.com/Politics/transcript-abc-news-anchor-david-muir-interviews-](http://abcnews.go.com/Politics/transcript-abc-news-anchor-david-muir-interviews-president/story?id=45047602)  
9 [president/story?id=45047602](http://abcnews.go.com/Politics/transcript-abc-news-anchor-david-muir-interviews-president/story?id=45047602) , attached hereto as Exhibit 15).

10 155. On January 27, 2017, one week after being sworn in, President Trump signed  
11 Executive Order 13769 entitled, “Protecting the Nation from Foreign Terrorist Entry into the  
12 United States” (“First Executive Order”). The First Executive Order directed a series of  
13 changes to the manner in which non-citizens may seek and obtain entry to the United States.

14 156. Section 3(c) of the First Executive Order proclaimed that entry of immigrants  
15 and nonimmigrants from countries referred to in section 217(a)(12) of the Immigration and  
16 Nationality Act, 8 U.S.C. § 1187(a)(12), i.e., Iran, Iraq, Libya, Somalia, Sudan, Syria, and  
17 Yemen, “would be detrimental to the interests of the United States.” The First Executive Order  
18 “suspend[ed] entry into the United States, as immigrants and nonimmigrants, of such persons  
19 for 90 days from the date of this order”—and provided for the possibility that the suspension  
20 could be extended. The majority of the population in each of these seven countries is Muslim.

21 157. Sections 5(a)–(b) of the First Executive Order suspended the USRAP in its  
22 entirety for 120 days and then, upon its resumption, directed the Secretary of State to prioritize  
23 refugees who claim religious-based persecution, “provided that the religion of the individual is  
24 a minority religion in the individual’s country of nationality.”  
25  
26

1           158. Section 5(c) of the First Executive Order proclaimed that entry of Syrian  
2 refugees is “detrimental to the interests of the United States” and suspended their entry  
3 indefinitely.

4           159. In a January 27, 2017, interview with the Christian Broadcasting Network,  
5 President Trump confirmed his intent to prioritize Christians in the Middle East for admission  
6 as refugees. President Trump stated, “Do you know if you were a Christian in Syria it was  
7 impossible, at least very tough to get into the United States? If you were a Muslim you could  
8 come in, but if you were a Christian, it was almost impossible and the reason that was so  
9 unfair, everybody was persecuted in all fairness, but they were chopping off the heads of  
10 everybody but more so the Christians. And I thought it was very, very unfair. So we are going  
11 to help them.” (*See Brody File Exclusive: President Trump Says Persecuted Christians Will Be*  
12 *Given Priority As Refugees*, Christian Broadcasting Network at 8 (Jan. 27, 2017) available at  
13 [http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-](http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-says-persecuted-christians-will-be-given-priority-as-refugees)  
14 [says-persecuted-christians-will-be-given-priority-as-refugees](http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-says-persecuted-christians-will-be-given-priority-as-refugees) , attached hereto as Exhibit 16).

15           160. During a signing ceremony for the First Executive Order on January 27, 2017,  
16 President Trump read its title and stated, “We all know what that means.” (*See Trump Signs*  
17 *Executive Orders at Pentagon*, ABC News (Jan. 27, 2017), available at  
18 <http://abcnews.go.com/Politics/video/trump-signs-executive-orders-pentagon-45099173>  
19 (quoted remarks at 0:45)). President Trump stated that the purpose of the First Executive Order  
20 was to “establish[] new vetting measures to keep radical[] Islamic terrorists out of the United  
21 States of America.” (*See Sarah Pulliam Bailey, Trump Signs order limiting refugee entry, says*  
22 *he will prioritize Christian refugees*, The Washington Post (Jan. 27, 2017) available at  
23 [https://www.washingtonpost.com/news/acts-of-faith/wp/2017/01/27/we-dont-want-them-there-](https://www.washingtonpost.com/news/acts-of-faith/wp/2017/01/27/we-dont-want-them-there-trump-signs-order-limiting-refugee-entry/?utm_term=.db861d9642ea)  
24 [trump-signs-order-limiting-refugee-entry/?utm\\_term=.db861d9642ea](https://www.washingtonpost.com/news/acts-of-faith/wp/2017/01/27/we-dont-want-them-there-trump-signs-order-limiting-refugee-entry/?utm_term=.db861d9642ea), attached hereto as  
25 Exhibit 17).  
26

1           161. That same day, a Deputy Assistant Secretary for Visa Services at the U.S.  
2 Department of State, Edward J. Ramotowski, issued a letter which, subject to limited  
3 exceptions, “provisionally revoke[d] all valid nonimmigrant and immigrant visas of nationals  
4 of Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen.” The letter is attached hereto as  
5 Exhibit 18.

6           162. Also that day, the U.S. Department of State and some U.S. embassies and  
7 consulates abroad posted a notice online advising immigrant visa applicants that visa issuance  
8 had been suspended and visa interviews cancelled. The online notice is attached hereto as  
9 Exhibit 19. A copy of the notice posted in the U.S. embassy in Iraq is attached hereto as  
10 Exhibit 20.

11           163. On January 28, 2017, a spokeswoman for DHS stated that lawful permanent  
12 residents, or green card holders, would be barred from entry pursuant to the Executive Order.  
13 (*See Green card holders will need additional screening: White House, Reuters* (Jan. 29, 2017)  
14 *available at* [http://www.reuters.com/article/us-usa-trump-immigration-greencard-](http://www.reuters.com/article/us-usa-trump-immigration-greencard-idUSKBN15C0KX)  
15 [idUSKBN15C0KX](http://www.reuters.com/article/us-usa-trump-immigration-greencard-idUSKBN15C0KX) , attached hereto as Exhibit 21).

16           164. On January 29, 2017, DHS apparently reversed its decision through a statement  
17 by Secretary Kelly that suggested, while the First Executive Order did apply to lawful  
18 permanent residents, DHS had determined lawful permanent residents should be admitted  
19 through an exception because their admission was in the public interest. (*See U.S. Dep’t of*  
20 *Homeland Security, Statement by Secretary John Kelly on the Entry of Lawful Permanent*  
21 *Residents into the United States* (Jan. 29, 2017) *available at* [https://www.dhs.gov/news/2](https://www.dhs.gov/news/2017/01/29/statement-secretary-john-kelly-entry-lawful-permanent-residents-united-states)  
22 [017/01/29/statement-secretary-john-kelly-entry-lawful-permanent-residents-united-states,](https://www.dhs.gov/news/2017/01/29/statement-secretary-john-kelly-entry-lawful-permanent-residents-united-states)  
23 attached hereto as Exhibit 22).

24           165. Two days later, on January 31, 2017, the U.S. Customs and Border Protection, a  
25 DHS sub-agency, issued a statement that repeated Secretary Kelly’s earlier statement. (*See*  
26 *U.S. Customs and Border Protection, Protecting the Nation from Foreign Terrorist Entry into*

1 *the United States* (Jan. 31, 2017) available at [https://www.cbp.gov/border-security/protecting-](https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states)  
2 [nation-foreign-terrorist-entry-united-states](https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states), attached hereto as Exhibit 23) However, it also  
3 confirmed in its “Questions and Answers” section that the First Executive Order applies to  
4 lawful permanent residents and that their entry would depend on receipt of a “national interest  
5 waiver[] consistent with the provisions of the [First] Executive Order.” (See U.S. Customs and  
6 Border Protection, *Q&A for Executive Order: Protecting the Nation from Foreign Terrorist*  
7 *Entry into the United States* (Feb. 2, 2017), attached hereto as Exhibit 24).

8 166. On February 1, 2017, White House Counsel Donald McGahn issued a  
9 Memorandum purporting to offer “Authoritative Guidance” that lawful permanent residents  
10 were never covered by Sections 3 and 5 of the First Executive Order. See ECF No. 50-1.

11 167. On January 29, 2017, President Trump issued a statement defending the First  
12 Executive Order, stating “[t]his is not a Muslim ban.” (See *President Donald J. Trump*  
13 *Statement Regarding Recent Executive Order Concerning Extreme Vetting* (Jan. 29, 2017)  
14 available at [https://www.whitehouse.gov/the-press-office/2017/01/29/president-donald-j-](https://www.whitehouse.gov/the-press-office/2017/01/29/president-donald-j-trump-statement-regarding-recent-executive-order)  
15 [trump-statement-regarding-recent-executive-order](https://www.whitehouse.gov/the-press-office/2017/01/29/president-donald-j-trump-statement-regarding-recent-executive-order), attached hereto as Exhibit 25).

16 168. President Trump’s statement conflicted with the statement made by his  
17 cybersecurity advisor the day before. In an interview with Fox News on January 28, 2017,  
18 Rudolph Giuliani confirmed that the First Executive Order was crafted to be a “legal” ban on  
19 Muslims. Specifically, Giuliani stated that President Trump asked him for a “Muslim ban” and  
20 instructed Giuliani to “put a commission together” to “show [Trump] the right way to do it  
21 legally.” (See Amy B. Wang, *Trump asked for a ‘Muslim Ban,’ Giuliani says – and ordered a*  
22 *commission to do it ‘legally’*, *The Washington Post* (Jan. 29, 2017) available at  
23 [https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-](https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/?utm_term=.6ce151a30f4c)  
24 [giuliani-says-and-ordered-a-commission-to-do-it-legally/?utm\\_term=.6ce151a30f4c](https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/?utm_term=.6ce151a30f4c), attached  
25 hereto as Exhibit 26). A video of Giuliani’s statements is also available at:  
26 <https://youtu.be/19GKL6i38pI>.

1 169. On January 30, 2017, President Trump defended the timing of the First  
2 Executive Order. President Trump tweeted, “If the ban were announced with a one week  
3 notice, the ‘bad’ would rush into our country during that week.” *See* Donald J. Trump  
4 (@realDonaldTrump), Twitter (Jan. 30, 2017, 5:31am ET), *available at*  
5 <https://twitter.com/realDonaldTrump/status/826060143825666051>, attached hereto as Exhibit  
6 27).

7 170. Several reports released by the federal government demonstrate that it did not  
8 further its stated purpose. For example, a draft report prepared at the request of the DHS  
9 Acting Under Secretary for Intelligence and Analysis concluded that citizenship was “unlikely  
10 to be an indicator” of terrorism threats against the United States. Released on February 25,  
11 2017, the draft report found that citizens of the seven countries targeted in President Trump’s  
12 First Executive Order were “rarely implicated” in U.S.-based terrorism. Specifically, the DHS  
13 report determined that at least 82 people were inspired by a foreign terrorist group to carry out  
14 or attempt to carry out an attack in the United States since March 2011. Of those 82 people,  
15 more than half were native-born U.S. citizens, and the remaining persons were from 26  
16 countries—with the most individuals originating from Pakistan. Of the seven countries  
17 included in the First Executive Order, only Somalia and Iraq were on the list of “top” origin  
18 countries. (*See* Vivian Salama & Alicia A. Caldwell, *AP Exclusive: DHS report disputes threat*  
19 *from banned nations*, Associated Press (Feb. 24, 2017), *available at*  
20 [http://bigstory.ap.org/article/39f1f8e4ceed4a30a4570f693291c866/dhs-intel-report-disputes-](http://bigstory.ap.org/article/39f1f8e4ceed4a30a4570f693291c866/dhs-intel-report-disputes-threat-posed-travel-ban-nations)  
21 [threat-posed-travel-ban-nations](http://bigstory.ap.org/article/39f1f8e4ceed4a30a4570f693291c866/dhs-intel-report-disputes-threat-posed-travel-ban-nations), attached hereto as Exhibit 28 (including a hyperlink to the  
22 draft report, which is also attached hereto as Exhibit 29); *see also* U.S. Department of  
23 Homeland Security, *Intelligence Assessment: Most Foreign-born, US-based Violent Extremists*  
24 *Radicalized after Entering Homeland; Opportunities for Tailored CVE Programs Exist*  
25 (March 1, 2017), *available at* [http://i2.cdn.turner.com/cnn/2017/images/03/03/dhs.intell.assess](http://i2.cdn.turner.com/cnn/2017/images/03/03/dhs.intell.assessment.pdf)  
26 [ment.pdf](http://i2.cdn.turner.com/cnn/2017/images/03/03/dhs.intell.assessment.pdf), attached hereto as Exhibit 30).

1 171. According to one report, not a single fatal terrorist attack has been perpetrated  
2 in the United States by a national of one of these seven countries since at least 1975. (See Alex  
3 Nowrasteh, *Little National Security Benefit to Trump's Executive Order on Immigration*, Cato  
4 Institute Blog (Jan. 25, 2017, 3:31pm ET) available at [https://www.cato.org/blog/little-](https://www.cato.org/blog/little-national-security-benefit-trumps-executive-order-immigration)  
5 [national-security-benefit-trumps-executive-order-immigration](https://www.cato.org/blog/little-national-security-benefit-trumps-executive-order-immigration), attached hereto as Exhibit 31).  
6 Other countries whose nationals have perpetrated fatal terrorist attacks in the United States  
7 were not part of the First Executive Order. (See Scott Schane, *Immigration Ban Is Unlikely to*  
8 *Reduce Terrorist Threat, Experts Say*, N.Y. Times (Jan. 28, 2017) available at  
9 [https://www.nytimes.com/2017/01/28/us/politics/a-sweeping-order-unlikely-to-reduce-](https://www.nytimes.com/2017/01/28/us/politics/a-sweeping-order-unlikely-to-reduce-terrorist-threat.html)  
10 [terrorist-threat.html](https://www.nytimes.com/2017/01/28/us/politics/a-sweeping-order-unlikely-to-reduce-terrorist-threat.html) , attached hereto as Exhibit 32).

11 172. On February 3, 2017, this Court issued a temporary restraining order (“TRO”)  
12 precluding Defendants from implementing Sections 3(a), 5(a)-(c), and 5(e) of the First  
13 Executive Order. Defendants appealed this Court’s TRO to the U.S. Court of Appeals for the  
14 Ninth Circuit, which construed the TRO as a preliminary injunction.

15 173. On February 6, 2017, ten former national security, foreign policy, and  
16 intelligence officials including Madeline Albright, Avril D. Haines, Michael Hayden, John  
17 Kerry, John McLaughlin, Lisa O. Monaco, Michael J. Morell, Janet A. Napolitano, Leon E.  
18 Panetta, and Susan Rice, submitted a declaration before the Ninth Circuit, stating: “We all  
19 are...unaware of any specific threat that would justify the travel ban established by the [First]  
20 Executive Order.” Further, the former officials stated “there is no national security purpose for  
21 a total bar on entry for aliens” and warned that the First Executive Order “could do long-term  
22 damage to our national security.” (See *Washington v. Trump*, Case No. 17-35105, ECF No. 28-  
23 2 at 3 (9th Cir., Feb. 6, 2017)).

24 174. On February 9, 2017, the Ninth Circuit issued a *per curiam* opinion denying  
25 Defendants’ emergency motion for a stay of this Court’s order. On February 14, 2017, this  
26 Court agreed that the Ninth Circuit had construed the TRO as a preliminary injunction.

1 175. During the week that the First Executive Order was in full effect, Defendants  
2 detained or removed at least 100 people entering the United States pursuant to the First  
3 Executive Order, including lawful permanent residents, U.S.-based residents returning from  
4 visits abroad, and others with valid visas to visit family in the United States. In addition,  
5 pursuant to the First Executive Order, the State Department revoked approximately 60,000  
6 visas. (*See Adam Kelsey et al., 60,000 Visas Revoked Since Immigration Executive Order*  
7 *Signed: State Department, ABC News* (Feb. 3, 2017, 6:32 PM ET), available at  
8 [http://abcnews.go.com/Politics/60000-visas-revoked-immigration-executive-order-signed-](http://abcnews.go.com/Politics/60000-visas-revoked-immigration-executive-order-signed-state/story?id=45254827)  
9 [state/story?id=45254827](http://abcnews.go.com/Politics/60000-visas-revoked-immigration-executive-order-signed-state/story?id=45254827), attached hereto as Exhibit 33).

#### 10 **Second Executive Order**

11 176. On February 16, 2017, Defendants filed a brief in the Ninth Circuit advising the  
12 court that “the President intends in the near future to rescind the [First Executive] Order and  
13 replace it with a new, substantially revised Executive Order.” (*See Appellants’ Supplemental*  
14 *Brief on En Banc consideration at 4, Washington v. Trump*, No. 17-35105 (Feb. 16, 2017),  
15 ECF No. 154.)

16 177. That same day, President Trump held a press conference. At the press  
17 conference, President Trump stated that his executive actions simply fulfilled his campaign  
18 promises and indicated a new “comprehensive” executive order would issue shortly.  
19 Specifically, President Trump stated: “[Politicians] lie[] to the American people in order to get  
20 elected. Some of the things I’m doing probably aren’t popular but they’re necessary for  
21 security and for other reasons. . . . I’m here following through on what I pledged to do. That’s  
22 all I’m doing.” (*See Aaron Blake, Donald Trump’s combative, grievance-filled news*  
23 *conference, annotated, The Washington Post at 4, 6-7, (Feb. 16, 2017) available at*  
24 [https://www.washingtonpost.com/news/the-fix/wp/2017/02/16/donald-trumps-grievance-filled-](https://www.washingtonpost.com/news/the-fix/wp/2017/02/16/donald-trumps-grievance-filled-press-conference-annotated/?utm_term=.c3b469f082bb)  
25 [press-conference-annotated/?utm\\_term=.c3b469f082bb](https://www.washingtonpost.com/news/the-fix/wp/2017/02/16/donald-trumps-grievance-filled-press-conference-annotated/?utm_term=.c3b469f082bb), attached hereto as Exhibit 34).  
26

1           178. At the same press conference, President Trump stated: “We have taken decisive  
2 action to keep radical Islamic terrorists out of our country. No parts [that] are necessary and  
3 constitutional actions were blocked by judges, in my opinion, incorrect, and unsafe ruling. Our  
4 administration is working night and day to keep you safe, including reporters safe. And is  
5 vigorously defending this lawful order. I will not back down from defending our country. I got  
6 elected on defense of our country. I keep my campaign promises, and our citizens will be very  
7 happy when they see the result. They already are, I can tell you that. Extreme vetting will be  
8 put in place, and it already is in place in many places.”

9           179. On February 21, 2017, President Trump’s senior policy advisor, Stephen Miller,  
10 confirmed the new executive order would have “mostly minor technical differences.” Mr.  
11 Miller further indicated the intent behind the new executive order would not change.  
12 Specifically, Mr. Miller stated, “you’re still going to have the same basic policy outcome for  
13 the country, but you’re going to be responsive to a lot of very technical issues that were  
14 brought up by the court and those will be addressed.” *See Miller: New order will be responsive*  
15 *to judicial ruling; Rep. Don DeSantis: Congress has gotten off to a slow start* at 2 (Feb. 21,  
16 2017) available at [http://www.foxnews.com/transcript/2017/02/21/miller-new-order-will-be-](http://www.foxnews.com/transcript/2017/02/21/miller-new-order-will-be-responsive-to-judicial-ruling-rep-ron-desantis/)  
17 [responsive-to-judicial-ruling-rep-ron-desantis/](http://www.foxnews.com/transcript/2017/02/21/miller-new-order-will-be-responsive-to-judicial-ruling-rep-ron-desantis/), attached hereto as Exhibit 35).

18           180. On February 27, 2017, the White House Press Secretary, Sean Spicer, was  
19 asked why the President continued to defend the First Executive Order instead of rescinding it.  
20 Mr. Spicer answered: “[T]he manner in which [the First Executive Order] was done in the first  
21 place was what we believe and continue to believe was the right way to address this problem.  
22 And while the second executive order attempts to address the court’s concerns that they made,  
23 the goal is obviously to maintain the way that we did it the first time . . .”. (*See Press Briefing*  
24 *by Press Secretary Sean Spicer, 2/27/2017, #17, The White House* at 26-27 (Feb. 27, 2017)  
25 available at [https://www.whitehouse.gov/the-press-office/2017/02/27/press-briefing-press-](https://www.whitehouse.gov/the-press-office/2017/02/27/press-briefing-press-secretary-sean-spicer-2272017-17)  
26 [secretary-sean-spicer-2272017-17](https://www.whitehouse.gov/the-press-office/2017/02/27/press-briefing-press-secretary-sean-spicer-2272017-17), attached hereto as Exhibit 36).



1 181. On March 6, 2017, the White House revoked its January 27, 2017 Executive  
2 Order and issued Executive Order 13780 (“Second Executive Order”). This Second Executive  
3 Order is again titled “Protecting the Nation from Foreign Terrorist Entry into the United  
4 States” and has an effective date of March 16, 2017. (*See* ECF No. 108-1).

5 182. Section 2(c) of the Second Executive Order suspends the “entry into the United  
6 States of nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen”—six of the seven  
7 countries targeted in the First Executive Order—for a period of 90 days. Like the First  
8 Executive Order, the Second Executive Order provides for possible expansion of the ban  
9 beyond 90 days and to nationals from additional countries.

10 183. Under Section 3, the suspension of entry pursuant to Section 2 applies only to  
11 foreign nationals of the designated countries who: (i) are outside the United States on the  
12 effective date of this order, (ii) did not have a valid visa at 5:00 p.m. EST on the date of the  
13 First Executive Order, and (iii) do not have a valid visa on the effective date of this order.

14 184. Section 3 also provides for various “exceptions” and potential “waivers” to  
15 Section 2’s suspension. It confers discretion on certain federal officials to decide on a “case-  
16 by-case basis” to allow entry to certain foreign nationals otherwise barred by Section 2. There  
17 are no instructions, forms, or other process available by which to obtain a waiver under Section  
18 3. Section 3 excepts lawful permanent residents, visa-holders, dual nationals traveling on  
19 passports issued by a non-designated country or on diplomatic visas, and foreign nationals who  
20 have been granted asylum as well as refugees who have been admitted to the United States.

21 185. Section 6(a) of the Second Executive Order suspends the “travel” of all refugees  
22 to the United States and all decisions by DHS on applications for refugee status for a period of  
23 120 days. Again, the Second Executive Order provides for an expansion of the ban beyond 120  
24 days where it is determined that countries have failed to implement the “additional procedures”  
25 identified by Defendants as necessary “to ensure the security and welfare of the United States.”  
26

1 186. Section 6(b) of the Second Executive Order suspends the entry of more than  
2 50,000 refugees for fiscal year 2017. In September 2016, after consultation with the Congress,  
3 President Obama determined that up to 110,000 refugees would be admitted during fiscal year  
4 2017.

5 187. Also on March 6, 2017, DHS published a “Q&A” document with answers to  
6 questions about the Second Executive Order. (*See* Department of Homeland Security, Q&A:  
7 Protecting the Nation from Foreign Terrorist Entry to the United States (Mar. 6, 2017, 11:30  
8 AM ET) *available at* <https://www.dhs.gov/news/2017/03/06/qa-protecting-nation-foreign-terrorist-entry-united-states> , attached hereto as Exhibit 37).

9  
10 188. In that “Q&A,” DHS states that nationals from one of the six targeted countries  
11 currently present in the United States on a single-entry visa will have to obtain a new valid visa  
12 in order to leave and return to the United States. Likewise, DHS states that students and  
13 exchange visitors from the six designated countries who are currently present in the United  
14 States—and their related U.S.-based dependents—will have to obtain a new valid visa in order  
15 to leave and return to the United States, if their visas expire while the Second Executive Order  
16 is in place. (*See id.* at 4, 13).

17 189. Also, on March 6, 2017, President Trump issued a memorandum titled  
18 “Implementing Immediate Heightened Screening and Vetting of Applications for Visas and  
19 Other Immigration Benefits.” In the memorandum, President Trump ordered the State  
20 Department, DHS, and the Attorney General to “implement protocols and procedures as soon  
21 as practicable that in their judgment will enhance the screening and vetting of applications for  
22 visas and all other immigration benefits” while the Second Executive Order is implemented.  
23 (*See* The White House, *Memorandum for the Secretary of State, the Attorney General, the*  
24 *Secretary of Homeland Security*, (Mar. 6, 2017) *available at* [https://www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-](https://www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-security)  
25 [security](https://www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-security) , attached hereto as Exhibit 38).  
26

1           190. The same day President Trump issued the Second Executive Order, his  
2 campaign issued a fundraising e-mail. In it, President Trump requested support for the Second  
3 Executive Order and the fight against “radical Islamic terrorism,” and stated, “I will NEVER  
4 stop fighting until we implement the policies you—and millions of Americans like you—voted  
5 for.” (See Matt Zapposky, et. at., *Revised executive order bans travelers from six Muslim-*  
6 *majority countries from getting visas*, The Wash. Post (Mar. 6, 2017) available at  
7 [https://www.washingtonpost.com/world/national-security/new-executive-order-bans-travelers-](https://www.washingtonpost.com/world/national-security/new-executive-order-bans-travelers-from-six-muslim-majority-countries-applying-for-visas/2017/03/06/3012a42a-0277-11e7-ad5b-d22680e18d10_story.html?utm_term=.fddd4559a269)  
8 [from-six-muslim-majority-countries-applying-for-visas/2017/03/06/3012a42a-0277-11e7-](https://www.washingtonpost.com/world/national-security/new-executive-order-bans-travelers-from-six-muslim-majority-countries-applying-for-visas/2017/03/06/3012a42a-0277-11e7-ad5b-d22680e18d10_story.html?utm_term=.fddd4559a269)  
9 [ad5b-d22680e18d10\\_story.html?utm\\_term=.fddd4559a269](https://www.washingtonpost.com/world/national-security/new-executive-order-bans-travelers-from-six-muslim-majority-countries-applying-for-visas/2017/03/06/3012a42a-0277-11e7-ad5b-d22680e18d10_story.html?utm_term=.fddd4559a269) , attached hereto as Exhibit 39).

10           191. On March 7, 2017, White House Press Secretary Sean Spicer confirmed the  
11 purpose of the Second Executive Order was for President Trump to fulfill his campaign  
12 promise. Mr. Spicer stated: “President Trump yesterday continue [sic] to deliver . . . his . . .  
13 campaign promise[]: protecting the country against radical Islamic terrorism.” (See *Press*  
14 *Briefing by Press Secretary Sean Spicer, 3/7/2017, #18*, The White House at 2 (Mar. 7, 2017)  
15 available at [https://www.whitehouse.gov/the-press-office/2017/03/07/press-briefing-press-](https://www.whitehouse.gov/the-press-office/2017/03/07/press-briefing-press-secretary-sean-spicer-372017-18)  
16 [secretary-sean-spicer-372017-18](https://www.whitehouse.gov/the-press-office/2017/03/07/press-briefing-press-secretary-sean-spicer-372017-18), attached hereto as Exhibit 40).

17           192. On March 10, 2017, more than 130 foreign policy experts addressed President  
18 Trump in an open letter, concluding that the Second Executive Order is just as “damaging” to  
19 the United States’ interests as the First Executive Order. Representing foreign policy experts  
20 under both Republican and Democratic administrations, they observed that, even though Iraq  
21 was left off the Second Executive Order’s six-country ban, Iraqis will remain in harm’s way  
22 due to the 120-day suspension of refugees. (See *Letter from Foreign Policy Experts on Travel*  
23 *Ban*, N.Y. Times (Mar. 10, 2017) available at [https://www.nytimes.com/interactive/2017/03/1](https://www.nytimes.com/interactive/2017/03/11/us/politics/document-letter-foreign-policy-trump.html?_r=0)  
24 [1/us/politics/document-letter-foreign-policy-trump.html?\\_r=0](https://www.nytimes.com/interactive/2017/03/11/us/politics/document-letter-foreign-policy-trump.html?_r=0) , attached hereto as Exhibit 41).

25           193. In filing notice to this Court about the Second Executive Order’s issuance,  
26 Defendants declared: “This Court’s injunctive order does not limit the Government’s ability to

1 immediately begin enforcing the [Second] Executive Order.” Further, Defendants stated:  
2 “[T]he Government intends to begin enforcing the [Second] Executive Order on its effective  
3 date of March 16, 2017.” *See* ECF No. 108 at 13.

4 **V. FIRST CAUSE OF ACTION**  
5 **(Fifth Amendment – Equal Protection)**

6 194. The States reallege and incorporate by reference the allegations set forth in each  
7 of the preceding paragraphs of this Second Amended Complaint.

8 195. The Due Process Clause of the Fifth Amendment prohibits the federal  
9 government from denying equal protection of the laws.

10 196. Sections 3 and 5 of the First Executive Order, as well as Sections 2 and 6 of the  
11 Second Executive Order, together with statements made by Defendants concerning their intent  
12 and application, target individuals for discriminatory treatment based on their country of origin  
13 and/or religion, without lawful justification.

14 197. Both the First Executive Order and the Second Executive Order were motivated  
15 by animus and a desire to harm a particular group.

16 198. The discriminatory terms and application of the First Executive Order and the  
17 Second Executive Order are arbitrary and cannot be sufficiently justified by federal interests.

18 199. Through their actions above, Defendants have violated the equal protection  
19 guarantee of the Fifth Amendment.

20 200. Defendants’ violation causes ongoing harm to the States and their residents.

21 **VI. SECOND CAUSE OF ACTION**  
22 **(First Amendment – Establishment Clause)**

23 201. The States reallege and incorporate by reference the allegations set forth in each  
24 of the preceding paragraphs of this Second Amended Complaint.

25 202. The Establishment Clause of the First Amendment prohibits the federal  
26 government from officially preferring one religion over another.

1           203. Sections 3 and 5 of the First Executive Order, as well as Sections 2 and 6 of the  
2 Second Executive Order, together with statements made by Defendants concerning their intent  
3 and application, are intended to disfavor Islam and favor Christianity.

4           204. Through their actions above, Defendants have violated the Establishment  
5 Clause of the First Amendment.

6           205. Defendants' violation causes ongoing harm to the States and their residents.

7                                   **VII. THIRD CAUSE OF ACTION**  
8                                   **(Fifth Amendment – Procedural Due Process)**

9           206. The States reallege and incorporate by reference the allegations set forth in each  
10 of the preceding paragraphs of this Second Amended Complaint.

11           207. The Due Process Clause of the Fifth Amendment prohibits the federal  
12 government from depriving individuals of their liberty interests without due process of law.

13           208. Where Congress has granted statutory rights and authorized procedures  
14 applicable to arriving and present non-citizens, minimum due process rights attach to those  
15 statutory rights.

16           209. Sections 3 and 5 of the First Executive Order, as well as Sections 2 and 6 of the  
17 Second Executive Order, conflict with the statutory rights and procedures directed by  
18 Congress. In issuing and implementing the First Executive Order and the Second Executive  
19 Order, Defendants have violated the procedural due process guarantees of the Fifth  
20 Amendment.

21           210. Defendants' violation causes ongoing harm to the States and their residents.

22                                   **VIII. FOURTH CAUSE OF ACTION**  
23                                   **(Immigration and Nationality Act)**

24           211. The States reallege and incorporate by reference the allegations set forth in each  
25 of the preceding paragraphs of this Second Amended Complaint.  
26

1           212. Section 8 of Article I of the U.S. constitution bestows Congress with exclusive  
2 authority over our immigration laws. Congress has laid down the country’s immigration laws  
3 in the Immigration and Nationality Act (“INA”), as codified under Title 8 of the United States  
4 Code

5           213. The INA is a multi-faceted and complex immigration structure. It sets forth  
6 specific prohibitions, as well as explicit requirements and detailed processes, related to the  
7 country’s issuance of visas and refugee programs.

8           214. For example, 8 U.S.C. § 1152(a)(1)(A), prohibits discrimination in the issuance  
9 of immigrant visas on the basis of race, nationality, place of birth, or place of residence.

10           215. 8 U.S.C. § 1101(a)(15)(U) creates a category of visas for noncitizens who are  
11 victims of specified crimes and assist U.S. law enforcement in the prosecution of criminal  
12 cases (“U-visa”). The same provision also creates a category of visas for the noncitizen  
13 victim’s family members, even if the family member is living abroad (“U-visa derivative”). 8  
14 C.F.R. 214.14(f)(6)(ii) sets forth the process for petitioning for a U-visa derivative for a family  
15 member outside the United States.

16           216. 8 U.S.C. § 1101(a)(15)(T) creates a category of visas for noncitizens who are  
17 victims of severe forms of human trafficking and their family members (“T-visa”). The same  
18 provision also creates a category of visas for the noncitizen victim’s family members, even if  
19 the family member is living abroad (“T-visa derivative”). 8 C.F.R. 214.11(k)(9)(ii) sets forth  
20 the process for petitioning for a T-visa derivative for a family member outside the United  
21 States.

22           217. 8 U.S.C. § 1157 sets forth the admission procedures for refugees, specifically.  
23 Section 1157(a) requires the numerical limitation on refugees be set by the President only after  
24 “appropriate consultation” with Congress.  
25  
26



1                                   **X.       SIXTH CAUSE OF ACTION**  
2                                   **(Procedural Violation of the Administrative Procedure Act)**

3           226.   The States reallege and incorporate by reference the allegations set forth in each  
4 of the preceding paragraphs of this Second Amended Complaint.

5           227.   The Administrative Procedure Act, 5 U.S.C. §§ 553 and 706(2)(D), requires that  
6 federal agencies conduct formal rule making before engaging in action that impacts substantive  
7 rights.

8           228.   In implementing Sections 3 and 5 of the First Executive Order, as well as  
9 Sections 2 and 6 of the Second Executive Order, federal agencies changed the substantive  
10 criteria by which individuals from affected countries may enter the United States. Federal  
11 agencies did not follow the procedures required by the Administrative Procedure Act before  
12 taking action impacting these substantive rights.

13           229.   Through their actions above, Defendants have violated the Administrative  
14 Procedure Act.

15           230.   Defendants' violation causes ongoing harm to the States and their residents.

16                                   **XI.       SEVENTH CAUSE OF ACTION**  
17                                   **(Substantive Violation of the Administrative Procedure Act)**

18           231.   The States reallege and incorporate by reference the allegations set forth in each  
19 of the preceding paragraphs of this Second Amended Complaint.

20           232.   The Administrative Procedure Act, 5 U.S.C. § 706(2), prohibits federal agency  
21 action that is arbitrary, unconstitutional, and contrary to statute.

22           233.   Neither the First Executive Order nor the Second Executive Order is authorized  
23 by the INA. As alleged herein, both the First Executive Order and the Second Executive Order  
24 discriminates on the basis of race, nationality, place of birth, and/or place of residence in the  
25 issuance of visas, suspends the refugee program without appropriate consultation with  
26 Congress, and otherwise contravenes the INA's complex immigration structure.







1 DATED this 13th day of March, 2017.

2 Respectfully submitted,

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5 /s/ Noah G. Purcell

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