

No. 17- 35105

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

STATE OF WASHINGTON, et al.,
Plaintiffs-Appellees,
v.

Donald J. TRUMP, et al.
Defendants-Appellants.

On Appeal from the U.S. District Court for the Western District of Washington
No. 2:17-cv-00141
Honorable James L. Robart, U.S. District Court Judge

**PROPOSED PLAINTIFFS-INTERVENORS' MOTION FOR LEAVE TO
INTERVENE**

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MOTION FOR INTERVENTION UNDER RULE 24

Plaintiffs, two U.S. citizen parents, one lawful permanent resident and each of their children, who collectively represent immigrant visa petitioners and beneficiaries/applicants, respectfully request that this Court grant leave to intervene in the instant appeal. Plaintiffs ask this Court to grant leave to intervene as of right under Rule 24(a) of the Federal Rules of Civil Procedure or, in the alternative, to grant them permissive intervention under Rule 24(b).

On February 10, 2017, undersigned counsel for Plaintiffs contacted counsel for both parties. Counsel for the States of Washington and Minnesota indicated that the States take no position on this motion. Counsel for the federal government indicated their clients oppose Plaintiffs' request for intervention.

STATEMENT OF THE CASE

On January 27, 2017, President Donald Trump issued Executive Order 13769 (EO), entitled "Protecting the Nation from Foreign Terrorist Entry Into the United States." *See* 82 Fed. Reg. 8977 (Feb. 1, 2017). Section 3 of the EO suspends entry into the United States of citizens or nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—all predominantly Muslim countries—for a minimum of 90 days, allegedly for national security reasons. *Id.* at 8978. On January 30, 2017, three petitioner parents—two U.S. citizens and one lawful

permanent resident—and their three beneficiary children—all of whom had pending or approved immigrant visa applications—filed a class action in the District Court for the Western District of Washington, challenging Section 3 of the EO. *See* Complaint—Class Action for Declaratory and Injunctive Relief, *Ali v. Trump*, No. 2:17-cv-00135, Dkt. 1 (W.D. Wash.). They brought the case on behalf of themselves and similarly situated immigrant visa petitioners and beneficiaries and alleged that Section 3 of the EO violates § 202(a)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1152(a)(1), the Administrative Procedure Act (APA), as well as the Due Process Clause of the Fifth Amendment and the guarantee of equal protection pursuant to the Due Process Clause, and warrants mandamus relief. *Id.* The case is assigned to District Court Judge James L. Robart.

Later that same day, the State of Washington filed a complaint and motion for a temporary restraining order (TRO) in this case, also in the Western District of Washington. *See State of Washington v. Trump*, No. 2:17-cv-00141, Dkts. 1, 3 (W.D. Wash.). The case also is assigned to Judge Robart. The State of Washington challenged Section 3(c) of the EO, along with several other provisions, and also alleged violations of the INA, APA, Due Process Clause and its guarantee of equal protection, as well as other constitutional and statutory claims. *Id.*

On February 1, the State of Washington filed a supplementary brief on standing outlining the harm caused to the State by the EO, and the State of

Minnesota joined the case and filed, with Washington, both an amended complaint containing the original claims and an amended TRO motion. *See State of Washington*, No. 2:17-cv-00141, Dkts. 17, 18, 19.

On February 2, 2017, the *Ali* Plaintiffs filed a motion seeking certification of a nationwide class of all nationals of countries designated by Section 3(c) of the EO who have applied for or will apply for immigrant visas and the visa petitioners for those nationals, whose visa applications have been or will be suspended or denied, whose immigrant visas have been or will be revoked, or who have been or will be denied the ability to travel to the United States, on the basis of the EO. *See Motion for Class Certification, Ali*, No. 2:17-cv-00135, Dkt. 3.

Also on February 2, Defendants filed their opposition to the States' motion for a TRO. *Id.*, Dkt. 50. On February 3, the district court held a hearing and enjoined the provisions of the EO challenged by the States, including Section 3(c). *Id.* Dkt. 52. On February 4, the federal Defendants filed an emergency motion for an immediate stay of the district court's order and a motion for a stay pending appeal, arguing, *inter alia*, that the States lacked standing and had not demonstrated that they would face irreparable harm. ECF 14. On the same day, this Court denied the request for an immediate stay. ECF 15.

On February 6, 2017, the *Ali* Plaintiffs filed a motion for a preliminary injunction and requested that, should this Court, in *State of Washington*, dissolve

the TRO enjoining application of Section 3(c) of the EO on a procedural basis that does not reach the merits of the claims, the Court convert the preliminary injunction motion into a motion for a TRO. Exh. A (Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, *Ali*, No. 2:17-cv-00135, Dkt. 9). The *Ali* Plaintiffs argued that they had standing and would experience irreparable harm absent preliminary relief, on grounds different than those asserted by the States in this case. *Id.* In support of their motion, they included fifteen declarations from *Ali* Plaintiffs, potential class members, and attorneys representing potential class members, detailing the physical, psychological, and financial harm they faced absent injunctive relief enjoining Section 3 of the EO. Exh. B (Declarations and Exhibits in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, *Ali*, No. 2:17-cv-00135, Dkts. 11-25).

On February 7, the district court presiding over *State of Washington* set an expedited briefing schedule for the Plaintiffs' motion for a preliminary injunction. *State of Washington*, No. 2:17-cv-00141, Dkt. 57. That same day, this Court telephonically held oral argument on Defendants-Appellants' motion for a stay. ECF 125.

On February 9, this Court denied the emergency stay motion, holding that the federal Defendants had failed to show that they were likely to prevail on the

merits or that they faced irreparable harm absent a stay. ECF 134. Additionally, the Court found that the TRO “possesses the qualities of an appealable preliminary injunction,” and set a briefing schedule for the merits of Defendants’ appeal of the TRO. *Id.* at 7; ECF 135. Thereafter, the *Ali* Plaintiffs moved the district court to rene and amend the briefing schedule for the TRO and preliminary injunction motion filed in that case to coincide with the schedule set by the district court in *State of Washington*. Plaintiffs’ Motion to Rene and Modify the Briefing Schedule on Their Motion for Temporary Restraining Order and Preliminary Injunction, *Ali*, No. 2:17-cv-00135, Dkt. 31.

On February 10, the Court announced that “[a] judge on this Court has made a sua sponte request that a vote be taken as to whether the order issued by the three-judge motions panel on February 9, 2017, should be reconsidered en banc” and ordered the parties to brief whether reconsideration en banc is appropriate by February 16, 2017. ECF 139.

ARGUMENT

The *Ali* Plaintiffs and the class members they seek to represent move to intervene as this Court will likely dispose of their claims in its consideration of the instant case, in a way that may impair or impede *Ali* Plaintiffs and class members’ interests. *See generally* Fed. R. Civ. P. 24. Both *Ali* and *State of Washington* were filed the same day in the Western District of Washington, challenge the same

Executive Order, and were assigned to the same judge. Both cases have motions for preliminary injunctive relief pending before the district court. While the claims presented by the States encompass the claims presented by the movants, the *Ali* Plaintiffs and the class members they seek to represent bring an alternative, and critical, perspective with respect to such matters as Plaintiffs' standing, the irreparable harm Plaintiffs are able to demonstrate in seeking preliminary injunctive relief, and the zone of interests affected by the statutory claims that are now before this Court.

Rule 24 of the Federal Rules of Civil Procedure governs an intervention on appeal. *Bates v. Jones*, 127 F.3d 870, 873 (9th Cir. 1997). In determining whether intervention is appropriate, this Court "follow[s] 'practical and equitable considerations' and construe[s] the Rule 'broadly in favor of proposed intervenors,' . . . because a liberal intervention policy 'serves both efficient resolution of issues and broadened access to the courts.'" *Wilderness Soc'y v. U.S. Forest Service*, 630 F.3d 1173, 1179 (9th Cir. 2010) (citations omitted).

The *Ali* Plaintiffs and the class members they seek to represent satisfy the requirements for an intervention as of right under Rule 24(a)(2). In the alternative, they also satisfy the requirements for permissive intervention under Rule 24(b)(1), (3).

I. THE *ALI* PLAINTIFFS ARE ENTITLED TO INTERVENE AS OF RIGHT PURSUANT TO RULE 24(a)(2).

The Ninth Circuit applies a four-part rule to determine whether a party may intervene as of right under Rule 24(a)(2):

(1) the motion must be timely; (2) the applicant must claim a “significantly protectable” interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant’s interest must be inadequately represented by the parties to the action.

United States of America v. Aerojet Gen. Corp., 606 F.3d 1142, 1148 (9th Cir. 2010) (citations omitted). The *Ali* Plaintiffs satisfy each requirement. They filed this motion within 48 hours of learning that the Ninth Circuit would treat the States’ motion as one for a preliminary injunction; a central issue in the appeal is the legality of Section 3 of the EO, which has harmed all named Plaintiffs and untold thousands of proposed class members and has the potential to cause further irreparable harm if not enjoined; and the distinct interests of Plaintiffs and proposed class members would otherwise not be adequately represented. *See* Exh. B.

A. The *Ali* Plaintiffs’ Motion Is Timely.

Courts weigh three factors in determining whether a motion to intervene is timely: “(1) the stage of the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of the delay.”

Cal. Dep't of Toxic Substances Control v. Commercial Realty Projects, Inc., 309 F.3d 1113, 1119 (9th Cir. 2002) (citation omitted). The *Ali* Plaintiffs' motion to intervene is timely under all three factors.

First, and most significantly, there has been *no delay* by the *Ali* Plaintiffs. They are filing this motion at the first point in the litigation at which it was reasonable to do so. It comes within 48 hours of this Court's February 9, 2017 order rejecting the federal Defendants' request for a stay of the temporary restraining order, finding that the district court's order "possesses the qualities of an appealable preliminary injunction," and setting a briefing schedule for the appeal of this order. ECF 134, 135. Soon after this Court ruled, the States informed the district court that, unless notified otherwise, they would not file their motion for a preliminary injunction later that day as previously scheduled. *State of Washington*, No. 2:17-cv-00141, Dkt. 70. Until this point, the *Ali* Plaintiffs' intent had been to seek to amend the briefing schedule on their own preliminary injunction motion, which was already pending before the district court along with their motion for class certification, so that the district court could hear and decide the motions in the two cases concurrently. *See* Plaintiffs' Motion to Rernote and Modify the Briefing Schedule on Their Motion for Temporary Restraining Order and Preliminary Injunction, *Ali*, No. 2:17-cv-00135, Dkt. 31.

Given the turn of events on February 9, moving to have the two motions proceed simultaneously before the district court was no longer the most prudent option for the *Ali* Plaintiffs. Instead, the present motion to intervene became necessary; they sought to intervene at the stage of the lawsuit in which their interests were implicated—when the possibility of proceeding concurrently on a parallel track with the States’ case in district court was no longer feasible. *See United States v. Oregon*, 745 F.2d 550, 552 (9th Cir. 1984) (indicating that a “change of circumstances, which suggests that the litigation is entering a new stage” can be a factor that “militate[s] in favor” of intervention); *United States v. Alisal Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004) (“Prior cases suggest that a party’s interest in a specific phase of a proceeding may support intervention at that particular stage of the lawsuit.”). For this reason, the fact that this motion is filed during an appeal does not render it untimely, particularly given the extraordinary nature of the proceedings in this case and the expedited basis on which this Court is hearing the appeal.

Finally, there is no prejudice to either party. The States take no position on intervention. While Defendants oppose the motion, they will not be prejudiced by having to litigate new or additional claims, because the four claims raised in *Ali* are encompassed within the claims raised by the States in this case. Finally, this motion is made within 48 hours of this Court setting the briefing schedule, and

three weeks in advance of the federal Defendants’ next scheduled brief. Moreover, the *Ali* Plaintiffs already have filed their motion for preliminary injunctive relief. Exh. A. As such, the federal Defendants have ample time to address the arguments raised in Plaintiffs’ motions for class certification and for preliminary injunction, filed on February 2 and 6, respectively.

B. The *Ali* Plaintiffs Have A Significant Protectable Interest In The Outcome Of This Appeal.

An applicant for intervention must have a “significantly protectable interest,” meaning that “(1) it asserts an interest that is protected under some law, and (2) there is a relationship between its legally protected interest and the plaintiff’s claims.” *State ex. rel. Lockyer v. U.S.*, 450 F.3d 436, 440-41 (9th Cir. 2006) (citation and internal quotation marks omitted). The central concern is whether the intervenors “will suffer a practical impairment of [their] interests as a result of the pending litigation.” *Id.* at 441 (rejecting as not determinative such “technical distinctions” as whether the proposed intervenor has an enforceable right).

The *Ali* Plaintiffs seek to intervene to protect their own and class members’ rights under the U.S. Constitution and the INA. In particular, as set forth in their Complaint and their Motion for a TRO and Preliminary Injunction, they seek non-discriminatory and constitutional application of the immigration laws. *See* Complaint—Class Action for Declaratory and Injunctive Relief, *Ali*, No. 2:17-cv-

00135, Dkt. 1; Exh. A. All of the *Ali* Plaintiffs and an untold number of proposed class members already have suffered grievous harm from the implementation of the EO, and will suffer irreparable harm if the EO is not enjoined. *See id.*; Exh. B.

The *Ali* Plaintiffs have an interest in ensuring that their interests are fully presented with respect to any future determination made by this Court establishing precedent that could impair their pending motion for a preliminary injunction.

Hours before the State of Washington filed this suit, the *Ali* Plaintiffs filed their lawsuit. Like the State of Washington, the *Ali* Plaintiffs argued that Section 3 of the EO violated the equal protection and due process components of the Due Process Clause, the INA, and the APA. Within days of filing their complaint, and prior to the district court's TRO in *State of Washington*, the *Ali* Plaintiffs moved to certify a class. Thus, they have a responsibility to represent an untold number—although reasonably estimated to be in the tens of thousands—of purported class members. *See* Fed. R. Civ. P. 23(g)(2)(A) advisory comm. nn. (Am.

2003)(“[A]ttorney who acts on behalf of the class before certification must act in the best interests of the class as a whole.”); *Staton v. Boeing Co.*, 327 F. 3d 938, 960 (9th Cir. 2003) (“[C]lass attorneys, purporting to represent a class, also owe the entire class a fiduciary duty once the class complaint is filed.” (quoting *In re GMC Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 801 (3d Cir. 1995)). Moreover, the *Ali* Plaintiffs also moved for a preliminary injunction on

February 6, 2017. Exhs. A and B. Any decision by this Court could have a binding effect on their pending motion for preliminary injunctive relief.

The congruence of the claims in the two lawsuits demonstrates the strong relationship between the interests of the *Ali* Plaintiffs and the States' claims, and favors intervention. *See, e.g., In re Estate of Ferdinand E. Marcos Human Rights Litig.*, 536 F.3d 980, 986-87 (9th Cir. 2008) (holding intervention proper where “an issue [the intervenor] raised in one proceeding lands in another proceeding for disposition”); *United States v. Oregon*, 839 F.2d 635, 638 (9th Cir. 1988) (granting intervention where “an appellate ruling will have a persuasive stare decisis effect in any parallel or subsequent litigation”). Because this suit may directly determine the merits of the *Ali* Plaintiffs' motion for a preliminary injunction, they have a significant protectable interest in the outcome of this case.

C. The Disposition Of This Action May Impair the Ability of the *Ali* Plaintiffs and Proposed Class Members To Protect Their Interests in Lawful Immigrant Visa Processing.

The *Ali* Plaintiffs and proposed class members are “so situated that the disposition of the action may as a practical matter impair or impede [their] ability to protect [their] interest.” Fed. R. Civ. P. 24(a)(2). Here, the advisory committee notes to Rule 24(a) are instructive: “[i]f an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a

general rule, be entitled to intervene.” Fed. R. Civ. P. 24 advisory comm. nn. (Am. 1966).

There is no doubt that the relief federal Defendants seek in this case—rejecting the preliminary injunctive relief barring the suspension of entries and immigrant visa processing for nationals of the seven countries—will directly impair the lives of the *Ali* Plaintiffs and all proposed class members, disrupting ongoing and expensive immigrant visa processing, suspending entries to the United States, and potentially resulting in indefinite separation of family members and undermining the stability of U.S. employers. If this Court reverses the district court’s order granting injunctive relief, it will immediately re-subject the *Ali* Plaintiffs and proposed class members to the irreparable harms inflicted by Section 3(c) of the EO. Moreover, whatever opinion this Court issues as to the merits of the claims presented likely will control the resolution of any future motions for relief. At that point, the *Ali* Plaintiffs and proposed class may very well have little if any recourse.

The *Ali* Plaintiffs cannot wait until the conclusion of the *State of Washington* litigation to vindicate their interests and the interests of the proposed class. Courts have recognized that parties seeking intervention would face a “practical impairment” in asserting their rights once a court has rendered a decision. *United States v. Stringfellow*, 783 F.2d 821, 826 (9th Cir. 1986), *vacated on other grounds*

sub nom. Stringfellow v. Concerned Neighbors in Action, 480 U.S. 370 (1987) (“The prospect of stare decisis may, under certain circumstances, supply the requisite practical impairment warranting intervention as of right.”); *Oregon*, 839 F.2d at 638 (“We have said that such a *stare decisis* effect is an important consideration in determining the extent to which an applicant’s interest may be impaired.”); *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir. 1989) (“Where a party seeking to intervene in an action claims an interest in the very property and very transaction that is the subject of the main action, the potential *stare decisis* effect may supply that practical disadvantage which warrants intervention as of right.”). Because this Court’s decision may well set precedent that will be binding on the merits of the *Ali* Plaintiffs’ pending motion for preliminary injunctive relief, which requests that Judge Robart in the Western District of Washington declare Section 3(c) unlawful and enjoin its application, the *Ali* Plaintiffs and proposed class members need to press their claims in this Court and in this appeal.

D. The Interests of the *Ali* Plaintiffs and Proposed Class Members Cannot Be Adequately Represented.

The burden under this prong is “satisfied if [the Proposed Plaintiffs-Intervenors] show[] that representation of [their] interest ‘may be’ inadequate; and the burden of making that showing should be treated as minimal.” *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972) (citing 3B J. Moore,

Federal Practice 24.09 (1969)). In conducting this inquiry, courts examine: ““(1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.”” *Citizens for Balanced Use v. Montana Wilderness Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011) (quoting *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir.2003)). The *Ali* Plaintiffs and proposed class members meet each factor.

First, the *Ali* Plaintiffs, who are themselves petitioners and beneficiaries in the immigrant visa process and represent a putative class of similarly situated individuals, are uniquely placed to raise the statutory argument that Section 3 of the EO conflicts with Congress’ prohibition against discrimination as to the “issuance of immigrant visas.” 8 U.S.C. § 1152(a)(1)(A) (“Except as specifically provided in paragraph (2) and in sections 1101(a)(27), 1151(b)(2)(A)(i), and 1153 of this title, no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person’s race, sex, nationality, place of birth, or place of residence.”). Notably, this Court did not address the statutory claims under the Immigration and Nationality Act in its order denying the federal Defendants’ request to stay the district court’s order in *State of Washington v. Trump*. In addition, as individuals who suffered physically,

psychologically, and financially because of the EO, the arguments of the *Ali* Plaintiffs and proposed class members regarding irreparable harm are different from the arguments about harm put forward by the States. The *Ali* Plaintiffs are uniquely situated to present the harm suffered by individual immigrant visa petitioners, both family members and employers, who are facing indefinite separation from children, spouses, parents, siblings, and employees.

Courts have recognized that governmental representation of private, non-governmental intervenors may be inadequate. For example, in *Dimond v. District of Columbia*, the D.C. Circuit held that because the government was responsible for representing a broad range of public interests rather than the more narrow interests of intervenors, the “application for intervention . . . falls squarely within the relatively large class of cases in this circuit recognizing the inadequacy of governmental representation of the interests of private parties in certain circumstances.” 792 F.2d 179, 192 (D.C. Cir. 1986); *see also Natural Res. Def. Council v. Costle*, 561 F.2d 904, 911-12 (D.C. Cir. 1977) (holding that the government does not adequately represent private organizations because intervenors’ interests are different and more focused).

Second, the States, as government entities—as opposed to petitioners for and recipients of immigrant visas—do not and cannot present the same standing and irreparable injury arguments as the *Ali* Plaintiffs. The States have undoubtedly

suffered harm to their proprietary interests, i.e., injury to their public universities. ECF 134 at 12 (“We therefore conclude that the States have alleged harms to their proprietary interests traceable to the Executive Order”). The *Ali* Plaintiffs and proposed class members, however, have suffered harm to their personal interests, namely their constitutionally protected interests in family life, marriage, and child-rearing. In addition, members of the proposed class in *Ali* include U.S.-based corporations, private academic and other institutions, all of which have suffered financial and other harms caused by the EO. Exh. A at 19-20; Exh. B at 55-51, Siskind Decl., ¶¶10-12; at 63-65, Updahye Decl., ¶8.

Finally, the *Ali* Plaintiffs may offer “necessary elements to the proceeding” the States and the federal government might not present. If the States’ standing is called into question with respect to any of the claims, the *Ali* Plaintiffs may be critical to the Court’s retaining Article III jurisdiction over that claim. In addition, the *Ali* Plaintiffs and proposed class members are ideally situated to represent the harm and human suffering caused by the EO. Finally, counsel for the *Ali* Plaintiffs and proposed class members are established immigrant rights organizations; they are intimately familiar with immigration law, including visa processing, the national security-related provisions of the INA, the security checks conducted by the U.S. government in conjunction with visa processing, and, furthermore, with the impact that the EO already has had on the lives of U.S. citizen and lawful

permanent resident petitioners and their beneficiaries. *Accord INS v. National Center for Immigrants' Rights, Inc.*, 502 U.S. 183, 195 (1991) (noting the “complex regime of immigration law”); *Ardestani v. INS*, 502 U.S. 129, 138 (1991) (referring to “the complexity of immigration procedures and the enormity of the interests at stake”).

* * * * *

In sum, the interests of the *Ali* Plaintiffs and proposed class members are too vital and too distinct from the interests of the States for them to be denied an active role as intervenors. For these reasons, the *Ali* Plaintiffs respectfully request that the Court grant them intervention as a matter of right.

II. PERMISSIVE INTERVENTION IS ALSO APPROPRIATE.

Even if the Court finds that the *Ali* Plaintiffs and the proposed class are not entitled to intervene as of right, they should nonetheless be permitted to intervene pursuant to Federal Rule of Civil Procedure 24(b). This Court may allow ““permissive intervention where the applicant for intervention shows (1) independent grounds for jurisdiction; (2) the motion is timely; and (3) the applicant’s claim or defense, and the main action, have a question of law or a question of fact in common.”” *United States v. City of Los Angeles*, 288 F.3d 391, 403 (9th Cir. 2002) (quoting *Northwest Forest Res. Council v. Glickman*, 82 F.3d

825, 839 (9th Cir. 1996)). In considering whether to grant permissive intervention, the Court “must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b)(3).

As a threshold matter, the *Ali* Plaintiffs’ motion to intervene is timely. *See supra* Section I.A. Second, the *Ali* Plaintiffs’ claims share substantial questions of law and fact with the case now before this Court, as the States similarly seek to enjoin the EO as unlawful and unconstitutional. Third, as discussed above, intervention will not create delay or prejudice the existing parties. *See id.* Adding the *Ali* Plaintiffs as plaintiffs-intervenors at this juncture of the lawsuit will not needlessly increase cost, delay disposition of the litigation, or prejudice the existing parties. The *Ali* Plaintiffs already have presented their arguments in their motion for preliminary injunctive relief, and the federal Defendants thus have ample time to prepare any additional arguments that may be necessary. Importantly, the participation of the *Ali* Plaintiffs in this lawsuit will offer evidence and argument from a proposed class of immigrant visa petitioners and beneficiaries who are the direct targets of the EO and who have a direct and personal stake in the outcome of this case. Thus, at a minimum, on behalf of themselves and the proposed class, the *Ali* Plaintiffs ask the Court to exercise its broad discretion and grant them permissive intervention.

CONCLUSION

For the foregoing reasons, the Proposed Plaintiffs-Intervenors respectfully request that the Court grant their motion to intervene in this action as Plaintiffs on behalf of themselves and the putative class they seek to represent.

Dated: February 11, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

U.S. Court of Appeals Docket No. 17-35105

I, Matt Adams, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 11, 2017.

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.

s/ Matt Adams

Matt Adams

Date: February 11, 2017

EXHIBIT A

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,
Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Rex W. TILLERSON, Secretary of State; U.S.
DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,¹
Defendants.

Case No.: 2:17-cv-00135-JLR

MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

NOTE ON MOTION CALENDAR:
March 3, 2017

ORAL ARGUMENT REQUESTED

¹ Defendant Rex W. Tillerson is substituted for Defendant Tom Shannon pursuant to Federal Rule of Civil Procedure 25(d).

I. INTRODUCTION

On February 3, 2017, this Court issued a nationwide temporary restraining order (TRO) in *Washington v. Trump*, No. 2:17-cv-141-JLR (W.D. Wash.), enjoining and restraining President Trump, the Department of State (DOS), and the Department of Homeland Security (DHS) from, inter alia, enforcing Section 3(c) of Executive Order 13769 (EO), entitled “Protecting the Nation from Foreign Terrorist Entry into the United States.” 82 Fed. Reg. 8977.² Section 3 of the EO suspends entry into the United States of citizens or nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—all predominantly Muslim countries—for a minimum of 90 days, allegedly for national security reasons.³ Plaintiffs file this motion for preliminary injunctive relief on behalf of themselves and the proposed class, *see* Dkt. 3, to ensure that they are not subject to ongoing and future harm as a result of the unlawful EO, similar to the harm many of them experienced over the last week. They also ask that the Court convert the motion to a TRO should the Ninth Circuit Court of Appeals dissolve the existing TRO in *Washington* on a procedural basis, or for a reason other than a determination with respect to the merits of the challenge.

During the week prior to this Court’s order in *Washington*, Defendants revoked the visas of thousands—if not tens of thousands—of purported class members pursuant to Section 3(c) of the EO. Also during the past week, Defendants suspended all immigrant visa processing, cancelling consular interviews and suspending adjudication of immigrant visa applications for

² At least eight district courts already have issued temporary restraining orders enjoining Section 3(c) of the E.O. *See Darweesh v. Trump*, No. 1:17-cv-00480 (E.D. NY Jan. 28, 2017); *Doe v. Trump*, No. C17-126 (W.D. Wash. Jan. 28, 2017); *Aziz v. Trump*, No. 1:17-cv-116 (E.D. Va. Jan. 28, 2017); *Vayeghan v. Kelly*, No. CV 17-0702 (C.D. Cal. Jan. 29, 2017); *Mohammed v. United States*, No. CV 17-00786 AB (PLAx) (C.D. Cal. Jan. 31, 2017); *Arab American Civil Rights League v. Trump*, No. 17-cv-10310-VAR-SDD (E.D. Mich. Feb. 2, 2017); *State of Washington v. Trump*, No. 17-cv-00141-JLR (W.D. Wash. Feb. 3, 2017). One court initially issued a TRO, but declined to extend it. *See Loughalam v. Trump*, No. 17-cv-10154-NMG, Dkt. 6 (D. Mass. Jan. 29, 2017) & Dkt. 69 (D. Mass. Feb. 3, 2017).

³ None of the individuals who committed the attack on September 11, 2001 were from these seven listed countries, and the Trump Administration has provided no evidence suggesting that the longstanding, uniform, and rigorous vetting process at U.S. embassies and consulates serving nationals from these seven countries is even remotely less secure than elsewhere.

thousands of proposed class members from the seven countries, leaving them stranded abroad and indefinitely separated from their families and employment. Plaintiffs and proposed class members are suffering both emotionally and financially from these separations and from the existing lack of certainty and transparency in the immigrant visa process caused by Section 3 of the EO. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Local Rule 65(b), Plaintiffs ask this Court to enjoin Section 3 and order Defendants to resume lawful processing and issuance of immigrant visas and to allow individuals approved for immigrant visas to be reunited with their family and employer petitioners in the United States.

Plaintiffs and proposed class members⁴ have standing to challenge Section 3 of the EO and can overwhelmingly demonstrate a likelihood of success on the merits, a likelihood of irreparable harm in the absence of preliminary injunctive relief, that the balance of equities tips in their favor, and that an injunction is in the public interest.

Plaintiffs ask this Court to issue a preliminary injunction which:

1. Enjoins and restrains Defendants from enforcing Section 3 of Executive Order 13769 (EO), in so far as it precludes persons approved for immigrant visas from boarding flights to the United States and entering the country as lawful permanent residents;
2. Enjoins and restrains Defendants from applying Section 3 of the EO to suspend the processing and/or issuance of immigrant visas to Plaintiffs Juweiya Abdiaziz Ali and A.F.A., Reema Khaled Dahman and G.E., and all other proposed class members who have filed visa petitions and the beneficiaries of those visa petitions who are applying for immigrant visas;
3. Enjoins and restrains Defendants from revoking immigrant visas based on Section 3 of the EO;
4. Orders Defendants to reinstate and, where necessary, reissue, the immigrant visas of all nationals from the seven countries that were revoked pursuant to the issuance of the EO, without the need for the foreign national to reapply for a visa;
5. Orders Defendants to issue transportation letters, where necessary, to all nationals from the seven countries with validly issued immigrant visas, including all individuals whose visas are reinstated pursuant to #4 above; and
6. Orders Defendants to advise immigrant visa petitioners, through electronic mail or otherwise, of the status of immigrant visa applications submitted by

⁴ To the extent the Court deems it necessary, Plaintiffs and proposed class members meet the standards for provisional class certification. Plaintiffs' motion for class certification, Dkt. 3, is incorporated herein.

beneficiaries of their petitions.

Moreover, should the Ninth Circuit Court of Appeals dissolve the existing TRO in *Washington* on a procedural or other non-merits basis, Plaintiffs respectfully ask this Court issue an emergency temporary restraining order immediately providing the same relief listed above.

Notice to Defendants: On February 5, 2017, undersigned counsel notified Defendants that Plaintiffs would file a motion for preliminary injunctive relief with a protective motion for temporary restraining order on February 6, 2017. *See* Dkt. 10, Adams Decl. ¶¶3-5.⁵

II. ARGUMENT

A. STANDARD FOR OBTAINING PRELIMINARY RELIEF

To obtain a preliminary injunction, the moving party must show that: (1) she “is likely to succeed on the merits,” (2) she “is likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance of equities tips in [her] favor,” and (4) that “an injunction is in the public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). The Ninth Circuit uses a balancing, or “sliding scale,” approach to evaluate requests for preliminary injunctions, clarifying that, where the balance of hardships tips strongly in her favor, the moving party may prevail as long as she shows that her claims raise serious legal questions. *See, e.g., Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35 (9th Cir. 2011). “Under this approach, the elements of the preliminary injunction test are balanced, so that a stronger showing of one element may offset a weaker showing of another.” *Id.* at 1131-32. Under any test, Plaintiffs and the proposed class merit relief.⁶

B. PLAINTIFFS AND PROPOSED CLASS MEMBERS MERIT PRELIMINARY INJUNCTIVE RELIEF

1. Plaintiffs Have Standing to Raise Their Claims.

⁵ All declarations cited herein are being submitted concurrently with this motion.

⁶ The standards for a TRO and a preliminary injunction are substantially the same. *See, e.g., Stuhlberg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Plaintiffs satisfy all requirements necessary to demonstrate standing with respect to their statutory and constitutional claims. Under Article III of the U.S. Constitution, a plaintiff bringing suit must first show that:

(1) it has suffered an “injury in fact” that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Friends of the Earth, Inc. v. Laidlaw Envlt. Servs. (TOC), Inc., 528 U.S. 167, 180-81 (2000).

The Administrative Procedure Act (APA) authorizes suit if a plaintiff is “suffering legal wrong because of agency action, or [was] adversely affected or aggrieved by agency action within the meaning of a relevant statute.” 5 U.S.C. § 702. Plaintiffs must show that the interests they seek to protect are “arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question.” *Association of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970).⁷

In a case challenging visa denials, the D.C. Circuit stated:

The Executive has broad discretion over the admission and exclusion of aliens, but that discretion is not boundless. It extends only as far as the statutory authority conferred by Congress and may not transgress constitutional limitations. It is the duty of the courts, in cases properly before them, to say where those statutory and constitutional boundaries lie.

Abourezk v. Regan, 785 F.2d 1043, 1061 (D.C. Cir. 1986), *aff’d by an equally divided court*, 484 U.S. 1 (1987). Here, Plaintiffs seek non-discriminatory and constitutional application of the immigration laws. They, therefore, fall squarely within the zone of interests protected by the Immigration and Nationality Act (INA). *See* 8 U.S.C. §§ 1152(a)(1) (nondiscrimination); 1153 (allocation of immigrant visas); 1154 (procedure for granting immigrant status). *See infra* Section II.B.2.a.⁸

⁷ The test “is not meant to be especially demanding,” and “there need be no indication of congressional purpose to benefit the would-be plaintiff.” *Clarke v. Secs. Indus. Ass’n*, 479 U.S. 388, 399- 400 (1987).

⁸ The Ninth Circuit also recognizes standing “when [a] suit challenges the authority of [a] consul to take or fail to take an action” in a mandamus action. *Patel v. Reno*, 134 F.3d 929, 932 (9th Cir. 1997) (suit by U.S. citizen and his wife, in India, challenging failure to adjudicate visa application); *see also Rivas v. Napolitano*, 714 F.3d

Plaintiffs have standing to raise their statutory and constitutional claims irrespective of their location inside or outside the United States. The Supreme Court has held that nothing in its case law “categorically excludes” noncitizens in military custody outside the United States “from the privilege of litigation in U.S. courts.” *Rasul v. Bush*, 542 U.S. 466, 484 (2004) (internal quotation marks omitted).⁹ In *Rasul*, the noncitizens were captured by U.S. military officers while abroad in connection with hostilities. Even though they had no ties to the United States, the Court found they had standing to seek review. Here, Plaintiffs and proposed class members have significant ties to the United States, *see* Section II.B.3, *infra*, similarly entitling them to this Court’s review. Moreover, to the extent that the Executive has plenary power over national security and military affairs, *Rasul* stands for the proposition that the Constitution nevertheless protects noncitizens outside the United States against any abuse of that plenary power by giving them access to the courts. Indeed, *Rasul* suggests that any tension between the plenary power doctrine and fundamental constitutional protections be resolved in favor of the latter; *Rasul* thus reinforces Plaintiffs’ standing to raise, and be heard on, their claims that the EO on its face, and as applied, unconstitutionally discriminates on the basis of nationality and religion.

To the extent that only Plaintiffs Ahmed Ali, Reema Khaled Dahman, Juweiya Abdiaziz, and other U.S. citizen or lawful permanent resident (LPR) visa petitioner class members are raising a due process claim, they have standing. As an initial matter, U.S. citizens and LPRs have a constitutionally protected interest in marriage, family life, and child-rearing. *See, e.g., Loving v. Virginia*, 388 U.S. 1, 12 (1967); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639-40 (1974); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality op.). The Ninth Circuit has

1108, 1110 (9th Cir. 2013) (suit by immigrant visa petitioner and beneficiary challenging failure to adjudicate motion to reconsider visa denial). Courts also recognize standing in challenges to denials of visa petitions brought by petitioners and visa beneficiaries. *See, e.g., Hoosier Care, Inc. v. Chertoff*, 482 F.3d 987 (7th Cir. 2007) (suit by U.S. employer to challenge denial of employment-based visa petition); *Pinho v. Gonzales*, 432 F.3d 193 (3d Cir. 2005) (suit by U.S. citizen and her husband challenging denial of adjustment of status); *Grace Korean United Methodist Church v. Chertoff*, 437 F. Supp. 2d 1174 (D. Or. 2005) (suit by employer and potential employee).

⁹ *See also Rasul*, 542 U.S. at 484-85 (“The courts of the United States have traditionally been open to nonresident aliens.”); *id.* at 481 (“[T]here is little reason to think that Congress intended the geographical coverage of the [habeas] statute to vary depending on the detainee’s citizenship.”).

confirmed that a U.S. citizen or LPR spouse has the right to bring a due process challenge to the denial of a family member's immigrant visa, rooted in the legal doctrine that "[f]reedom of personal choice in matters of marriage and family life is, of course, one of the liberties protected by the Due Process Clause." *Bustamante v. Mukasey*, 531 F.3d 1059, 1062 (9th Cir. 2008).¹⁰ Proposed class members that are U.S. based-employers similarly have constitutionally protected interests.¹¹

The Supreme Court's decision in *Kerry v. Din* further illustrates the Court's refusal to close the courtroom doors to review of executive decisions affecting the constitutional rights of citizens. In *Din*, a U.S. citizen wife challenged the State Department's denial of an immigrant visa to her husband. 135 S. Ct. 2128 (2015). The Court issued a plurality opinion in which Justice Kennedy's concurrence controls.¹² Justice Kennedy assumed that the visa denial implicated Ms. Din's constitutionally protected interests, and considered whether it was "facially legitimate and bonafide."¹³ In so doing, Justice Kennedy made two key holdings. First, he found that the admission that Ms. Din's husband worked as a secretary for the Taliban "even if itself insufficient to support exclusion," was enough of an individualized articulated facial connection to terrorist activity to support a finding of inadmissibility. 135 S. Ct. at 1241 (Kennedy, J. concurring). Second, he found that Ms. Din had "not plausibly alleged with sufficient particularity" bad faith on the part of the government. *Id.*

¹⁰ Furthermore, "the foremost policy underlying the granting of [immigrant preference] visas under our immigration laws ...[is] the reunification of families." *Lau v. Kiley*, 563 F.2d 543, 547 (2d Cir. 1977); *see also Kaliski v. Dist. Dir. of Immigration & Naturalization Serv.*, 620 F.2d 214, 217 (9th Cir. 1980) ("[T]he humane purpose [of the INA] is to reunite families.").

¹¹ *See Citizens United v. FEC*, 558 U.S. 310, 342 (2010) (First Amendment protection extends to corporations); *Minneapolis & S. L. R. Co. v. Beckwith*, 129 U.S. 26, 28 (1889) ("[C]orporations can invoke the benefits of provisions of the Constitution and laws which guarantee to persons the enjoyment of property, or afford to them the means for its protection, or prohibit legislation injuriously affecting it.").

¹² *See Cardenas v. United States*, 826 F.3d 1164, 1171 (9th Cir. 2016) (discussing plurality opinion in *Din*).

¹³ The Supreme Court has previously established this standard for reviewing visa petition denials. *Kleindienst v. Mandel*, 408 U.S. 753, 770 (1972) (reviewing inadmissibility determination and waiver denial under facially legitimate and bona fide standard). The Ninth Circuit has held "that the 'facially legitimate and bona fide reason' test is equivalent to the rational basis test typically applied in equal protection cases." *Ablang v. Reno*, 52 F.3d 801, 804 (9th Cir. 1995) (citations and quotation marks omitted).

Neither of the distinctions Justice Kennedy found critical in *Din* are present here. The EO at issue in this case is not individualized with respect to any immigrant visa beneficiary or petitioner; rather, it constitutes a generalized blanket denial of entries and immigrant visa issuance. Such a categorical exclusion that lacks any facial connection to an immigrant visa petitioner or beneficiary is sufficient to establish standing. In addition, unlike the petitioner in *Din*, Plaintiffs have alleged that the EO is, at least in part, motivated by animus against a religion and nationalities, which constitutes bad faith by the government. Thus, at a minimum, Plaintiffs meet Justice Kennedy's threshold test and, as such, have standing to seek this Court's review of their due process claim under a rational basis test (*see supra* n.13).

2. Plaintiffs Are Likely to Prevail on Their Claims.

Plaintiffs and proposed class members can show a strong probability of success on the merits of their claims. However, they need only show "serious questions going to the merits," which abound in this case because the balance of equities and public interest weigh heavily in their favor and they show a likelihood of success of irreparable harm. *Alliance for the Wild Rockies*, 632 F.3d at 1135. Under either inquiry, Plaintiffs and proposed class members can demonstrate that Defendants' EO and their subsequent application and enforcement of it fly squarely in the face of the Constitution, the INA, and the APA.

a. Likelihood of Success on INA, APA, and Mandamus Claims

Plaintiffs are likely to prevail on their claim that the EO—on its face and in its application—violates 8 U.S.C. § 1152(a)(1)(A) and the APA, and warrants mandamus relief. First, Plaintiffs are likely to prevail on their claim that the EO violates § 1152(a)(1)(A), which bars discrimination in visa issuance based on, inter alia, "nationality, place of birth, or place of residence." Section 3(c) of the EO violates the plain language of Section 1152(a)(1) because it discriminates on the basis of nationality. *See Consumer Product Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102, 108 (1980) ("[T]he starting point for interpreting a statute is the language of the statute itself."). The EO abruptly, and without process, suspended entry of all

immigrant visa holders from seven *nations*. Defendants additionally revoked the visas of all or many of these visa holders. Finally, Defendants applied this provision to immigrant visa applicants from these seven countries to justify suspending processing and issuance of immigrant visas. See Adams Decl., Ex. A. The EO, and Defendants’ application of it, violates 8 U.S.C. § 1152(a)(1)(A) because it cuts off entry, adjudication, and issuance of immigrant visas using a nationality-based classification that Congress forbade. See *Almero v. INS*, 18 F.3d 757, 763 (9th Cir. 1994) (“[T]he INS may not *restrict* eligibility to a smaller group of beneficiaries than provided for by Congress”).

The EO also violates the congressional intent and the object and policy behind § 1152(a)(1)(A)’s enactment. See *Gozlon-Peretz v. United States*, 498 U.S. 395, 407 (1991) (“In determining the meaning of the statute, we look not only to the particular statutory language, but to the design of the statute as a whole and to its object and policy.”) (internal quotation marks omitted). In 1965, through the Immigration and Nationality Act of 1965, Pub. L. No. 89–236, 79 Stat. 911 (1965), Congress enacted § 1152(a)(1) to root out the discriminatory national origins quota system—in place between 1924 and 1965—that previously had restricted immigration on the basis of national origin.¹⁴ See S. REP. 89-748, 1965 U.S.C.C.A.N. 3328, 3329 (1965) (noting that the “primary objective” of the 1965 Act was “the abolishment of the national origins quota system”); *Fei Mei Li v. Renaud*, 654 F.3d 376, 377 (2d Cir. 2011) (summarizing the history of the national origins quota system). In his signing statement, President Lyndon B. Johnson wrote that the 1965 Act “abolished” the national origin system, which “violated the basic principle of American democracy—the principle that values and rewards each man on the basis of his merit as a man.” Lyndon B. Johnson, Remarks at the Signing of the Imm. Bill, Remarks (Oct. 3, 1965), available at <http://www.lbjlibrary.org/lyndon-baines-johnson/timeline/lbj-on-immigration>.

¹⁴ Section 1152(a)(1) is the predecessor statute to current § 1152(a)(1)(A) and contains identical language.

1 In 1995, the D.C. Circuit held that a State Department policy excluding Vietnamese
 2 nationals from applying for visas in Hong Kong violated 8 U.S.C. § 1152(a)(1)'s prohibition
 3 against nation origin discrimination, reasoning:

4 Appellants assert this statute compels this court to invalidate any attempt to draw
 5 a distinction based on nationality in the issuance of visas. In contrast, appellees
 6 urge us to adopt the position that so long as they possess a rational basis for
 7 making the distinction, they are not in violation of the statute. . . . We agree with
 8 appellants' interpretation of the statute. Congress could hardly have chosen more
 9 explicit language. . . . We cannot rewrite a statutory provision which by its own
 10 terms provides no exceptions or qualifications Congress has unambiguously
 11 directed that no nationality-based discrimination shall occur.

12 *Legal Assistance for Vietnamese Asylum Seekers v. Dep't of State, Bureau of Consular Affairs*,
 13 45 F.3d 469, 473 (D.C. Cir. 1995) *abrogated on other grounds*, *Legal Assistance for Vietnamese*
 14 *Asylum Seekers v. Dep't of State, Bureau of Consular Affairs*, 104 F.3d 1349 (D.C. Cir. 1997).
 15 *Accord Haitian Refugee Ctr. v. Civiletti*, 503 F. Supp. 442, 453 (S.D. Fla. 1980) (“[8 U.S.C.
 16 § 1152(a)(1)(A)] manifested Congressional recognition that the maturing attitudes of our nation
 17 made discrimination on [the listed] bases improper.”). Subsequently, Congress amended
 18 § 1152(a)(1); it retained the existing non-discrimination mandate and moved it to newly-created
 19 subsection (A), and it enacted new subsection (B) which states that nothing in paragraph (A)
 20 limits the authority of the Secretary of State to determine the procedures or location of immigrant
 21 visa processing. 8 U.S.C. § 1152(a)(1). Consequently, the D.C. Circuit, in light of
 22 § 1152(a)(1)(B), upheld the State Department's policy as it applied *only* to the location of visa
 23 processing. *Legal Assistance for Vietnamese Asylum Seekers*, 104 F.3d at 1352-53.

24 Here, Plaintiffs demonstrate a likelihood of success on the merits of their claim. The
 25 plain language of the EO violates § 1152(a)(1)(A) by immediately banning the entry of
 26 immigrants from the seven targeted countries based upon their nationality. A ban on entry is
 27 equally a ban on visa issuance (as evidenced by Defendants' interpretation and application of
 28 Section 3 of the EO). An immigrant visa issues only after the State Department, acting in
 concert with the Department of Homeland Security and other security offices of the U.S.

1 government, determines that an eligible individual is admissible under 8 U.S.C. § 1182. 8
2 U.S.C. § 1201(g)(3) (providing that no visa shall be issued if “the consular officer knows or has
3 reason to believe that such [noncitizen] is ineligible to receive a visa [...] under [§ 1182], or any
4 other provision of law”). Upon entry into the United States, an immigrant visa holder is
5 inspected and admitted by U.S. Customs and Border Protection, and then becomes a lawful
6 permanent resident. See 8 U.S.C. § 1101(a)(13)(A) (defining “admission” and “admitted”); 8
7 U.S.C. § 1101(a)(20) (defining “lawfully admitted for permanent residence”).

8 Moreover, because the wholesale suspension of visa processing based upon the
9 nationality of the applicant results in the suspension of visa issuance, it too runs afoul of
10 § 1152(a)(1)(A). The suspension of visa processing based upon nationality is not permitted
11 under § 1152(a)(1)(B), both because the EO represents the President’s policy (not the State
12 Department’s, although the latter is implementing it), and because a blanket suspension of visa
13 processing for all nationals of these countries is not a “determ[ination about] the procedures” to
14 be followed or the location of visa processing.

15 Defendant Trump issued the EO purportedly pursuant to 8 U.S.C. § 1182(f), which grants
16 the Executive broad authority to suspend the entry of either “any [individual] aliens” or “any
17 class of aliens” into the United States. However, the President’s authority under § 1182(f) is
18 confined by statutory and constitutional limits. Cardinal rules of statutory construction
19 demonstrate that § 1182(f) cannot supersede the limitations created by Congress in 8 U.S.C.
20 § 1152(a)(1)(A). First, the plain language of the statute cannot be construed to authorize a
21 categorical suspension of *all* “aliens” or “nationals” covered by the nondiscrimination provision
22 in § 1152(a)(1)(A); rather, in limiting that authority to “*any* alien” in the singular or “any class of
23 aliens,” the statute distinguishes between individuals or a subset of individuals, as compared to
24 *all* individuals of a particular nationality.¹⁵ Second, at the time Congress enacted § 1152(a), it is
25 presumed to have been aware of the authority conferred to the President in § 1182(f). See
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28 ¹⁵ See *Consumer Product Safety Commission*, 447 U.S. at 108.

Lorillard v. Pons, 434 U.S. 575, 581 (1978) (“Congress normally can be presumed to have had knowledge of the interpretation given to the incorporated law, at least insofar as it affects the new statute.”). Thus, as it was aware of the President’s authority under § 1182(f), Congress presumably intended § 1152(a)(1)(A) to act as a limit on that authority. Third, § 1152(a)(1)(A) is narrower in scope than § 1182(f), and the more specific provision must be given effect. *See Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 524 (1989) (“A general statutory rule usually does not govern unless there is no more specific rule.”). Pursuant to § 1152(a)(1)(A), the President can no more suspend entry of immigrant visas for individuals from the targeted seven countries than he can suspend issuance of immigrant visas to all female or all non-Caucasian applicants.¹⁶

In addition, the plain language of, and congressional intent in enacting, 8 U.S.C. § 1187(a)(12) do not sanction discrimination in issuing immigrant visas based on national origin. That statute focuses on which countries may qualify for the “visa waiver” program, a program that allows nationals of certain countries to enter the United States without a nonimmigrant visa. By its very terms, that section is limited to nonimmigrant (i.e., temporary) visas, not immigrant (i.e., permanent) visas, which are at issue here. Thus, there is no inconsistency between § 1152(a)(1)(A) and § 1187(a)(12). Moreover, nationals who benefit from the visa waiver program do not submit any visa application and, accordingly, are not screened and vetted before admission to the United States. This contrasts sharply with immigrant visas for which *all*

¹⁶ Notably, not a single President has invoked § 1182(f) to authorize such a broad and discriminatory nationality-based suspension of entry. The closest analogue to the EO was President Reagan’s 1986 temporary suspension of Cuban immigration in response to a diplomatic dispute with the Cuban government. Proclamation 5517, 51 Fed. Reg. 30470 (1986). That proclamation, however, was never challenged as violating § 1152(a)(1)(A) and it included, *inter alia*, a carve out for immediate relative visa petitions. Moreover, although previous presidents have invoked § 1182(f) in over forty instances, these proclamations have been narrowly tailored to address specific individuals whose entry would be inconsistent with U.S. foreign policy interests. *See, e.g.*, Proclamation 5887, 53 Fed. Reg. 43184 (1988) (suspending the entry of officers of the Nicaraguan government or the Sandinista National Liberation Front); Executive Order 13694, 80 Fed. Reg. 18077 (2015) (suspending the entry of persons determined to have engaged in “significant malicious cyber-enabled activities”); *see also* 9 Foreign Affairs Manual 302.14-3(B)(1) (noting that presidents have invoked § 1182(f) to “bar entry based on affiliation” or to “suspend the entry of persons based on objectionable conduct”).

1 applicants are thoroughly screened and passed through several security and medical clearance
2 processes before being approved to seek entry.

3 Second, Plaintiffs are likely to prevail on their claim that nationality-based
4 classifications, interpretations, and actions violate the APA's prohibition against unlawful and
5 unconstitutional government conduct. *See* 5 U.S.C. §§ 706(2)(A)-(D). Defendants' failure to
6 comply with the law creates a "legal wrong" and an agency action that "adversely affected or
7 aggrieved" Plaintiffs and proposed class members, which entitles them to relief under the APA.
8 5 U.S.C. § 702. Not only is Defendants' ongoing flouting of § 1152(a)(1)(A) "not in accordance
9 with law," "in excess of statutory jurisdiction," and "without observance of procedure required
10 by law," it is "contrary to constitutional right." 5 U.S.C. § 706(2)(A)-(D); *see infra* Sections
11 II.B.2.b and c.

12 Third, Plaintiffs are likely to succeed on their request for mandamus relief under 28
13 U.S.C. § 1361. Mandamus relief is warranted if "(1) the individual's claim is clear and certain;
14 (2) the official's duty is nondiscretionary, ministerial, and so plainly proscribed as to be free
15 from doubt; and (3) no other adequate remedy is available." *Patel*, 134 F.3d at 931. Plaintiffs
16 have a clear claim to nondiscriminatory adjudication and issuance of their immigrant visas;
17 Defendants' duties to adjudicate, issue, and honor immigrant visas are plainly set forth
18 throughout the INA and implementing regulations, and absent intervention by a federal court,
19 Plaintiffs and class members will remain in legal limbo, for 90 days at a minimum, and
20 potentially indefinitely. *See* 82 Fed. Reg. 8977, 8978.

21 The Ninth Circuit has held that "[m]andamus may not be used to instruct an official how
22 to exercise discretion unless that official has ignored or violated 'statutory or regulatory
23 standards delimiting the scope or manner in which such discretion can be exercised.'" *Silveyra*
24 *v. Moschorack*, 989 F.2d 1012, 1015 (9th Cir. 1993) (quoting *Carpet Linoleum and Resilient Tile*
25 *Layers v. Brown*, 656 F.2d 564, 566 (10th Cir. 1981)). In such an event, "mandamus is
26 appropriate." *Id.* at 1014. As discussed above, Defendants have clearly exceeded the scope of
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their discretionary authority to determine procedures and locations for the processing of immigrant visas under 8 U.S.C. § 1152(a)(1)(B) and to suspend entry under 8 U.S.C. § 1182(f).

Thus, Plaintiffs and proposed class members are likely to succeed in their INA, APA, and mandamus claims.

b. Likelihood of Success on The Equal Protection Claim

Plaintiffs also are likely to succeed on their claim that the EO violates the guarantee of equal protection under the Due Process Clause of the Fifth Amendment. Executive orders, like other governmental actions, are subject to constitutional limits. *See, e.g., Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579, 587-89 (1952) (holding that the President acted without constitutional power when he issued an order directing the Secretary of Commerce to take possession of and operate most of the nation's steel mills); *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788 (1985) (analyzing whether an executive order violated plaintiffs' First Amendment rights); *United States v. Nixon*, 418 U.S. 683 (1974) (President, as head of the executive branch of government, is not above the law). Noncitizens, including those who are unlawfully present in the United States, "com[e] within the ambit of the equal protection component of the Due Process Clause." *Kwai Fun Wong v. United States*, 373 F.3d 952, 974 (9th Cir. 2004). Plaintiff and proposed class member petitioners consist of U.S. citizens and LPRs, all who are entitled to the full panoply of the Fifth Amendment's protections. Similarly, proposed class members that are U.S. based-employers similarly have constitutionally protected interests. *See supra* n. 11.

Moreover, even Plaintiffs and proposed class members who are outside of the United States may challenge an order that blatantly discriminates against them on the basis of national origin and religion. Although both Congress and the Executive have plenary power over immigration, neither branch may execute this power in violation of the Constitution. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 695 (2001) ("[The] 'plenary power' to create immigration law ... is subject to important constitutional limitations"); *INS v. Chadha*, 462 U.S. 919, 941 (1983)

(plenary authority may not be exercised in a way that “offend[s] some other constitutional restriction”) (quoting *Buckley v. Valeo*, 424 U.S. 1, 132 (1976)). Thus, the plenary power does not support the assertion that noncitizens outside of the United States have no constitutional rights, nor does it eliminate the ability to bring a challenge against the government for discrimination on the basis of, inter alia, religion and national origin, where such a policy would clearly be unconstitutional if applied to persons within the United States.

Accordingly, this Court should apply strict scrutiny to Section 3(c) of the EO, which discriminates on the basis of both national origin and religion. *See, e.g., Ball v. Massanari*, 254 F.3d 817, 823 (9th Cir. 2001) (noting that discrimination based on a suspect class, such as national origin or religion, is subject to strict scrutiny); *Christian Sci. Reading Room Jointly Maintained v. City of San Francisco*, 784 F.2d 1010, 1012 (9th Cir. 1986) (noting that “an individual religion meets the requirements for treatment as a suspect class”); *see also Hassan v. City of New York*, 804 F.3d 277, 301 (3d Cir. 2015) (“intentional discrimination based on religious affiliation must survive heightened equal protection review”). To prevail, Plaintiffs must show that the challenged action is either discriminatory on its face or that discriminatory animus against a protected class was a “motivating factor.” *Arce v. Douglas*, 793 F.3d 968, 977 (9th Cir. 2015) (internal citation omitted).

On its face, the EO targets visa applicants and visa holders on the basis of their nationality. Moreover, President Trump’s animus towards Muslims is made clear by his own statements, and those of his advisor, with regard to imposing a “Muslim ban.” *See* Dkt. 1 ¶¶ 48-50. Although the EO does not mention Muslims explicitly, advisors to the President have confirmed it was intended to ban Muslims. Dkt. 1 ¶49 (noting the statement of Rudolph Giuliani that President-Elect Trump asked him to write a “legal” ban on Muslims). Indeed, President Trump admitted that the EO was intended to prioritize Christian refugees. Daniel Burke, *Trump says US will prioritize Christian refugees*, CNN (Jan. 30, 2017), available at <http://www.cnn.com/2017/01/27/politics/trump-christian-refugees/>; Dkt. 1 ¶50. President

Trump's animus towards countries included in the ban is similarly well-documented.¹⁷ Because no compelling government interest is served by such discriminatory motives, Plaintiffs are likely to succeed on the merits of their equal protection claim. Further, religious discrimination or discrimination on the basis of national origin, even in the name of national security, is an equal protection violation. *Hassan*, 804 F.3d at 298 (blanket surveillance of Muslims violates equal protection even if the NYPD was subjectively motivated by "a legitimate law-enforcement purpose").

Even if the Court were to apply a rational basis analysis, Plaintiffs are likely to prevail. *See, e.g., Ram v. INS*, 243 F.3d 510, 517 (9th Cir. 2001) (evaluating whether "[l]ine-drawing' decisions made by . . . the President in the context of immigration and naturalization . . . are rationally related to a legitimate government purpose"). Where a government's proposed solution to a problem is discrimination against a disfavored class and all evidence shows that such a solution is "ludicrously ineffectual," the government has not acted rationally. *Plyer v. Doe*, 457 U.S. 202, 228 (1982) ("[W]e think it clear that '[charging] tuition to undocumented children constitutes a ludicrously ineffectual attempt to stem the tide of illegal immigration'" (internal citation omitted)).

In this case, the EO's discriminatory response to the alleged problem of terrorist entry to the United States is "ludicrously ineffectual." In the last 30 years, no individual from the seven affected countries has killed an American in a terrorist attack in the United States. Alex Nowsrasteh, *Guide to Trump's Executive Order to Limit Migration for "National Security"*

¹⁷ *See, e.g.,* Donald Trump (@realDonaldTrump), Twitter (Mar. 24, 2016, 10:55 AM), <https://twitter.com/realdonaldtrump/status/713031504415338497> ("Europe and the U.S. must immediately stop taking in people from Syria. This will be the destruction of civilization as we know it! So sad!"); Donald Trump (@realDonaldTrump), Twitter (Oct. 24, 2016, 7:00 AM), <https://twitter.com/realdonaldtrump/status/790523240351498241> ("...Crooked Hillary wants to take in as many Syrians as possible. We cannot let this happen - ISIS!"); Ben Kamisar, *Trump: I would shoot confrontational Iranian ships*, THE HILL (Sept. 9, 2016), <http://thehill.com/blogs/ballot-box/presidential-races/295273-trump-i-would-shoot-at-confrontational-iranian-ships> ("With Iran, when they circle our beautiful destroyers with their little boats and they make gestures at our people that they shouldn't be allowed to make, they will be shot out of the water"); Ben Jacobs & Alan Yuhas, *Somali migrants are 'disaster' for Minnesota, says Donald Trump*, THE GUARDIAN (Nov. 7, 2016).

Reasons, CATO INSTITUTE (Jan. 26, 2017), <https://www.cato.org/blog/guide-trumps-executive-order-limit-migration-national-security-reasons>. The EO's blanket ban on *all* immigration by nationals of these seven predominantly Muslim nations, including children of U.S. citizen and lawful permanent residents who already reside in the United States, in the name of barring "those who engage in acts of bigotry or hatred" or "would oppress Americans," EO § 1, 82 Fed. Reg. 8977, is so over-inclusive as to be incoherent. *See also, e.g.*, Omar Decl. ¶3, 7 (ban affects U.S. citizen's son who is a Somali national by law but has never lived in Somalia). Because any justification for the EO is not rationally related to a legitimate government purpose, Plaintiffs are likely to prevail.

c. Likelihood of Success on Due Process Claim

Plaintiffs also are likely to succeed on their claims that Defendants' unlawful actions deprive Plaintiffs Juweiya Ali, Reema Dahman, and Ahmed Ali and other U.S. citizen and LPR visa petitioners of their constitutionally protected liberty interests. *See supra* Section II.A.1. The Fifth Amendment protects people from deprivations of liberty interests absent due process of law. U.S. Const. amend. V. At a minimum, it protects against arbitrary government action, including actions that do not adhere to the constraints that Congress has imposed, that would infringe upon the exercise of protected liberty interests. *See, e.g., Del Monte Dunes v. Monterey*, 920 F.2d 1496, 1508 (9th Cir. 1990) ("We cannot say at this stage of the proceeding that the actions of the city council, . . . were not arbitrary and irrational and, thus, a violation of appellants' substantive due process rights."). Indeed, the Ninth Circuit has confirmed that a U.S. citizen or LPR spouse has the right to bring a due process challenge to the denial of a family member's visa. *See, e.g., Bustamante*, 531 F.3d at 1062 ("Freedom of personal choice in matters of marriage and family life is, of course, one of the liberties protected by the Due Process Clause.").

Moreover, Congress has made clear that Plaintiff and proposed class member beneficiaries outside the country are entitled to have their visas adjudicated and issued in a

manner that does not discriminate based upon national origin or country of birth. 8 U.S.C. § 1152(a)(1)(A). While the Supreme Court emphasized that persons denied entry into the United States are entitled only to limited review, such actions must still comport with the Constitution and whatever procedural due process Congress has provided. *See Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) (“Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.”). In the instant case, Congress has established an elaborate system for issuing visas, and explicitly barred the Executive from discriminating based on national origin or country of birth when administering that system. *Cf. Din*, 135 S. Ct. at 2136 (J. Scalia, announcing judgment of the court in a plurality opinion) (recognizing that at a minimum “procedural due process rights attach to liberty interests that either are (1) created by nonconstitutional law, such as a statute”).

Here, Defendants’ actions in suspending the processing of immigrant visas and in denying the validity of existing immigrant visas, taken pursuant to the EO, deprive U.S. citizens and lawful permanent resident visa petitioners of protected liberty interests in their family lives, marriages, and ability to raise their children, without due process. Defendants’ abrupt change of course, without any notice to affected individuals or evidence of the need to categorically bar all visa applicants from the designated countries, including young children whose parents are already living in the United States, were completely arbitrary. *See, e.g.*, A. Ali Decl. ¶¶19-21 (describing Plaintiff E.A. receiving a validly issued immigrant visa on January 26, 2017 and arriving at the airport on January 28, 2017 to discover, with no notice, that E.A. “was not permitted [to] board the flight due to the U.S. President’s Executive Order”); Farahani Decl. ¶¶8-11 (parents were en route to U.S. when EO took effect and were sent back without adequate explanation at their connection); Elias Decl. ¶¶4-5 (U.S. citizen’s wife was issued visa on January 20 but not allowed to board flight for U.S. on January 29, without prior notice); Edward Decl. ¶¶6-8 (U.S. citizen’s husband arrived at airport only to be denied admission and was not even allowed to contact his counsel or wife). Such actions fly in the face of due process. *Shanks*

v. *Dressel*, 540 F.3d 1082, 1089 (9th Cir. 2008) (suggesting that conduct may be “constitutionally arbitrary” where there is evidence “of a sudden change in course, malice, bias, [or] pretext”).¹⁸

3. Plaintiffs and Proposed Class Members Have Suffered, and Will Continue to Suffer, Irreparable Harm Absent This Court’s Intervention.

Plaintiffs and proposed class members face more than simply the “possibility of irreparable harm.” *Winter*, 555 U.S. at 22. Rather, they are able to demonstrate the likelihood of immediate, concrete, irreparable harm absent this Court’s intervention. *See Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (holding that “separation from family members, medical needs, and potential economic hardship” are important irreparable harm factors) (internal quotation marks omitted); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (stating that “the deprivation of constitutional rights unquestionably constitutes irreparable injury.”) (quotation marks omitted); *see also* 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice & Procedures* § 2948.1 (2d ed. 1995) (“When an alleged deprivation of a constitutional right is involved most courts hold that no further showing of irreparable injury is necessary.”).¹⁹

Plaintiffs and proposed class members are mothers and fathers eager to bring their children to live with them in the United States. *See, e.g.*, Omar Decl. ¶12; Niknejad Decl. ¶¶7-9; Abdi Decl. ¶3; A. Ali Decl. ¶2; Dahman Decl. ¶¶17-18; Uysal-Ferre Decl. ¶14. They are

¹⁸ For the same reasons set forth in this section, Plaintiffs Dahman, G.E., Ms. Ali, and A.F.A, and proposed class members with immigrant visa applications merit a preliminary injunction to prevent Defendants from again suspending processing and/or issuance of immigrant visas pursuant to the EO. For example, Defendant DOS explicitly had rejected the possibility of scheduling immigrant visa interviews for class members, even in emergency situations, shortly after the EO was issued. *See* Adams Decl., Ex. A at 1 (stating, in a DOS announcement removed after the TRO in *Washington* issued, “Q: I have an emergency. Can I request an expedited appointment? A: No. The Department of State may not conduct immigrant visa interviews for any persons who are nationals of Syria, Iraq, Iran, Libya, Somalia, Sudan, and Yemen at this time.”). Absent a preliminary injunction on this aspect of Defendants’ possible implementation of the EO, there is nothing to prevent Defendants from engaging in this unlawful behavior again.

¹⁹ Since this Court issued the *Washington* TRO, some Plaintiffs, proposed class members, and declarants have been able to enter the United States with their valid immigrant visas. However, should an appellate court dissolve the existing TRO in *Washington* or should this Court fail to extend that TRO, the EO will again slam a door shut on remaining Plaintiffs and proposed class members, who will continue to face the irreparable harm outlined here.

employers in competitive environment and professionals sought by U.S. companies. *See* Updahye Decl. ¶¶4, 8; Siskind Decl. ¶¶11-12. *See also, e.g.,* Washington, 2:17-cv-141-JLR, Dkt. 6 ¶11; *id.* Dkt. 7 ¶21; *id.* Dkt. 17-5 ¶8. They are sons and daughters worried about the well-being of their elderly parents. *See, e.g.,* Safari Decl. ¶2; Tahhan Decl. ¶¶3-5; Farahani Decl. ¶2. They are spouses impatient to start living together as a family after having put their lives on hold while waiting for years to be reunited. *See, e.g.,* Adam Decl. ¶3; Edward Decl. ¶2; Hussain Decl. ¶3; Abdi Decl. ¶3; Sobhani Decl. ¶¶7, 11. Many of these plaintiffs and putative class members have already been apart for many years. *See, e.g.,* Dahman Decl. ¶6 (mother who has not seen her son in more than four years); Farahani Decl. ¶2 (son who has only seen his parents twice since 2010). And some class members have never had the opportunity to meet each other. *See* Abdi Decl. ¶3 (father has yet to meet his second son).

Many of these proposed class members have already been greatly harmed by the EO. They have incurred significant expenses attempting to rebook travel or secure lodging after being left stranded in unfamiliar countries. *See, e.g.,* Safari Decl. ¶¶11-12; Tahhan Decl. ¶6; Abdi Decl. ¶7; *cf.* Updahye Decl. ¶7. Named Plaintiff Ahmed Ali found himself having to extend his leave of absence from work in order to remain with his 12-year-old daughter, who was not permitted to board the plane, in Djibouti until they determined what to do—putting the financial stability of his whole family at risk, as he is the sole breadwinner. A. Ali Decl. ¶23-24. Plaintiffs and proposed class members have also suffered tremendous stress and emotional trauma arising not only from disappointment and uncertainty in the wake of the EO, but also from their concerns for the well-being and safety of their family members. *See, e.g.,* Niknejad Decl. ¶7 (describing feeling “devastated”); Adam Decl. ¶8 (detailing inability to focus and “trouble sleeping”); Edward Decl. ¶7 (reporting “great distress”); Abdi Decl. ¶7 (characterizing the situation as “heartbreaking”); Ali ¶25 (noting that “[t]he uncertainty of our situation is very stressful”); Farahani Decl. ¶11 (remarking the day his father was not allowed to board his connecting flight and was detained for about 18 hours was “the worst day of [his father’s] life”

and “one of my worst days too”); Sobhani Decl. ¶¶7-9 (declaring he felt “completely helpless with no recourse for relief”). Many more have been shaken and offended to their core by the discriminatory treatment they and their family members experienced. *See, e.g.*, Farahani Decl. ¶13 (“I feel . . . like a second class citizen”); Niknejad Decl. ¶10 (“I . . . cannot understand why this country I love is doing this to me and my family.”); Adam Decl. ¶8 (“[A]s a citizen, I am concern[ed] about my constitutional rights. . .”); Abdi Decl. ¶9 (“Asking why I want my family with me is very silly and shameful.”); Uysal-Ferre Decl. ¶13 (“How do you tell a 7-year-old little boy that, ‘no, you cannot come to live with your father, little sister and mother because you have a passport of a certain country?’”).

Absent a grant of preliminary relief, the irreparable harm putative class members have experienced will only increase. The financial burden on many class members will increase as they are forced to continue to maintain multiple households. *See, e.g.*, Omar Decl. ¶11; Adam Decl. ¶9. Others will be deprived of academic and professional opportunities to which they would have access in the United States. *See* Omar Decl. ¶10 (noting that delay “would interfere with his [son’s] ability to attend a school in the United States and build a career”). *See also, e.g.*, Niknejad Decl. ¶8; Hussain Decl. ¶7; Upadhye Decl. ¶8; Dahman Decl. ¶10. Meanwhile, delay resulting from the EO would cause others to have to start the immigrant visa petition process again. The son of class member Mohamed Omar, for example, would have to start the visa application process anew as a member of a different visa category if his currently issued immigrant visa is revoked or not accepted pursuant to the EO. It would “likely take over six years before he would be able to obtain a new immigrant visa”—on top of the more than four years he has already waited to be reunited with his father. Omar Decl. ¶¶5, 10.

Others are being deprived of needed medical care or other assistance to which they would have access in the United States. *See, e.g.*, Tahhan Decl. ¶5 (concerned because his 76 and 70-year-old parents are in Syria alone without any of their children to care for them); Farahani Decl. ¶¶2-3 (elderly parents are both sick, and in Los Angeles they would have the care of two of their

children). Many others will be forced to return to, or continue living in, areas plagued by civil strife, war, and similar dangers. *See, e.g.*, Tahhan Decl. ¶¶5,7 (noting that even clean drinking water is hard to come by in Syria); Omar Decl. ¶ 7-9 (explaining that his son, a Somali national who has never lived in Somalia, has no safe place to go); Adam Decl. ¶8 (expressing concern for his wife, who lives alone in Sudan); Edward Decl. ¶4 (highlighting “serious and life threatening problems” client would face in Somalia); A. Ali Decl. ¶25 (describing the situation in Yemen as “extraordinarily dangerous”); Dahman Decl. ¶¶10, 15 (expressing concern for her son’s safety the longer he remains in Syria, because the “situation in Syria is so unstable that my son has even been kidnapped”). As one class member—a Pakistani citizen who is an LPR and petitioned for his Iranian wife—explained, the United States is the only place where his family can live safely. He “could not own property or hold civil rights of any kind in Iran,” because he is not an Iranian citizen, and living in Pakistan presents significant risks, as members of his family have been threatened there due to their religion. Hussain Decl. ¶7. The stress and consternation Plaintiffs and putative class members are experiencing because their family members are in harms’ way also constitute concrete irreparable harm. *See, e.g.*, Farahani Decl. ¶12; Dahman Decl. ¶¶16-17.

Finally, absent preliminary relief, plaintiffs and prospective class members will suffer certain irreparable harm in the form of family separation. Many class members face the prospect of a prolonged, potentially indefinite separation, with all its attendant challenges. *See, e.g.*, Omar Decl. ¶¶11-12; Niknejad Decl. ¶10; Adam Decl. ¶¶3, 10; Hussain Decl. ¶¶ 3-4, 7. Such separation takes an emotional toll on these putative class members, all the more so when there are no clear answers as to when it will end. *See, e.g.*, Safari Decl. ¶13 (stating that grandparents will miss the birth of their grandchild); Adam Decl. ¶8 (expressing hope that his “wife could attend th[e] lifetime opportunity” of his upcoming graduation); Farahani Decl. ¶6 (explaining he had planned to “celebrate Nowruz, the Persian New Year, together as a family”); Abdi Decl. ¶3 (explaining that he missed birth of his son). For those with elderly parents or family members in dangerous locations, there looms the specter of a permanent, final separation. *See, e.g.*, Tahhan

Decl. ¶7 (“I am afraid that this Executive Order will prevent me from seeing my [Syrian] parents for the rest of my life.”); Farahani Decl. ¶10 (“I had thought I was going to be reunited with my parents. Instead, I wasn’t sure we would be together again.”); Dahman Decl. ¶ 16 (explaining that “everyday” she lives with the fear of “not knowing if [she] will ever see [her] child again”).

It is well recognized that the types of harm Plaintiffs and putative class members are experiencing and will continue to experience are of an irreparable nature so as to warrant a grant of preliminary injunctive relief. *See, e.g., Chalk v. U.S. Dist. Court Cent. Dist. of California*, 840 F.2d 701, 709-10 (9th Cir. 1988) (holding that “emotional and psychological” injury, including injury arising from discriminatory treatment, can constitute irreparable harm); *Arizona Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014) (holding that “intangible injuries . . . [which] generally lack an adequate legal remedy” and loss of opportunity to pursue professional advancement can constitute irreparable harm). This Court has already recognized that adverse effects on “employment, education, business, family relations, and freedom of travel” are factors relevant to the question of whether “immediate and irreparable injury” is probable. *Washington*, 2:17-cv-141-JLR, Dkt. 52 at 4 (TRO). Preliminary injunctive relief is thus appropriate.²⁰

4. The Public Interest and Balance of Equities Weigh Heavily in Favor of Granting Injunctive Relief.

The public interest and balance of equities factors “merge” when, as in this case, the government is a party. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). Regardless, both factors strongly favor Plaintiffs and proposed class members. If the Court does

²⁰ Plaintiffs Dahman, G.E., Ms. Ali, and A.F.A, and proposed class members with immigrant visa applications similarly would face irreparable harm due to Defendants’ decision to suspend the processing and/or issuance of immigrant visas absent preliminary relief. *See, e.g., Niknejad Decl.* ¶ 9 (61-year-old LPR father facing potentially indefinite separation from his daughter); *Adam Decl.* ¶6 (U.S. citizen facing additional delays in adjudication of his wife’s immigrant visa after two and a half years of waiting); *Hussain Decl.* ¶6 (LPR being prevented from reuniting with his wife and seven-month-old baby); *Abdi Decl.* ¶6 (U.S. citizen facing additional delays in being reunited with his two-year-old son due to delays in the scheduling of consular interviews; *Dahman Decl.* ¶¶16-18 (LPR mother facing potentially indefinite separation from son in war-torn Syria); *Uysal-Ferre Decl.* ¶13-14 (U.S. citizen facing uncertain separation from seven-year-old son in Somalia).

not provide immediate injunctive relief, Plaintiffs and the proposed class will continue to suffer irreparable harm, including the ongoing violation of their statutory and constitutional rights, separation from their families, emotional trauma, untenable financial burdens, and deprivation of medical and familial care. *See supra* Section II.B.3. Furthermore, the EO includes provisions that would extend the unlawful visa processing and issuance ban under certain circumstances, potentially prolonging the separation of these families indefinitely. 82 Fed. Reg. 8977, 8978 § 3(e) (permitting indefinite extension if the Secretary determines that an affected country does not share sufficient data with the United States).²¹

What Plaintiffs and class members seek—that Defendants follow the lawful visa adjudication and issuance process and permit entry into the United States for those with validly approved for immigrant visas—would cause no countervailing harm whatsoever; indeed, it would be in the public interest. Defendants already have put immigrant visa holders in the proposed class through extensive security screening and found each to be admissible to the United States. *See, e.g.*, Dkt. 1 ¶¶33-34; Edward Decl. ¶¶4-5; Niknejad Decl. ¶4. As discussed *supra* at Section II.B.2.b, the ban on entry impacting Plaintiffs and class members has no legitimate purpose; there is simply no evidence that it has any bearing on national security.

Instead of protecting the United States, the EO led Defendants to unlawfully separate families and unconstitutionally discriminate on the basis of religion and national origin. *See supra* Section II.B.2.b. The Ninth Circuit “agree[s] . . . that it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002 (quotation omitted); *see also Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1197 (9th Cir. 2011) (“[T]he public interest favors applying federal law correctly.”); *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013) (“[T]he public interest . . . benefits from a preliminary injunction that

²¹ *See also* Adams Decl., Ex. A at 1 (evidencing that, in an announcement removed after the TRO in *Washington* issued, DOS cancelled all visa interviews and advised individuals not to schedule medical examinations, which have a 6-month expiration date, because “we cannot predict when your visa interview will be rescheduled”).

ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional concerns.”).

Thus, Plaintiffs and the proposed class respectfully submit that the balance of equities and public interest tip sharply in their favor. As such, they meet the standard for obtaining a preliminary injunctive relief.²²

III. CONCLUSION

Plaintiffs and members of the proposed class have demonstrated that they satisfy the required criteria for injunctive relief. Accordingly, the Court should grant this motion.

Dated this 6th day of February, 2017.

s/Matt Adams

Matt Adams, WSBA No. 28287

Mary Kenney,

pro hac vice admission forthcoming

s/Glenda Aldana

Glenda M. Aldana Madrid, WSBA No. 46987

Aaron Reichlin-Melnick,

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²² For the same reasons discussed in this section, the public interest and balance of equities factors strongly favor Plaintiffs Dahman, G.E., Ms. Ali, and A.F.A, and proposed class members with immigrant visa applications.

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CERTIFICATE OF SERVICE

I Matt Adams, hereby certify that on February 6, 2017, I arranged for electronic filing of the foregoing motion and all supporting declarations with the Clerk of the Court using the CM/ECF system. I also emailed these documents to Defendants' counsel, Stacey I. Young, at Stacey.Young@usdoj.gov. Lastly, I arranged for mailing of these documents by U.S. first class mail, postage prepaid, to:

Donald TRUMP, President of the United States of America United States Attorney's Office 700 Stewart Street, Suite 5220 Seattle, WA 98101-1271	U.S. CITIZENSHIP AND IMMIGRATION SERVICES Office of the General Counsel United States Department of Homeland Security Washington, DC 20528
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U.S. DEPARTMENT OF STATE The Executive Office Office of the Legal Adviser, Suite 5.600 600 19th Street NW Washington, DC 20522	Lori SCIALABBA, Acting Director of USCIS Office of the General Counsel United States Department of Homeland Security Washington, DC 20528
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Rex W. TILLERSON, Secretary of State The Executive Office Office of the Legal Adviser, Suite 5.600 600 19th Street NW Washington, DC 20522	OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE Office of General Counsel Washington, DC 20511
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U.S. DEPARTMENT OF HOMELAND SECURITY Office of the General Counsel Washington, DC 20528	Michael DEMPSEY, Acting Director of National Intelligence Office of the Director of National Intelligence Office of General Counsel Washington, DC 20511
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John F. KELLY, Secretary of Homeland Security
Office of the General Counsel
United States Department of Homeland Security
Washington, DC 20528

Executed in Seattle, Washington, on February 6, 2017.

s/ Matt Adams
Matt Adams, WSBA No. 28287

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Rex W. TILLERSON, Secretary of State; U.S.
DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Upon consideration of Plaintiffs' Motion for Preliminary Injunctive Relief, the parties' briefing, and oral argument, this Court finds that Plaintiffs have demonstrated a need for preliminary injunctive relief in this case. *See Winter v. Natural Resources Defense Council*,

1 *Inc.*, 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35
 2 (9th Cir. 2011).

3 Accordingly, it is hereby ORDERED that, pending a trial on the merits, Defendants and
 4 all their respective officers, agents, servants, employees, attorneys, and persons acting in concert
 5 of participation with them are:

- 6 1. Enjoined and restrained from enforcing Section 3 of Executive Order 13769 (EO),
 7 in so far as it precludes persons approved for immigrant visas from boarding
 8 flights to the United States and entering the country as lawful permanent
 9 residents;
- 10 2. Enjoined and restrained from applying Section 3 of the EO to suspend the
 11 processing and/or issuance of immigrant visas to Plaintiffs Juweiya Abdiaziz Ali
 12 and A.F.A., Reema Khaled Dahman and G.E., and all other proposed class
 13 members who have filed visa petitions and the beneficiaries of those visa petitions
 14 who are applying for immigrant visas;
- 15 3. Enjoined and restrained from revoking immigrant visas based on Section 3 of the
 16 EO;
- 17 4. Ordered to reinstate and, where necessary, reissue, the immigrant visas of all
 18 nationals from the seven countries that were revoked pursuant to the issuance of
 19 the EO, without the need for the foreign national to reapply for a visa;
- 20 5. Ordered to issue transportation letters, where necessary, to all nationals from the
 21 seven countries with validly issued immigrant visas, including all individuals
 22 whose visas are reinstated pursuant to #4 above; and
- 23 6. Ordered to advise immigrant visa petitioners, through electronic mail or
 24 otherwise, of the status of immigrant visa applications submitted by beneficiaries
 25 of their petitions.

26 This preliminary injunction is granted on a nationwide basis.

27 This Court has exercised its discretion to determine that no bond shall be required and
 28 that this Order shall be effective immediately.

29 Upon consideration of Plaintiffs' Motion for a Temporary Restraining Order, the parties'
 30 briefing, and oral argument, if any, this Court finds that Plaintiffs have demonstrated a need for
 31 preliminary injunctive relief in this case. *See Winter v. Natural Resources Defense Council,*
 32 *Inc.*, 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35
 33 (9th Cir. 2011). The standard for issuing a TRO is the same as the standard for issuing a

preliminary injunction. See *New Motor Vehicle Bd. Of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977); *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Accordingly, if prior to adjudication of the motion for preliminary injunctive relief, the temporary restraining order this Court entered on February 3, 2017 in the related case of *Washington v. Trump*, 2:17-cv-141-JLR, Dkt. 52, is dissolved for a reason other than a determination with respect to the merits of the challenge, this Court hereby ORDERS a TEMPORARY RESTRAINING ORDER providing that Defendants and all their respective officers, agents, servants, employees, attorneys, and persons acting in concert of participation with them are *immediately*:

1. Enjoined and restrained from enforcing Section 3 of Executive Order 13769 (EO), in so far as it precludes persons approved for immigrant visas from boarding flights to the United States and entering the country as lawful permanent residents;
2. Enjoined and restrained from applying Section 3 of the EO to suspend the processing and/or issuance of immigrant visas to Plaintiffs Juweiya Abdiaziz Ali and A.F.A., Reema Khaled Dahman and G.E., and all other proposed class members who have filed visa petitions and the beneficiaries of those visa petitions who are applying for immigrant visas;
3. Enjoined and restrained from revoking immigrant visas based on Section 3 of the EO;
4. Ordered to reinstate and, where necessary, reissue, the immigrant visas of all nationals from the seven countries that were revoked pursuant to the issuance of the EO, without the need for the foreign national to reapply for a visa;
5. Ordered to issue transportation letters, where necessary, to all nationals from the seven countries with validly issued immigrant visas, including all individuals whose visas are reinstated pursuant to #4 above; and
6. Ordered to advise immigrant visa petitioners, through electronic mail or otherwise, of the status of immigrant visa applications submitted by beneficiaries of their petitions.

This temporary restraining order is granted on a nationwide basis.

This Court has exercised its discretion to determine that no bond shall be required and that this Order shall be effective immediately.

IT IS SO ORDERED.

DATED this _____ day of _____, 2017.

JAMES L. ROBERT
UNITED STATES DISTRICT JUDGE

Presented this 6th day of February, 2017, by:

s/Matt Adams

Matt Adams, WSBA No. 28287
Northwest Immigrant Rights Project
Counsel for Plaintiffs

EXHIBIT B

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Rex W. TILLERSON, Secretary of State; U.S.
DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF MATT ADAMS
IN SUPPORT OF PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

1
2
3 I, Matt Adams, declare as follows:

4 1) I am counsel of record for Plaintiffs in this case. I submit this declaration in
5 support of Plaintiffs' Motion for a Preliminary Injunction.

6 2) I have personal knowledge of the facts set forth herein, and, if called as a witness,
7 I could and would testify completely as set forth below.

8 **Notice to Defendants of Motion for Preliminary and Possible Emergency Relief**

9 3) On February 4, 2017, Stacey I. Young of the Office of Immigration Litigation,
10 Civil Division, of the U.S. Department of Justice, called me on my office number and left a
11 message advising that she was assigned to this case to represent Defendants. She also reached
12 out to me via email and asked that I call her. I called her that same day, February 4, 2017, and we
13 discussed the current status of the named Plaintiffs in the complaint. I advised that we were
14 planning on filing a motion for preliminary injunctive relief on Monday, February 6, 2017, and
15 were evaluating whether any emergency motion for a Temporary Restraining Order ("TRO")
16 would also be required. I advised that in light of this Court's order granting a TRO in
17 *Washington v. Trump*, 2:17-cv-141-JLR (W.D. Wash.), we did not believe we would need to file
18 a TRO.

19 4) On February 5, 2017, I contacted Defendants' counsel, Stacey I. Young via email.
20 I advised that due to the unusual development of the appeal of the TRO in *Washington*, and the
21 Ninth Circuit's order setting a briefing schedule in that case, on Monday, February 6, 2017, we
22 would file a motion for preliminary injunctive relief that would include a request for a temporary
23 restraining order in the event that the TRO entered by this Court in *Washington v. Trump*, 2:17-
24 cv-141-JLR (W.D. Wash.), is reversed on a procedural basis or a reason other than a
25 determination with respect to the merits of the challenge.

26 5) Later that day, on February 5, 2017, I spoke with Ms. Young over the phone, and
27 reiterated Plaintiffs' plans to file a motion for a preliminary injunction and a request for a TRO
28

1 in the event that the TRO entered by this Court in *Washington v. Trump*, 2:17-cv-141-JLR (W.D.
2 Wash.), is reversed on a procedural basis or a reason other than a determination with respect to
3 the merits of the challenge.

4 **Evidence in Support of Plaintiffs' Motion**

5 6) Attached as Exhibit A is a true and correct copy of a page that previously
6 appeared on the Department of State's website at
7 <https://travel.state.gov/content/visas/en/immigrate/Immigrate-Announcement.html>. Plaintiffs'
8 counsel accessed that document on February 1, 2017. Currently, the page as it appeared on
9 February 1, 2017 is archived on the website of the American Immigration Lawyers Association,
10 AILA Doc. No. 17020134, at [http://www.aila.org/infonet/nvc-provides-guidance-cancellation-iv-](http://www.aila.org/infonet/nvc-provides-guidance-cancellation-iv-interviews)
11 interviews.
12

13
14 I declare under penalty of perjury of the laws of the state of Washington and the United
15 States that the foregoing is true and correct to the best of my knowledge and belief.

16 Executed in Seattle, WA on the 6th day of February, 2017.

17 By:

18 s/Matt Adams

19

Matt Adams

CERTIFICATE OF SERVICE

I, Matt Adams, hereby certify that on February 6, 2017, I arranged for electronic filing of the foregoing declaration with the Clerk of the Court using the CM/ECF system. I also emailed Defendants' counsel, Stacey I. Young, this filing at Stacey.Young@usdoj.gov. Lastly, I arranged for mailing of these documents by U.S. first class mail, postage prepaid, to each of the following:

Donald TRUMP, President of the United States of America
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, WA 98101-1271

U.S. CITIZENSHIP AND IMMIGRATION SERVICES
Office of the General Counsel
United States Department of Homeland Security
Washington, DC 20528

U.S. DEPARTMENT OF STATE
The Executive Office
Office of the Legal Adviser, Suite 5.600
600 19th Street NW
Washington, DC 20522

Lori SCIALABBA, Acting Director of USCIS
Office of the General Counsel
United States Department of Homeland Security
Washington, DC 20528

Tom SHANNON, Acting Secretary of State
The Executive Office
Office of the Legal Adviser, Suite 5.600
600 19th Street NW
Washington, DC 20522

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
Office of General Counsel
Washington, DC 20511

U.S. DEPARTMENT OF HOMELAND SECURITY
Office of the General Counsel
Washington, DC 20528

Michael DEMPSEY, Acting Director of National Intelligence
Office of the Director of National Intelligence
Office of General Counsel
Washington, DC 20511

John F. KELLY, Secretary of Homeland Security
Office of the General Counsel
United States Department of Homeland Security
Washington, DC 20528

Executed in Seattle, Washington, on February 6, 2017.

s/ Matt Adams

Matt Adams, WSBA No. 28287

ADAMS DECL. ISO PLS.' MOT. FOR
TRO AND PRELIM. INJ.
Case No. 2:17-cv-00135-JLR

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

EXHIBIT A

travel.state.gov > Visas > Immigrate > Important Announcement

Print Email

Important Announcement

Pursuant to the Executive Order on Protecting the Nation from Terrorist Attacks by Foreign Nationals signed on January 27, 2017, the Department of State has temporarily stopped scheduling appointments and halted processing of immigrant visa applications for individuals who are nationals or dual nationals of Syria, Iraq, Iran, Libya, Somalia, Sudan, and Yemen.

The National Visa Center has cancelled all scheduled immigrant visa interviews for these applicants scheduled in February 2017. This includes all visa categories, whether they are family- or employment-based. Applicants for fiancé visas ("K" visas) are included. We apologize for any inconvenience this causes. Once it is appropriate, the National Visa Center or a U.S. Embassy or Consulate abroad will notify you of a new interview date and time.

If you received an interview appointment in February and have not yet attended the required medical exam, please cancel your medical examination appointment. Medical exam results are only valid for six (6) months and we cannot predict when your visa interview will be rescheduled. When the National Visa Center or U.S. Embassy is able to reschedule your interview, they will contact you.

The National Visa Center will continue to work on in-process cases for these applicants up to the point of the interview. You should continue to pay fees, complete your Form DS-260 immigrant visa application, and submit your financial and civil supporting documents to NVC. NVC will review your case file and can qualify your case for an appointment. However, you will not receive a visa interview until further notice.

Please review the below Frequently Asked Questions for more information.

Collapse All

What if I have a visa interview scheduled in February?

Your interview has been cancelled. You do not need to take any action at this time. The National Visa Center will contact you with a new appointment date at the appropriate time. However, we cannot predict when that will be. Please do not call NVC to ask about an appointment; they have no information on the possible timing of future interviews.

I have an emergency. Can I request an expedited appointment?

No. The Department of State may not conduct immigrant visa interviews for any persons who are nationals of Syria, Iraq, Iran, Libya, Somalia, Sudan, and Yemen at this time.

Will my case move to the back of the line for a rescheduled appointment?

No. The National Visa Center schedules appointments in the order by which they became documentarily qualified. When NVC is able to reschedule your visa interview, you will receive an appointment before cases that completed their paperwork and processing after yours.

I have a visa interview in February and I already paid for my medical exam. Can I get a refund?

That is up to the physician and/or clinic that conducted your examination. Medical exam results are valid for U.S. immigration purposes for six (6) months. If your interview is rescheduled and you enter the United States as an immigrant before your medical exam results expire, you will not need another medical exam.

What visa categories does this affect?

This affects all immigrant visa categories, including immediate relatives; family-based and employment-based preference categories; follow-to-join family members of refugees and asylees (Form I-730); fiancé visas (Form I-129F); and international adoptees (Form I-600A).

I am currently working on my case with NVC. Can I continue?

Yes. You should continue to pay fees, complete your Form DS-260 immigrant visa application, and submit your financial and civil supporting documents to NVC. NVC will continue reviewing your case file and can qualify your case for an appointment. However, you will not receive a visa interview until further notice.

[Español](#)

More Information

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- [Diversity Visa Program](#)
- [Visa Waiver Program](#)
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- [Straight Facts on U.S. Visas](#)

In the United States

- [VisitTheUSA](#)



FAQs: About Visas - The Basics



A Guide for New Immigrants

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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF ABDELRAZIQ
ADAM IN SUPPORT OF PLAINTIFFS**

1 I, Abdelraziq Adam, declare under penalty of perjury as follows:

2 1. I am a United States (U.S.) citizen and I live in Burien, Washington State. I am a
3 University of Washington (UW) Alumni, and current UW student earning a Post Baccalaureate
4 in Accounting.

5 2. I was born in Sudan, and I came to the U.S. when I was about 20 years old. I became a
6 U.S. citizen in around 2012. When I moved to the U.S., I had no family, and my English skills
7 were very limited. I worked in warehouses and assembly production lines, and I was able to
8 attend Highline Community College in the evening. I did successfully complete my Associate of
9 Arts prerequisites and then transferred to UW. During my academic career, I did encounter many
10 hardships; my mother passed away, and two years later my father passed away. Yet, I have been
11 part of Washington State communities. I volunteered for middle schools for two quarters and
12 help students in various subjects. I also helped many high school students through UW Dream
13 Project; I recall helping students with their personal statement letters, scholarship applications
14 and the process of college admission. Moreover, I did take advantage of my Accounting skills
15 and helped low income communities to file their tax returns. Furthermore, I volunteered six
16 month for Washington State Attorney General's Office in the Consumer Protection Division.
17 These are few of the activities that I participated in during my academic career.

18 3. My wife's name is Alya Ahmed, and she is from Sudan. We have been married since
19 May 3, 2013. During our relationship, I did visit my wife three times, and the last time I visited
20 her was in March 2016.

21 4. In June 2014, I did submit form I-130 petition, and the United States Citizenship and
22 Immigration Services (USCIS) approved my wife's petition. I paid the required fees for my
23 wife's consular process on February 27, 2015.

24 5. My wife had an interview in November 2015, but the Consulate thought that we were
25 first cousins, and they returned to USCIS for review. However, the USCIS found no evidence
26 that we were first cousins. Therefore, the USCIS reaffirmed my wife's petition, and they
27
28

1 forwarded to the National Visa Center (NVC).

2 6. On January 24, 2017, the NVC notified me by mail that they completed the review, and
3 they were forwarding my wife's case to the U.S. Consulate in Khartoum. The process of my
4 wife's case has taken over two years, and as a result of President Trump's executive order that
5 banned all Sudanese visas for at least 90 days, the U.S. Consulate in Sudan refuses to issue a visa
6 to my wife even though all the documents have been submitted, reviewed and approved. The
7 case status of my wife with the NVC now says it's under administrative processing, updated
8 January 30, 2017.

9 7. I have not seen my wife since March 2016, and this executive order has at least two
10 irreparable impacts on our lives:

11 8. First, I am on my final quarter to graduate, and I cannot focus on my studies. I also have
12 trouble sleeping well because I worried what would happen to my wife. In addition, as a citizen,
13 I am concern about my constitutional rights because this executive order is discriminatory. My
14 wife lives alone in Sudan, and she does not know what would happen to her. Since my parents
15 passed away and had no chance to attend any of my graduations, I was hoping my wife could
16 attend this lifetime opportunity.

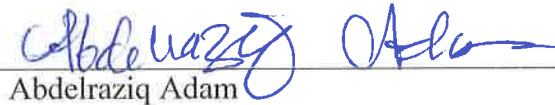
17 9. Second, I am financially responsible to pay a rent here and in Sudan and other living
18 expenses to wife, and I do budget about \$550 monthly to support her. The Consulate already
19 consumed one year suspecting that we were first cousins, and I did spend about \$7,000 during
20 that time supporting my wife. I also spent \$1,500 for airfares when I went to visit her in March
21 2016 after the Consulate returned her application to USCIS for review. Consequently, this
22 executive order is causing more trauma, anxiety and financial hardship to me and my wife.

23 10. I would like my wife to come to the U.S. because this is my home. We would like to
24 settle together and help each other as a family. Even though I did visit my wife three times
25 during our marriage, we have been a part for about three and half years because those visits were
26 for a short period of time; I had to return to U.S. to continue my studies. As I mentioned above,
27
28

1 my parents passed away, and my wife is half and or part of my life. We did not marry to live
2 across continents and have a relationship from far distance. Therefore, I ask this court to issue
3 court order to allow U.S. Consulate in Khartoum, Sudan to resume issuance of my wife's visa
4 immediately. Thank you.
5

6 I declare under penalty of perjury under the laws of the United States that the foregoing is
7 true and correct to the best of my information, knowledge or belief.
8

9 Executed on this 2nd day of February, 2017, in Seattle, Washington State
10

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12 Abdelraziq Adam
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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

vs.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF ELIAS ABDI
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
ELIAS MOHAMUD ABDI
Case No. 2:17-cv-00135-JLR

- 0

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, Elias Mohamud ABDI, declare under penalty of perjury as follows:

1. I am a United States citizen. I live in Seattle, Washington. I am a taxi and Uber driver.

2. I came to the United States as a refugee in about 2009. At that time, I was living in Kenya, but I was born in Somalia. I became a U.S. citizen in March 2015.

3. I am married to Nasteho Adan Kulane, since March 10, 2014. We married in Uganda. My wife Nasteho is a citizen of Somalia. We have two children together. Our first son, A.E.M., was born on January 1, 2015, and our second son, M.E.M., was born on September 29, 2016. My wife and our two sons are currently in Kenya, with my mother, while we wait to be together. I have not seen my wife and oldest son since early September 2016, and I have yet to meet my second son. I send money to my family every month, sometimes every fifteen days. I want my family here with me.

4. I petitioned for my wife in around May 2014. I submitted her online immigrant visa application (Form DS-260) on August 19, 2015. My wife was interviewed on August 22, 2016 in Nairobi, Kenya and her immigrant visa was approved and issued to her on January 20, 2017. She picked up her immigrant packet on January 23, 2017.

5. On Friday, January 27, 2017 around 9:59 p.m. I booked a flight for my wife and infant son (costing close to \$1,400). I did this before I knew about the President's order to stop some people to get in the U.S., targeting people like my wife who is Somalian. My wife went to the airport in Nairobi, Kenya with our infant son, on January 29, 2017, and was told by the Emirates airline crew that they could not take her to the United States because of the ban. I called to so many places asking what was happening. I booked another flight, on January 30, 2017, for my wife and son through Delta Airlines (costing about \$1,900). I asked if I could book the ticket even though there was a ban. I was told if my wife had a valid visa, they could bring her. My wife went to the airport on 1/31, but the airline told her again that they would not take her.

6. My family-based petition for my oldest son, A.E.M. was approved on October 21, 2016. I submitted his immigrant visa application (Form DS-260) on November 23, 2016 and was waiting

1 for his interview in Nairobi, Kenya. I was told he would get an interview in early January, but I
2 have not yet heard from them.

3 7. My wife and two children have never been to the U.S. My wife and my infant son, who
4 has a U.S. citizen passport, were not allowed on the plane twice. I have incurred so much
5 financial hardship because of this. I have spent too much. I did the petition process by myself.
6 This is heartbreaking. I have not been able to get through the embassy.
7

8 8. Today, on January 31, 2017, I received an email about my wife's immigrant visa. They
9 told me it had been revoked because of the ban.

10 9. I did not think this would be possible. I did not believe people were actually going to be
11 affected like this. Asking why I want my family with me is very silly and shameful. There is no
12 need to ask this question. I do not want to be separated from my family. I cannot continue to
13 endure financial and emotional hardship. I have to households to support, here and in Kenya. I
14 need my family with me.

15 10. My family received an exit letter from Kenya. It's going to expire in about 20 days. My
16 wife who is Somalian citizen is not allowed to stay in Nairobi past that permit date.

17 11. Please help stop this injustice. It is not just me or my family who is suffering.
18

19 I declare under penalty of perjury under the laws of the United States the foregoing is true
20 and correct to the best of my information, knowledge, and belief.
21

22 Executed on this 31st day of January, 2017, in Seattle, Washington.

23
24 
Elias Mohamud ABDI

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

DECLARATION OF AHMED MOHAMMED
AHMED ALI
IN SUPPORT OF PLAINTIFFS

I, Ahmed Mohammad Ahmed ALI, declare under penalty of perjury as follows:

1. I was born on May 1, 1978 in Alshear, Ibb, Yemen. I currently reside at 724 Gamay Court, Los Banos, CA, 93635. I make this declaration in support of a temporary restraining order to help effectuate my daughter, E.A.'s entry to the United States.

2. I am married to a U.S. citizen and have 2 U.S. citizen children and one child with a valid immigrant visa, but who has been denied the ability to board a plane due to the January 27, 2017 executive order, merely because she is a citizen of Yemen.

3. My wife and I have been trying for so many years to have our whole immediate family united safely in the United States. My wife Intikhab Mohamed Saleh ("Intikhab") and I own a home in Los Banos, California where we live with our two U.S. citizen children, and where we have been hoping that our daughter E.A. would also be residing. We have a monthly mortgage payment of approximately \$950. My wife has been helping to raise our daughters. We are a very close family. Our family is Muslim.

4. I am the sole breadwinner for my family of five. I am the manager at the Buy N Save Market in Los Banos that is in a local shopping market and part-owner of Los Amigos. I have worked at Buy N Save since 2004. I work long hours so that I can provide for my family. I make approximately \$35,000 a year. I pay my U.S. taxes.

5. I married my wife, Intikhab on May 3, 2001. My eldest daughter, S.A.M.A. was born within one year of our marriage – on February 24, 2002. Both my wife Intikhab and my daughter S.A.M.A. are U.S. citizens.

6. I first entered the United States with my wife and daughter S.A.M.A. on January 27, 2004, and became a lawful permanent resident that date, based on a visa petition my U.S. citizen wife had filed on my behalf. I became a naturalized U.S. citizen on July 19, 2010.

7. Approximately 6 months after my family and I entered the United States in 2004, we received news that Intikhab's mother had fallen ill and required caretaking assistance. As a result, Intikhab decided she would temporarily return to Yemen (with S.A.M.A.) to care for her mother. However, the length of Intikhab's trip increased because my mother-in-law's health

1 improved slowly. By the time Intikhab left for Yemen, she was already pregnant with my second
2 daughter, E.A.A. E.A.A. was born while my wife was still in Yemen, on December 3, 2004

3 8. I remained in the United States where I was working to financially support the family.
4 When my wife left for Yemen, we planned for her to return to the United States as soon as her
5 mother's health improved. At no point did we intend for my wife to live in Yemen permanently.
6 With my second child on the way, I knew it was best that I remain in the United States, although
7 I knew the separation would be difficult.

8 9. When I learned that my mother-in-law's health had improved to the point that she no
9 longer required my wife's caretaking assistance, I immediately began making arrangements for
10 my family to join me in the United States. By 2010, I had saved enough money to cover the
11 travel expenses for my entire family (Intikhab, S.A.M.A., and E.A.A.).

12 10. Around 2010, when my wife and daughters was considering joining me in the United
13 States, we thought our daughter E.A.A. was a U.S. citizen since both me and my wife were
14 citizens. However, we didn't know the technicality of the law, and only later learned that in fact
15 she was not a U.S. citizen because my wife had not physically resided in the United States for 5
16 years before E.A.A.'s birth. Thus, we learned we needed to have her go through the immigrant
17 visa consular process.

18 11. Thus, on April 25, 2011, I filed a family-based immigrant visa petition (Form I-130) for
19 my daughter E.A.A. with United States Citizenship and Immigration Services ("USCIS") along
20 with the requisite \$420 filing fee. USCIS approved the immediate relative I-130 petition for
21 E.A.A. on June 10, 2013.

22 12. On August 11, 2014, E.A.A., with the assistance of counsel, filed the Form DS-260,
23 Immigrant Visa Electronic Application. On August 12, 2014, counsel for E.A.A. emailed the
24 National Visa Center all of the civil documents.

25 13. Meanwhile, my wife had continued to stay with our older daughter S.A.M.A. and E.A.A.
26 in Yemen so that they travel to the United States together. However, while the immigrant visa
27 application was pending, the situation in Yemen deteriorated and became increasingly
28

1 dangerous. Frustrated that the immigrant visa process was taking so long, and worried about the
2 security situation in Yemen, my wife and I made the difficult decision sometime in 2013 that she
3 and S.A.M.A. would come to the United States, and E.A.A. would remain in Sana'a with my
4 parents, her grandparents. We were hopeful the immigrant visa would be approved soon.

5
6 14. My wife and I have had another daughter, S., who was born on February 4, 2015 in the
7 United States and is a U.S. citizen.

8 15. Meanwhile, the consular services in Yemen shut down so we learned the immigrant visa
9 interview would be scheduled at a different consulate. Finally, on December 15, 2016, the
10 National Visa Center sent an email that an immigrant visa interview was scheduled for January
11 22, 2017.

12 16. I then made arrangements for my daughter to be able to appear at this interview. E.A.A.'s
13 uncle helped her to travel by bus for over fifteen hours through a very dangerous part of Yemen,
14 and then took a flight from Aden, Yemen to Jordan. I meanwhile flew from the United States to
15 Jordan to meet my daughter. We then obtained a visitor visa for my daughter to travel from
16 Jordan to Djibouti. My Djibouti visa and my daughter's Djibouti visa were issued on January 15,
17 2017 and are valid for one entry for 14 days. We then flew from Jordan to Djibouti on January
18 17, 2017.

19 17. We arrived in Djibouti with enough time that my daughter could get her medical
20 examination that was required for the immigrant visa interview.

21
22 18. On January 22, 2017, I accompanied my daughter E.A.A. to the immigrant visa interview
23 at the U.S. Embassy in Djibouti, and we were notified that the immigrant visa was approved. We
24 were required to give the Embassy E.A.A.'s passport so that the visa could be issued. We were
25 instructed to check a website to see when visa would be ready to pick up.

26 19. We checked the website and learned the visa was issued on January 25, 2017, and went to
27 pick up the visa at the next available time that was permissible, which was on Thursday, January
28 26, 2017. The visa is valid until July 21, 2017.

20. We quickly attempted to make flight arrangements to the United States. We first arranged a flight that departed on Friday, January 27, 2017, but flight flew through Canada, and the airline called and said we would have to cancel the flight because my daughter didn't have a visa to Canada. We therefore quickly booked the next flight we could, which left on Saturday, January 28, 2017.

21. Our Ethiopian Airlines flight was scheduled to depart Djibouti on Saturday, January 28, 2017 at 7:00 pm local time (which was 6am pacific time). The flight had multiple layovers, but final destination was San Francisco International Airport. However, after we had gone through security and were getting ready to board our flight, we were told by airline officials that my daughter was not permitted board the flight due to the U.S President's Executive Order that was issued on January 27, 2017. I immediately called my attorney to inform her of the situation.

22. On January 28, 2017, my attorney sent a letter to the U.S. Embassy in Djibouti requesting that my daughter E.A.A. be issued a travel letter because she should qualify for a case-by-case exemption to the executive order because it would in the national interest to permit her to come to the United States with our family. She spoke to a consular officer in Djibouti on January 30, 2017, but was informed that the embassy did not have guidance yet on how the waivers to the executive action would be reviewed or issued.

23. We have thus been extending our stay at a hotel in Djibouti, which is quite expensive. We had been paying approximately \$115 a night, although recently moved to a smaller and more affordable room for \$80 a night.

24. I was able to take a leave of absence from my work to travel to help my daughter E.A.A. come to the United States. But now, I do not know when I will be able to return to the United States and do not know when I will be able to earn money for my family.

25. The uncertainty of our situation is very stressful. We have no idea when we will be able

1 to travel to the United States. I obviously cannot leave my 12-year-old daughter alone. We are
2 currently temporarily staying Djibouti, where we have no family or friends, and it is very
3 expensive stay. I am worried because both my visa and my daughter's visa for Djibouti have
4 expired. But we have nowhere else to go. We don't want to return to Yemen because it is
5 extraordinarily dangerous, and a very long journey. All we want is for our family to be united in
6 our home in the United States.
7

8
9 I declare under penalty of perjury under the laws of the United States that the foregoing is
10 true and correct to the best of my information, knowledge, belief.
11

12 Executed on this 1st day of February, 2017, in Djibouti, Djibouti.
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15 Ahmed Mohammed Ahmed Ali
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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF REEMA KHALED
DAHMAN IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
REEMA KHALED DAHMAN
Case No. 2:17-cv-00135-JLR

- 0

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, Reema Khaled Dahman, declare under penalty of perjury as follows:

1. I am over the age of eighteen, am competent to testify to the matters below, and make this declaration based on personal knowledge.

2. I am a lawful permanent resident. I live in Seattle, Washington. I work as a caregiver.

3. I came to the United States with an immigrant visa on September 18, 2012. I am from Syria.

4. My son G.E. was born on May 14, 2000 in Daara, Syria. I got separated from G.E.'s biological father when I was two months pregnant with G.E. He was an abusive person. After I got separated from G.E.'s father, I started living with my parents. After G.E. was born, we continued living with them. At the time, I was working as an agricultural engineer and I was able to provide for my family.

5. I got married to my second husband on January 6, 2007 in Daara, Syria. He is a U.S. citizen. We had two sons together while we were living in Syria, one born in October 2007 and the other in October 2008.

6. After the Syrian conflict started in 2011, my husband wanted to come back to the United States. He filed a petition for me and for our two sons, but he did not file one for my son G.E. In our culture, it is not customary for a man to raise another man's son, even in circumstances like ours. Although I did not want to leave G.E., I was sure that I could figure out a way to bring him with me soon enough.

7. In January 2012, while the petitions were pending, my parents and G.E. moved to Damascus, Syria because conflict was getting worse and worse in Daraa. I had to stay in Daara with my husband and our two sons. Between January 2012 until June 2012, my son G.E. would come to visit his paternal grandparents and I would see him, too. On June 2012 I saw my son G.E. for the last time. I did not know then that I would not see him again. On August 9, 2012, I received my immigrant visa from the U.S. Consulate in Amman, Jordan.

1 8. After we came to the United States, we lived in very poor conditions at my brother-in-
2 law's house for one year. When we finally rented our apartment in August 2013, I was the only
3 one working and supporting my family. I kept wanting to bring my son G.E. here as well. I
4 remember very well one day my husband said "I feel like you want to bring your son here."
5 When I answered "yes", he said "I didn't bring you here so that you can bring your son." I felt
6 stuck. I did not know the immigration laws of the United States, I did not know that I could
7 petition for my son G.E. as a lawful permanent resident. I thought I had to be a U.S. citizen.

9 9. In October 2015, through the help of Refugee Women's Alliance and Northwest
10 Immigrant Rights Project, I found out that as a lawful permanent resident I could petition for my
11 son G.E.. I filed the Form I-130, family petition, on October 19, 2015 with U.S. Citizenship and
12 Immigration Services ("USCIS").

13 10. Given the terrible situation in Syria, I also submitted a request for Humanitarian Parole
14 on November 30, 2015 with USCIS asking for a favorable exercise of parole so that my son G.E.
15 could travel to the United States based on urgent humanitarian reasons and we can be reunited
16 after so many years. No child should face the situation my son or any other child has been
17 experiencing in Syria. My son has no future there; he has not been able to attend school for the
18 last three years. Schools are no longer functioning; so many teachers have fled the country. My
19 heart broke into pieces during one of our rare conversations with him when he told me "Mom, I
20 feel like I am forgetting how to write." That is not the future I dreamt for him.

21 11. The family petition I-130 was approved by USCIS on June 1, 2016. Towards the end of
22 July 2016, I received immigrant visa and affidavit of support fee bills from the National Visa
23 Center ("NVC") to continue with the consular process. I started gathering the civil and financial
24 documents. Meanwhile, the Humanitarian Parole request I filed was still pending.

25 12. On September 23, 2016, ten months after I filed for humanitarian parole, I received a
26 Request for Evidence notice from USCIS asking for a detailed explanation of why my son G.E.
27 cannot live with his biological father in Syria while waiting for the adjudication of his immigrant
28

1 visa. The request for evidence also asked me to provide a DNA test result to establish the
 2 claimed biological relationship between my son and me. I prepared a detailed explanation why
 3 my son could not live with his biological father and I was ready to do the DNA test. Upon
 4 researching for the laboratories accredited by the American Association of Blood Banks
 5 (“AABB”), I learned that there is no AABB accredited laboratory where a DNA test could be
 6 conducted in Syria. My son had to travel to Jordan or another neighboring country in order to do
 7 the DNA test. This was impossible—he is only 16 years old. He cannot travel safely from Syria
 8 to Jordan and back on his own, and he had no other family to take him. Unfortunately, we could
 9 not provide the DNA test for these reasons. I explained this to USCIS.

10
 11 13. Meanwhile, I electronically submitted his online immigrant visa application (Form DS-
 12 260) on December 2, 2016 to NVC to continue with his immigrant visa process.

13 14. On December 8, 2016, I received a notice from NVC asking for a Syria Police Clearance
 14 Certificate (Judicial Record Extract) for my son G.E. as part of the consular process so that his
 15 immigrant visa interview could be scheduled.

16 15. The day before the Executive Order was announced, on January 26, 2017, I received a
 17 denial notice of the Humanitarian Parole I had requested. The denial notice indicated “Use of the
 18 Secretary’s parole authority is discretionary, justified on a case-by-case basis, and limited by law
 19 to include only to those requests that are based upon ‘urgent humanitarian reasons,’ or
 20 ‘significant public benefit.’” I thought that being a teenager in a war-torn country was an urgent
 21 humanitarian reason. I was crushed that the parole was denied. I had explained to USCIS the
 22 danger my son is in. The situation in Syria is so unstable that my son has even been kidnapped
 23 once. I am afraid for his safety the longer we wait.

24 16. The day after the denial notice, on January 27, 2017, when I heard the Executive Order of
 25 the President, I was shocked. My heart sank. I felt that all the doors are closing on me. I waited
 26 so long to be with my son and now I was left with nothing. I haven’t seen my son for almost five
 27 years. We were so close to being reunited. This executive order took my dream away. I know
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1 they say it will only cause delay for a few months, but there is no guarantee of that. Besides, a
2 few months is a long time in a country as dangerous as Syria. Do you know how it feels to live
3 everyday not knowing if you will ever see your child again? I do.

4
5 17. I want to be reunited with my son like any other mother would want in this situation. The
6 war in Syria is getting worse and worse. My mother is elderly and sick, she cannot take care of
7 G.E. like she used to. My father passed away. My siblings fled Syria. I cannot leave my two sons
8 in the United States and go back to Syria. But I also cannot take my sons to live in the midst of a
9 war that never seems to come to an end. It is an impossible situation.

10 18. I hope I can see my son soon.

11
12 I declare under penalty of perjury under the laws of the United States that the foregoing is
13 true and correct to the best of my information, knowledge, and belief.

14
15 Executed on this 6th day of February, 2017, in Seattle, Washington.

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18 Reema Khaled Dahman

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

DECLARATION OF CAROL E. EDWARDS
IN SUPPORT OF PLAINTIFFS

DECLARATION UNDER OATH

I, Carol L. Edward, hereby declare under penalty of perjury of the law of the State of Washington, and the laws of the United States of America, that the following is true and correct to the best of my knowledge and belief:

1. My Law Offices, the Law Offices of Carol L. Edward & Associates, P.S., are the attorneys of record for Ibado Hassan and Isahaq Ahmed Rabi. Attorney Eric Lin was involved in assisting the clients with processing the paperwork.
2. Ibado Hassan is a United States citizen and sponsored her husband Isahaq Ahmed Rabi to join her in the United States.
3. Ibado and Isahaq went through all the normal legal channels and met all the requirements for Isahaq to immigrate to the United States as a lawful permanent resident, commonly referred to as a green card holder. This includes filing paperwork with the U.S. Department of Homeland Security: United States Citizenship and Immigration Services, the National Visa Center, and the U.S. Department of State.
4. Isahaq is a Somali national and has been living in the country of Austria with a refugee application pending. He fled Somalia due to serious and life threatening problems he faced in Somalia.
5. Isahaq traveled to the U.S. with a refugee travel document issued by the country of Austria and with a validly issued immigrant visa issued by the U.S. Consulate in Vienna, Austria. He had previously been interviewed and submitted the necessary information so that background security checks could be completed prior to his visa issuance by the American Consulate.
6. Isahaq flew to the U.S. with a one-way ticket as he was planning on living in the United States permanently with his wife Ibado. He carried with him legal documents that he provided to the customs and border patrol agents at SeaTac International Airport. Isahaq was refused entrance to the United States at SeaTac Airport on Saturday, January 28, 2017.
7. The fact that Isahaq was forced to leave the United States by U.S. Customs and Border Enforcement without even an opportunity to talk to her caused Ibado great distress as she did not know what was happening. According to family members who spoke to Isahaq after he returned to Vienna, he himself was not sure whether he would be allowed to return to Vienna or would be deported back to Somalia, the country he had fled. He was also told when he was at the airport that he could not speak to his lawyer.

8. After learning that Isahaq had not been allowed to enter, I contacted CBP at the airport by telephone and was informed that they would not discuss the case with me, even though I was the attorney for Isahaq and further would not even discuss the current procedure in dealing with persons arriving from one of the seven countries that are part of President Trump's executive order.

Signed on 1/29/2017 at Concrete, Washington
(date) (Place of signing, city, state)



Signature

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF HESAM
MOAZZAMI FARAHANI IN SUPPORT
OF PLAINTIFFS**

1 I, Hesam Moazzami Farahani, declare under penalty of perjury as follows:

2 1. My name is Hesam Moazzami Farahani and I was born in Iran. I am 32 years old and I
3 work as a banker in Los Angeles, California. I've lived in the U.S. since 2010 and I am a
4 naturalized citizen. I became a U.S. citizen in 2016 and it was a proud day for me. I love this
5 country and becoming a citizen made me feel like I officially belonged here.

6 2. My mother's name Simindokht Naghi Zadeh and she is sixty-five years old. My father's
7 name is Mohammadhossin Moazzami Farahani and he is seventy-one years old. My parents are
8 both citizens of Iran. Since I left Iran in 2010, I have only seen my parents twice. Not because I
9 did not want to see them, but because our situation is complicated. It has been tough to be apart
10 from my parents for so long.

11 3. I have three sisters and I am the only son. My parents are elderly and sick. My father
12 suffers from early stage Parkinson's disease and early onset Alzheimer's. My mother has high
13 blood pressure. I am constantly worried about my parents because of their health. As the only
14 son of the family, it is my responsibility to take care of my parents. I see it as my duty to help my
15 family, particularly since I now have the resources to do so. I want my parents to live with me
16 and one of my older sisters in Los Angeles so that we can take care of them as they age.

17 4. I filed I-130 Petitions for my parents shortly after I became a U.S. citizen. I was really
18 eager for my parents to come and reunite with me and my sister in Los Angeles. My sister lives
19 with me and she is recovering from breast cancer and I wanted us all to be together.

20 5. Once my parents' I-130 petitions were approved, we began the process of applying for
21 their immigrant visas. In late November 2016, my parents travelled from Tehran, Iran to Ankara,
22 Turkey for their interview with U.S. immigration officials. Their applications were approved and
23 immigration issued their visas on December 1, 2016. I remember my parents called me after they
24 learned that their visa was approved. They were so excited. My father is normally a very calm,
25 neutral man, but I could hear the excitement in his voice. It sounded like 20 years were added to
26 his life. I felt so relieved knowing that my parents would be able to come and live with me.
27
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1 6. On December 20, 2016, we bought my parents' airline tickets to travel to the U.S. on
2 March 15, 2017. We decided for them to travel in March so that I had time to try and buy a new
3 house that had more space for my parents to live with me. Right now, I live in an apartment with
4 my sister. We decided on the 15th of March so that we could celebrate Nowruz, the Persian New
5 Year, together as a family. My parents also needed time to wind down their business little by
6 little and to sell one of their homes.

7
8 7. In January 2017, I started hearing that Trump might take action to stop people from
9 traveling to the U.S. from Muslim countries. Friends were posting things on Facebook and I was
10 hearing things on the news that made me concerned. I couldn't have imagined that my parents
11 would have been impacted by any sort of ban. They had permission to come to the U.S. and I
12 thought they would be fine. However, I did not want to take any chances. I decided that my
13 parents should try and travel to the U.S. as soon as possible. On January 26, 2017, my parents
14 bought new tickets to come to Los Angeles two days later. Unfortunately, while they were on
15 their way to the U.S., everything changed.

16 8. On January 28, 2017, at approximately 4:10 in the morning my parents boarded a plane
17 in Tehran to begin their journey to Los Angeles. They had a connection in Abu Dhabi. My
18 parents never made it on their flight to Los Angeles. They were scheduled to board Etihad
19 Airways Flight 171, leaving for Los Angeles at 8:45 in the morning on January 28th. However,
20 when they arrived in Abu Dhabi, officials at the airport told them that there was a new law and
21 they could not come to the United States anymore.

22 9. My parents were detained and questioned by U.S. immigration officials in Abu Dhabi.
23 The officers spoke to my parents in a dialect they could not understand very well. The officials
24 said that the American President had signed a law that meant they could not go to the United
25 States. Officials told my parents to sign a piece of paper. The document was in English, which
26 my parents do not speak. My parents did not understand what was happening to them and did
27 what they were told because they trusted the officials. The officials told my parents that signing
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1 the paper was simply proof they were turned away and that it would help them in the future to go
2 to the United States.

3 10. Later that day, my parents sent me a text message telling me that officials told them they
4 could not come to the U.S. and that they had to go back to Iran. My parents told me they were
5 waiting in Abu Dhabi for a flight to Tehran. They told me that immigration officials had them
6 sign a paper and they sent a photo to my phone. I looked at the photo and saw an English
7 language document titled "To Be Completed by Alien When Application for Admission
8 Withdrawn." It was just a snapshot of a single page. I asked my parents why they signed the
9 form and they told me they did not know what they were signing. They said they never wanted to
10 withdraw their application and they wanted to come to America. My parents sounded very sad
11 and worried. I was in shock. It was a very stressful moment for me. I had thought I was going to
12 be reunited with my parents. Instead, I wasn't sure we would be together again.

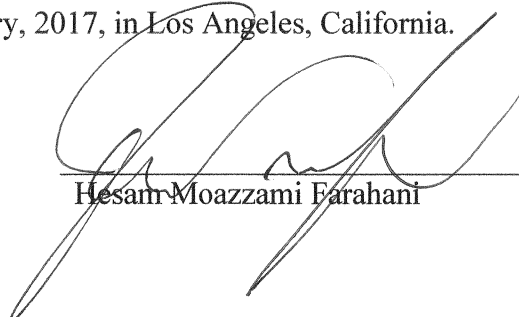
14 11. My parents were at the airport in Abu Dhabi for approximately 18 hours. During their
15 detention, they were cold, uncomfortable, confused, and scared. My sister and I were panicking.
16 We did not know what to do. Eventually, my parents boarded a plane and were sent back to
17 Tehran. My father said it was the worst day of his life. It was also one of my worst days too. I
18 felt pressure and pain in my chest. I was so upset and confused.

19 12. My parents are still in Tehran. My whole life is on hold now. I can't sleep at night. I have
20 had to take off work because I cannot focus. All I can think about is my family. My parents are
21 worried. When I talk to them on the phone, all they want to know is what is going to happen next
22 and when they can come to the United States. My mother told me she is having trouble sleeping.

23 13. January 28, 2017 was supposed to be the start of a new, happy chapter for my family. We
24 spent a lot of money, time, and effort into getting my family's papers in order so they could
25 come here. I feel discriminated against and like a second class citizen because of where I was
26 born. It hurts. All I want is for my parents to be here with me.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct to the best of my information, knowledge, belief.

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5 Executed on this 2nd day of February, 2017, in Los Angeles, California.

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Hesam Moazzami Farahani

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

vs.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF
JAFFER AKHLAQ HUSSAIN
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
JAFFER A. HUSSAIN
Case No. 2:17-cv-00135-JLR

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 I, Jaffer Akhlaq Hussain, declare under penalty of perjury as follows:

2 1. I am a United States lawful permanent resident. I live in Parlin, New Jersey. I am
3 employed as a Software Developer specializing in the development and implementation of
4 Microsoft ERP (Enterprise Resource Planning) software.

5 2. I was born in Karachi, Pakistan on November 3, 1980, and I am now 36 years of age. I
6 came to the United States in August 1999 as an F-1 student to attend the University of
7 Wisconsin. I was awarded the degree of Bachelor of Science in Electrical Engineering in
8 December 2003. I continued my studies at Northeastern University in Boston, Massachusetts. I
9 was awarded the degree of Master of Science in Engineering Management in January 2008. I
10 was granted a change of status to H-1B on October 1, 2008. My previous employer Fullscope,
11 Inc. sponsored me for permanent residence. My application was approved by USCIS, and I
12 became a permanent resident of the United States on October 2, 2013.

13 3. I am married to Seyedehfatemeh Hamedani ("Fatemeh"), a citizen of Iran. Fatemeh holds
14 the degree of Master of Science in Biotechnology. My family and her family are friends, and I
15 have known Fatemeh from childhood. Beginning in 2012, we began to get to know each other
16 better by chatting through Skype and Facebook. We saw each other in person at my sister's
17 wedding in Pakistan. We realized we were strongly attracted to each other. We decided to marry,
18 with the enthusiastic support of both of our families. Fatemeh and I were married in Karachi,
19 Pakistan on January 8, 2015. Both Fatemeh and I are Muslims, and our marriage was celebrated
20 in accord with Muslim traditions.

21 4. Immediately after our marriage I contacted my immigration lawyer in the United States,
22 and filed an I-130 Immigrant Relative Petition on behalf of Fatemeh on April 15, 2015. The
23 petition was approved on November 13, 2015, and forwarded to the National Visa Center. The
24 petition could not be processed further at that time due to the limited number of visas available
25 annually to the spouses of U.S. permanent residents. While we were waiting for visas to become
26 available, Fatemeh continued to live in Iran. We visited as often as possible given the constraints
27
28

1 of my employment in the United States. Fatemeh became pregnant with our child. On July 2,
2 2016 we were greatly blessed with the birth of our son Ermiya Syed. Our son is now seven
3 months old. He lives with his mother in Iran.
4

5 5. Around this same time, priority dates had advanced to the point where we were able to
6 pay our visa application fees, file our DS-260 visa application, and submit our civil documents
7 and Affidavit of Support to the National Visa Center. This required great effort on my part
8 including a trip to Pakistan to obtain a passport for our son, as my son is a citizen of Pakistan
9 under Pakistan law. Eventually, all of the necessary documents were obtained, and were
10 submitted to the National Visa Center on January 30, 2017.

11 6. On February 1, 2017 Fatemeh's priority date became current according to the February
12 2017 Visa Bulletin. This means Fatemeh and Ermiya are now eligible to obtain a visa
13 appointment at the U.S. consulate in Abu Dhabi, obtain their immigrant visas, and proceed to the
14 United States. However, due to the Executive Order issued on January 27, 2017, it is no longer
15 possible for my wife and child to obtain a visa appointment or immigrant visas.

16 7. I have been separated from my wife since our marriage, and I have been separated from
17 our son since his birth. There is no practical place for us to live except the United States. It
18 would be very difficult for me to live with my family in Iran, since I am not a citizen of Iran, and
19 I could not own property or hold civil rights of any kind in Iran. There would be limited if any
20 opportunity to pursue my profession in Iran. It would also be very difficult for our family to live
21 in Pakistan. My family are Shia Muslims, which is a minority in Pakistan. My brother was a
22 member of the National Assembly of Pakistan, and received threats during most of his term.
23 These threats could well extend to myself and my family. Fatemeh wishes to pursue her
24 education in bio-sciences in the United States. We both want our son to receive his education in
25 the United States, and to become a United States citizen as we wish to do as well. All of our
26 plans are now on hold indefinitely because of the travel ban.
27
28

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed on this 3rd day of February, 2017, in Parlin, New Jersey.



JAFFER A. HUSSAIN

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

vs.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF NIKOO NIKNEJAD
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
NIKOO NIKNEJAD
Case No. 2:17-cv-00135-JLR

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 I, Nikoo Niknejad, declare under penalty of perjury as follows:

2 1. I am a lawful permanent resident. I live in Atlanta, Georgia. I am a homemaker.

3 2. I came to the United States when I was 61 years old from Iran. I became a resident on
4 September 25, 2009 through my brother's petition. That was the beginning of my journey to
5 come to the US and eventually bring my children to the US so we could start a new life.

6 3. My son, Amirbahador is a citizen of Iran. He is 34 years old and is currently in Iran.

7 4. I filed an I-130 petition for him on April 21, 2010. The petition was approved and I had
8 to wait until his priority date became current. It was a long process to wait but it finally came in
9 2015. I hired US immigration attorney, Carl Balediata, and he helped me through the process.
10 We submitted all the documents and paid fees. We followed all the rules. My son received his
11 US immigrant visa on December 19, 2016 in Abu Dhabi.

12 5. I was so happy that I also traveled to be with him so I could bring him home with me to
13 start his new life with me. I am now currently in Iran with him. We booked a flight for January
14 30, 2017 with British Airways out of Tehran, Iran to return to the United States. Upon check-in
15 we were told that only I could board the flight but that my son could not because he did not have
16 a green card. We immediately called Carl Balediata who spoke on our behalf with British
17 Airways to tell them my son's US Immigrant Visa was the same as a green card. British Airways
18 said no and told us to go home.

19 6. Carl Balediata was able to discuss our case in more detail with a British Airways regional
20 supervisor. It was arranged for us to try to depart again out of Tehran, Iran on February 2, 2017.
21 This time we were told that me and my son had to be given an okay by US Customs and Border
22 Protection from New York, USA. We arrived at the airport at 6:30am and waited 1 hr. We were
23 told that we both could not board the plane. The British Airways agent showed us an email from
24 US Customs and Border Protection that said I could not board the flight and that my son was not
25 "cleared" and that he had to go back to the US Embassy in Abu Dhabi. That is all they told us.
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7. I was again devastated. I feel helpless. Why is the country I love doing this to my son. Carl Balediata is now working hard to try and bring my son home. I do not want to go home without my son. I need him. I have already been separated from him for so long.

8. I am old and I want my son to be with me. I want him to start a new life in the United States, the land of opportunity.

9. It has been a life long dream for me for my son to come and be with me in the United States. I also filed an I-130 petition for my daughter and we were in the process of starting her case too but now I have also lost hope with her case as well.

10. I just want my family to reunite and be with me in the United States. I always wanted what was best for my son and my daughter. Now I cannot see how we can get through this. I am heartbroken and cannot understand why this country I love is doing this to me and my family.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge, belief.

Executed on this 2nd day of February, 2017, in Tehran, Iran.

Nikoo N. Niknejad
Nikoo Niknejad

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF MOHAMED BARRE
OMAR
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
MOHAMED BARRE OMAR
Case No. 2:17-cv-00135-JLR

- 0

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, MOHAMED BARRE OMAR, declare under penalty of perjury as follows:

1. I am a United States citizen. I live in Tukwila, Washington. I own a small grocery store in Seattle, Washington, and I am an instructional assistant for Seattle Public Schools.

2. I was born in Somalia. I came to the United States as a refugee when I was 61 years old from Kenya. I became a U.S. Citizen on March 13, 2012 in Seattle, Washington.

3. My biological son is Ahmed Mohamed Barre. He was born on October 5, 1992 in Mombasa, Kenya. He is a citizen of Somalia by birth, because my wife and I were refugees. He and his mother moved to Ethiopia shortly after he was born. His mother died in Kenya on April 20, 2012. He grew up in Addis Ababa, Ethiopia and has not left it since moving there. He has never physically been in Somalia.

4. I last saw Ahmed in 2012, before his mother died. She had been in Kenya, so I visited her and then went to Ethiopia to visit him. After visiting him, I decided to apply to bring him to the United States to live with me. He is my only child that does not live in the United States.

5. I filed my Form I-130, Petition for Alien Relative, for him on October 25, 2012. The preference classification for the case is 201 B INA Minor Child of USC. The petition was approved and transferred to the National Visa Center in 2015. My son was interviewed for an immigrant visa at the U.S. Embassy in Addis Ababa, Ethiopia on January 23, 2017 at 07:45 AM. His case was approved and his immigrant visa was issued on January 25, 2017.

6. Upon receipt of his immigrant visa, we had planned to have him pack up and then purchase a plane ticket to the U.S. The executive order was issued before he could buy a ticket. He has attempted to buy a ticket, but no airline will sell one to him because they do not want to take the risk that the U.S. will not allow him to immigrate despite the issuance of a valid immigrant visa.

7. My son has never lived in Somalia, has no experience with his country of citizenship, and does not know how to navigate the risks of living there. It is unsafe and impossible for him to live in Somalia.

1 8. My son cannot return to Kenya. The Kenyan government is actively refusing entry for
2 Somali citizens and is refusing to take additional refugees. He no longer holds refugee status
3 in Kenya.

4 9. I fear for my son's safety in Ethiopia due to the state of emergency related to protests and
5 violence in Addis Ababa and throughout Oromia. My son has little opportunity in Ethiopia,
6 because he is not a citizen there, and is present only at the permission of the government.

7 10. I fear that my son's immigrant visa will expire before he the travel ban in the executive
8 order is lifted for citizens of Somalia. I would then lose his priority date of October 23, 2012,
9 which allows him to be the immediate relative, minor child of a U.S. Citizen for visa preference
10 purposes under the Child Status Protection Act. I would be required to file a new petition for
11 him as the adult child of a U.S. Citizen, family-sponsored first preference category, which has a
12 current priority date of January 1, 2011. It would most likely take over six years before he would
13 be able to obtain a new immigrant visa to the United States, which would mean he would be over
14 the age of 30 by the time he arrived. That delay would directly interfere with his ability to attend
15 a school in the United States and build a career. It would have a permanent, negative impact on
16 his earning abilities and his ability to marry and grow a family. It is not reasonable nor rational
17 to prevent my son, who is a Somali citizen only as a result of his being born to refugee parents
18 in Kenya, from coming to the U.S.
19

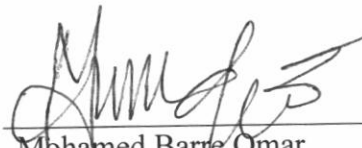
20 11. It is too expensive for me to travel to Ethiopia regularly. It has been nearly five years
21 since the last time I visited Ethiopia. My son lives over 8,000 miles from me. His time zone is
22 11 hours ahead of mine. When I go to bed, he is waking up; when he is going to bed, I am
23 waking up. It is difficult for us to talk on the phone because of the time difference, but we try to
24 make time for each other every week. I have to send him money to support in Ethiopia, because
25 he does not have a job. It is an enormous financial and emotional hardship to my son, myself,
26 and my family for him to live in Ethiopia while everyone else lives in the United States.
27
28

1 12. I want to bring my whole family together by having all of us live in the United States.
2 My son is the only person left outside of the United States. I want him to be able to go to a good
3 university, to have a career, and to be able to live the American Dream. Moments before January
4 27, 2017, I believed that dream was a reality and that we would be reunited. Now, because of
5 the executive order, I no longer know if that dream is possible.

6 13. Please reunite my family by allowing my son to come to the United States as quickly as
7 possible.
8

9
10 I declare under penalty of perjury under the laws of the United States that the foregoing is
11 true and correct to the best of my information, knowledge, belief.

12
13 Executed on this 1st day of February, 2017, in Seattle, Washington.

14
15 
16 Mohamed Barre Omar
17 14839 Military Rd S, #108
18 Tukwila, WA 98168
19 (206) 566-4338
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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF AZIN SAFARI
IN SUPPORT OF PLAINTIFFS**

I, Azin SAFARI, declare under penalty of perjury as follows:

1. I am a United States citizen and I moved to the United States on July 3, 2011 on an immigrant visa through marriage when I was 23 years old from Iran. I became a U.S. citizen on May 28, 2015. I currently live in Westminster, Colorado and work as a programmer for a marketing company.
2. My parents live in Iran and miss us terribly every day. They once went through getting a tourism visa and came to visit us in 2013. Due to the fact that there is no U.S. embassy in Iran, it cost my parents thousands of dollars to travel to Austria, stay in a hotel, and go for their interview. After 18 months of waiting for the application processing, they finally got their visitor's visa to come to the U.S. and visit us for 3 months.
3. When they were returning back to Iran, my father humbly told me that he really could not afford these kinds of pressures at this age financially and emotionally. Because the whole process of traveling would be so exhausting and frustrating for them to go through again, my father was hesitant to visit again.
4. After my naturalization on May 28, 2015, I decided to immediately apply for my parents' green cards so they could travel one last time and they could remain in the U.S. with me. I sent my petition to USCIS in July, 2015.
5. We received their welcome letters from NVC in January 2016. This time, my mother was referred to the Emirates embassy and my father was referred to Turkey embassy for a consular interview. Since they didn't want to travel separately, I had to request for both to be interviewed in one country/embassy. It took another 5 months for the National Visa Center to change the location and update my mother's location of interview to Ankara, Turkey.
6. My parents were scheduled for a consular interview in Ankara, Turkey on September 30, 2016. My mother got her visa immediately after the interview. However, they requested for 2 supporting documents from my father to issue his visa which is still under processing.

1 7. Although my mother had a valid visa issued on October 6, 2016, she bought her ticket for
2 March 7, 2017 with the hope that my father can get his visa during this time and join her. Her
3 immigrant visa expiration date was noted as March 28, 2017 so we were certain she had plenty
4 of time. She was so excited every single day to finally see us.

5 8. A week after their interview, I realized I'm pregnant. I decided to surprise my parents
6 when they arrive here so I kept it a secret. We were certain that at least my mother will be with
7 us to help us when the baby arrives. Hence, we put all our life plans based on her arrival by
8 March 2017.

9 9. On Friday, January 29, 2017, we heard the cruel news. My mother's visa was revoked.
10 After 2 years of waiting and fighting to make everything work, with a baby on the way, it ruined
11 our entire life plan. After 90 days of suspension, her visa will expire and all the hard work will
12 turn into ashes.

13 10. After a few shocking hours, I started calling Custom and border Protection and Denver
14 international airport to see if the order is effective yet or if we had some time left. I was willingly
15 ready to do whatever I could to bring her here before the executive order became effective.

16 11. CBP informed that they don't have any order yet and Denver Airport informed us that
17 they haven't heard the news yet and they will process all valid visas since they currently are not
18 advised about any order. Also Lufthansa airline cooperated and changed my mother's ticket to
19 Saturday 1/30. She packed a baggage and got ready to go to the airport in 2 hours.

20 12. But at the airport, they informed her that her ticket is voided by Lufthansa airline and all
21 flights from Iran to the U.S. are blocked by the airlines because *they JUST received the order*.

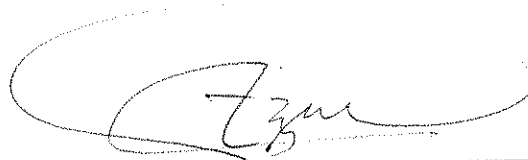
22 13. My parents still don't know that they have a grandchild on the way. The great news will
23 be a sad one for them now since they know they are not able to see the baby anytime soon.

24 14. All the joy in our lives is gone by an immature decision and a rolling pen on a paper.

25
26
27 I declare under penalty of perjury under the laws of the United States that the foregoing is
28

1 true and correct to the best of my information, knowledge, and belief.
2

3 Executed on this 2nd day of February, 2017, in Westminster, Colorado.
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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF GREGORY
HOWARD SISKIND
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
GREGORY HOWARD SISKIND
Case No. 2:17-cv-00135-JLR

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NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, GREGORY HOWARD SISKIND, declare under penalty of perjury as follows:

1. I am a US immigration attorney based in Memphis, Tennessee. I am licensed in the State of Tennessee.
2. I am a co-author of the *J-1 Visa Guidebook*, published annually by Lexis-Nexis and the author of the *Physician Immigration Handbook*, published by Alan House.
3. I chair the IMG Taskforce, the nation's physician immigration bar organization and I serve on the Board of Governors of the American Immigration Lawyers Association.
4. I represent many health care institutions that will be severely affected by the travel ban signed by President Trump in his January 27, 2017 Executive Order. One client is a large hospital system that has several dozen hospitals across much of the United States. Many of those hospitals are in small and rural communities that are designated by the US Department of Health and Human Services as Medically Underserved Areas (MUAs) and Health Professional Shortage Areas (HPSAs).
5. Physicians who are graduates of foreign medical schools are typically referred to as International Medical Graduates (IMGs). 25% of the doctors in the United States were born outside the US. And more than 25% of the doctors who train at teaching hospitals in the United States are foreign-born. More than 80% of the doctors who train in American teaching hospitals are on J-1 visas. To remain in the United States, J-1 doctors must get a waiver of the requirement in Section 212(e) of the Immigration and Nationality Act that the doctor return to his or her home country for two years. The most common way a doctor can get a waiver is if the doctor agrees to work for three or more years in an MUA or HPSA. MUAs and HPSAs are typically in rural areas or inner cities. After three years, the doctor becomes eligible to become a permanent resident. If the doctor agrees to work two more years in a HPSA or MUA, the doctor can apply for permanent residency through a category called a Physician National Interest Waiver (PNIW).

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- 2
- 3 6. The United States is currently facing a dire physician shortage. According to the
- 4 Association of American Medical Colleges (AAMC), the nation faces a shortage of
- 5 between 61,700 and 94,700 physicians over the next decade.
- 6
- 7 7. Physicians from Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen constitute a
- 8 significant portion of the doctors working in the United States. There are currently about
- 9 than 8,000 doctors in the United States who are from Iran and Syria alone. ECFMG, the
- 10 organization designated by the State Department to screen IMGs to determine eligibility
- 11 to train in the United States, has indicated that in 2015, Iran was the country with the
- 12 fourth highest number of ECFMG certificates issued and Syria was the tenth.
- 13
- 14 8. My hospital system client recruits several dozen IMGs each year to work at its hospitals
- 15 across the country. Many of those doctors are from countries named in the January 27th
- 16 order. Because of the severe physician shortage in the country, the client is greatly
- 17 concerned that the travel ban will make it difficult to recruit doctors. That could have a
- 18 highly negative effect on my clients' hospitals (and its patients) as well as hospitals
- 19 across the country.
- 20
- 21 9. Furthermore, the ban will impact its ability to retain doctors already working at its
- 22 hospitals. For example, because it can take more than five years for a doctor to get
- 23 permanent residency and another five years for the doctor to become a citizen, physicians
- 24 from the affected countries could face ten years without being able to leave the United
- 25 States. Because family members outside the United States face a ban on traveling to the
- 26 United States that may be indefinite, some of these doctors are contemplating not being
- 27 able to see family members or visit their homelands for more than a decade.
- 28
10. We are also concerned that the travel ban could have a broader impact on the recruiting
- of IMGs that extends beyond the seven countries on the ban list. According to Atul
- Grover the executive vice president of AAMC, "The majority of our foreign doctors

1 come from India and Pakistan, and while they're not on the list I think when the
2 environment feels this uncertain and this inhospitable, they'll go to Canada and the U.K."
3 India and Pakistan are the number one and two countries for receiving ECFMG
4 certifications.

5
6 11. I also represent one of the world's most respected cancer research hospitals. The hospital
7 employs doctors from the seven countries on the ban list and they will be adversely
8 affected. The hospital's research scientists are frequently applicants for EB-1 immigrant
9 visas which are based on demonstrating extraordinary ability in science or being an
10 outstanding researcher or professor. The ability to qualify for permanent residence in the
11 EB-1 category requires medical researchers to demonstrate that they have reached the
12 pinnacle of their profession. To achieve this, the research scientist must publish in the
13 most prestigious journals and present at major medical conferences. Many of those
14 conferences are outside the United States and scientists affected by the travel ban will not
15 be able to attend. Furthermore, many are calling for boycotting conferences in the United
16 States and many of the most prestigious conferences may move to other countries.

17 12. The research hospital may also find it is unable to recruit top scientists from other
18 countries who decide to bypass working in the United States out of fear or in protest over
19 a policy they conclude is bigoted. Academic institutions in the US are already reporting
20 losing visiting professors and researchers as a result of the January 27th order.

21 13. I also represent many individual physicians who plan on bringing elderly parents to the
22 United States once they become US citizens. One physician who is a naturalized citizen
23 originally from Iran experienced his parents' immigrant visa interview being cancelled
24 this past week and is distraught over the prospect that they will never be able to live with
25 his family in the United States. Because it can take so many years for physicians to be
26 able to get to the point of becoming US citizens and being able to sponsor parents for
27 permanent residency, many are quite elderly and often infirm by the time they can come
28

1 to the United States. In some cases, the American child is the only one able to care for the
2 parent.

3
4 I declare under penalty of perjury under the laws of the United States that the foregoing is
5 true and correct to the best of my information, knowledge, and belief.
6

7
8 Executed on this 6th day of February, 2017, in Memphis, Tennessee.

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11 Gregory Howard Siskind
12 1028 Oakhaven Road
13 Memphis, TN 38119
14 Telephone: 901-682-6455Me
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DECLARATION OF
GREGORY HOWARD SISKIND
Case No. 2:17-cv-00135-JLR

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema Khaled DAHMAN; G.E., a minor; Ahmed Mohammed Ahmed ALI; E.A., a minor; on behalf of themselves as individuals and on behalf of others similarly situated,

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF SOHAIL SOBHANI
IN SUPPORT OF PLAINTIFFS**

Plaintiffs,

v.

Donald TRUMP, President of the United States of America; U.S. DEPARTMENT OF STATE; Tom SHANNON, Acting Secretary of State; U.S. DEPARTMENT OF HOMELAND SECURITY; John F. KELLY, Secretary of Homeland Security; U.S. CITIZENSHIP AND IMMIGRATION SERVICES; Lori SCIALABBA, Acting Director of USCIS; OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE; Michael DEMPSEY, Acting Director of National Intelligence,

Defendants.

DECLARATION OF
SOHAIL SOBHANI
Case No. 2:17-cv-00135-JLR

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, SOHAIL SOBHANI, declare under penalty of perjury as follows:

1. I am a United States citizen. I live in Conshohocken, Pennsylvania. I am a Customer Sales Executive with The Hershey Company for the Rite Aid business.

2. I was born in the United States on April 2, 1980 in Lebanon, Pennsylvania.

3. I married Solmaz Behzadpour on January 7, 2016 in Tehran, Iran. Solmaz is a national of the Islamic Republic of Iran. Solmaz and I were first introduced in April of 2015 through my cousin's husband. We started a long distance relationship and planned a trip to London to get to know each other, in August of 2015. We instantly feel deeply in love. Her living in Tehran, and me living in Pennsylvania was tough. We made a second trip to meet in London in August October 2015. After that we saw each other in Iran in December of 2015. In January 2016 I asked Solmaz to be my wife. We were married in January 2016 in Iran.

4. On January 29, 2016 I filed an I-130 family based petition for my spouse to join me in the United States as a legal permanent resident. That petition was approved on April 8, 2016 and we started the consular process through the National Visa Center.

5. In the meantime, I was travelling back in forth from Pennsylvania to Tehran to visit my wife. This was not only a financial burden on our family, but it was a huge trip to keep making. My work life and personal life were very difficult by having my wife separated from me. Solmaz was able to obtain a visa to the United Kingdom and we met London a few times, to ease my burden of traveling all the way to Tehran. It has been a very difficult ordeal to have to space out time to see each other in this fashion, as usually we go many months without seeing each other.

6. In December 29th, 2016, we received confirmation from the National Visa Center that our consular processing was complete, and that we were scheduled to be interviewed in the U.S. Embassy in Dubai, United Arab Emirates for the final step of the green card process.

7. After a year of waiting to begin our lives together, getting the email from the NVC in late December that her interview was scheduled for February 1st 2017 was one of the greatest days in

1 our lives. The last two weeks of January 2017 were very emotional for Solmaz. Solmaz said her
2 finale goodbyes to all of her friends and family, and packed up all of her remaining belongings
3 that I had not already brought back to the USA with me. Solmaz even packed ingredients for the
4 first Iranian meal she was going to cook us when we got the United States, as well as items for
5 our first haft-seen or table for Persian New Year that we would celebrate in the States in March
6 2017. Our photographer also prepared our wedding pictures in an expedited fashion, so Solmaz
7 could have them to bring to the United States.

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9 8. Exactly one year after the I-130 petition was filed, on January 28, 2017 I was waiting at
10 baggage claim at the Dubai airport waiting for her luggage, while she was in line at Passport
11 check. Tragically, at that moment, we received an email from the National Visa Center stating
12 that her interview was cancelled until further notice, and apologies for any inconvenience. We
13 were devastated. Not only had we spent thousands of dollars on this trip, we were finally at the
14 last step of our arduous process. We were in grasp of our dream, of finally being with each
15 other, and starting our life together as husband and wife in the United States.

16 9. I spent the next few hours contacting the National Visa Center, where they simple stated
17 they could not provide any information and instructed me to not call back. I felt completely
18 helpless with no recourse for relief. I had arranged to extend our trip in the United Arab
19 Emirates for another week so we could sort things out and obtain more information somehow.
20 However, as the Executive Order panned out, it was clear that our situation was not going to
21 change. Realizing that my efforts were fruitless, I arranged to file back to Pennsylvania without
22 my wife. I bought a separate flight for Solmaz to return to London temporarily.

23 10. Unfortunately, despite the temporary halt of the Trump administration's travel ban from
24 Iran, my wife's interview has not been rescheduled. The National Visa Center has indicated to
25 us that it does not plan on reschedule the interview until the ban is lifted. I have an approved I-
26 130 petition and a spouse stuck outside of the USA due to the Trump administration's travel ban
27 on Iran. I'm not sure what the outcome of our case will be.

1 11. I do know that I would of never gone through this process had I known we had no right to
2 an interview, and that my wife would not be allowed to migrate to the United States. Now, my
3 life is on hold. My wife is in limbo living out of suitcases in London, and we have to hit pause
4 on moving forward with our life when we were moving full force ahead based on the same
5 immigration path that others have a right to, all simply because my wife is an Iranian Muslim.
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8 I declare under penalty of perjury under the laws of the United States that the foregoing is
9 true and correct to the best of my information, knowledge, and belief.
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13 Executed on this 6th day of February, 2017, in Conshohocken, PA.

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16 SOHAIL SOBHANI
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Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema Case No.: 2:17-cv-00135-JLR

Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

**DECLARATION OF GHASSAN TAHHAN
IN SUPPORT OF PLAINTIFFS**

DECLARATION OF
GHASSAN TAHHAN
Case No. 2:17-cv-00135-JLR

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NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 I, GHASSAN TAHHAN, declare under penalty of perjury as follows:

2 1. I am a citizen of the United States. I live in Frisco, Texas. I am a software engineer.

3 2. I came to the United States in 2006 when I was about 22 years old from Syria. I became a
4 citizen on August 18, 2015.

5 3. My parents are citizens of Syria and they currently live in Damascus, Syria

6 4. As a U.S. citizen, I applied for my parents to become Permanent Lawful Residents. They
7 already got approved and they already received their immigrant visas. My father's immigrant
8 visa was issued on January 19, 2017, and my mother's immigrant visas was issued on January
9 23, 2017.

10 5. My parents already purchased their plane tickets to the United States but they didn't start
11 their travel yet. My parents live in a war-torn country. Nothing is safe over there and no one
12 knows what might happen the next day. My father is 76 years old, and my mother is 70 years
13 old. All of their children live outside Syria. It's very important for them to have a safe place
14 where they can rest and feel safe.

15 6. We lost about \$500.00 so far for cancelling the tickets. It has been almost 1 year since the
16 last time I've seen my parents.

17 7. My parents are old people, they need all the care and rest they can get here in the United
18 States. As I mentioned before, none of their children live in Syria anymore, which is why it
19 becomes very important for them to be able to come to the United States for safety, medical care,
20 and so much more. In Syria it is very hard nowadays to get anything – even clean drinking
21 water. With all of what's going on right now, I am afraid that this Executive Order will prevent
22 me from seeing my parents for the rest of my life.
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DECLARATION OF
GHASSAN TAHHAN
Case No. 2:17-cv-00135-JLR

- 1

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct to the best of my information, knowledge, and belief.

3 Executed on this 4th day of February, 2017, in Frisco, TX.

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7 GHASSAN TAHHAN

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DECLARATION OF
GHASSAN TAHHAN
Case No. 2:17-cv-00135-JLR

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NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

vs.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE; Tom
SHANNON, Acting Secretary of State; U.S.
DEPARTMENT OF HOMELAND SECURITY; John
F. KELLY, Secretary of Homeland Security; U.S.
CITIZENSHIP AND IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS; OFFICE OF
THE DIRECTOR OF NATIONAL INTELLIGENCE;
Michael DEMPSEY, Acting Director of National
Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

DECLARATION OF NITA NICOLE UPADHYE
IN SUPPORT OF PLAINTIFFS

DECLARATION OF
NITA NICOLE UPADHYE, ESQ
Case No. 2:17-cv-00135-JLR

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NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

I, Nita Nicole Upadhye, declare under penalty of perjury as follows:

1. I am a US immigration attorney based in London, United Kingdom. I am licensed in the State of Arizona.
2. My client is a citizen of Iran. He is currently located in London. He is employed as a professional architect for a global architecture firm with approximately 900 employees.
3. He currently holds a valid visa (Tier 2 category) to reside and work in the United Kingdom. The visa is valid for approximately 6 more years; his employment is strictly limited to working for this employer.
4. His I-140 immigrant visa petition in the EB-1 (Extraordinary Ability) category was submitted to USCIS in 2015. It took approximately seven months for approval. Thereafter he received notification from National Visa Center (NVC) to continue the process to the next stage. The NVC requested that fees of \$455 and civil documents be sent by email to NVC within one year of receipt.
5. At the time of receiving the notification from the National Visa Center he was also granted L-1 visa status at the US Embassy in London for the purpose of working in the New York office of his UK employer. The L-1 visa (Blanket) was granted two days prior to the signing of the Executive Order.
6. He appeared for his visa appointment at the US Embassy in London in December 2016, but received his passport and approved visa two days prior to the Executive Order. He therefore was required to wait longer than the standard processing time of one week for the return of his passport.
7. After being told by the Consular Officer that his visa would be granted, he informed his landlord that he would not need to renew his lease. The Executive Order left him concerned about his accommodation arrangements during this time and he is now staying with friends.
8. The employer wished to send my client to the United States to oversee an important project but was forced to find someone else within the company to replace my client. My client

DECLARATION OF
NITA NICOLE UPADHYE, ESQ
Case No. 2:17-cv-00135-JLR

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NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 has specialized knowledge in customized programs and applications used by his employer that
2 not all employees are knowledgeable of. He has been working for the company for almost 4.5
3 years and has acquired advanced level expertise in the company's customized digital
4 presentation programs. My client estimates that it would take a minimum of one year to train
5 a local worker to operate at his level. Without my client in the US, the company potentially risks
6 losing millions of dollars in contracts with US clients.

7
8 9. My client previously worked in the company's New York office for one year under the
9 Optional Practical Training scheme, following successful completion of a Bachelor's Degree in
10 the United States.

11 10. If my client was required to go back to Iran he would have to undertake mandatory
12 military service for two years and would not be able to leave the Iran.

13 11. My client has expressed that the United States was always seen as a land of opportunity
14 but now he is more afraid of how he will be treated and what other restrictions there may be in
15 the future.

16
17 I declare under penalty of perjury under the laws of the United States that the foregoing
18 is true and correct to the best of my information, knowledge, belief.

19
20 Executed on this 5th day of February, 2017, in London, United Kingdom.

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23 Nita Nicole Upadhye
24 14 Gray's Inn Road
25 London WC1X8HN
26 Tel (0) 208 004 3492

Honorable James L. Robart

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

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema
Khaled DAHMAN; G.E., a minor; Ahmed
Mohammed Ahmed ALI; E.A., a minor; on
behalf of themselves as individuals and on
behalf of others similarly situated,

Plaintiffs-Petitioners,

v.

Donald TRUMP, President of the United States
of America; U.S. DEPARTMENT OF STATE;
Tom SHANNON, Acting Secretary of State;
U.S. DEPARTMENT OF HOMELAND
SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
OFFICE OF THE DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY, Acting
Director of National Intelligence,

Defendants-Respondents.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF DENIZ UYSAL-
FERRE IN SUPPORT OF PLAINTIFFS**

I, Deniz Uysal- Ferré, declare under penalty of perjury as follows:

1. I am over the age of eighteen, am competent to testify to the matters below, and make this declaration based on personal knowledge.

2. I work as a legal advocate in the Family Services Unit at Northwest Immigrant Rights Project (“NWIRP”) in Seattle, WA.

3. I have been working with plaintiff Juweiya Abdiaziz Ali (“Ms. Ali”) on her family petition for her son A.F.A., since August 2016.

4. Ms. Ali was born in Somalia. She derived U.S. citizenship from her mother on August 31, 2010.

5. She is a stay-at-home mother. She lives with her husband (A.F.A.’s father) and their 2-year-old daughter in Seattle, Washington.

6. Ms. Ali’s son A.F.A. was born in Galkayo, Somalia on February 4, 2010. He is a Somali citizen. He currently lives in Bosaso, Somalia with Ms. Ali’s mother-in-law.

7. NWIRP has assisted Ms. Ali with the family petition process for her son. We filed her Form I-130, Petition for Family Relative, on August 12, 2016 with United States Immigration and Citizenship Services (“USCIS”).

8. USCIS approved Ms. Ali’s Form I-130 on December 21, 2016.

9. On January 12, 2017, Ms. Ali received fee invoices from the National Visa Center (“NVC”) for processing of the Immigrant Visa Application and Affidavit of Support. Payment of these fees was needed in order to continue with the consular process.

10. On January 13, 2017, Ms. Ali paid both fees—totaling \$445—online.

11. On January 20, 2017, we submitted Ms. Ali’s Form DS-260, Immigrant Visa Electronic Application, online. The required civil and financial documents were also mailed to NVC as part of the consular process. Ms. Ali and her son A.F.A. are now waiting for the immigrant visa interview to be scheduled at the U.S. Consulate in Nairobi, Kenya. That is the last step in the process before an immigrant visa can be issued for the child.

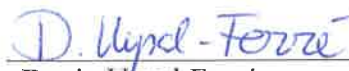
12. Just days before the Executive Order issued on January 27, 2017, Ms. Ali travelled to be with her son to ensure everything needed for his immigrant visa process was well taken care of.

13. When we communicated with Ms. Ali after the announcement of the Executive Order, Ms. Ali stated that she is very saddened and hurt by the actions of the President and that this is affecting her emotionally. She said she is heartbroken by the fact that she had to explain to her 7-year-old son that she might not be coming back to bring him to the United States as soon as they imagined. Ms. Ali asked me, "How do you tell a 7-year-old little boy that, 'no, you cannot come to live with your father, little sister and mother because you have a passport of a certain country?" Ms. Ali told me during one of our meetings that her son was looking forward to meeting his little sister whom he has not yet met. Ms. Ali told me her son asked Ms. Ali, "Why can my little sister live with and daddy but not I?"

14. I have worked with Ms. Ali on this case very closely and have witnessed her excitement knowing she would soon be reunited with her son and have her family together after all these years. Since the issuance of the Executive Order, Ms. Ali has expressed sadness and anxiety regarding these unprecedented changes.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed on this 4th day of February, 2017, in Seattle, Washington.



Deniz Uysal Ferré
Legal Advocate, Family Services Unit
Northwest Immigrant Rights Project
615 Second Avenue, Suite 400
Seattle, WA 98104
(206) 957-8627