

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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ARGHAVAN LOUHGHALAM and,))
MAZDAK POURABDOLLAH))
TOOTKABONI))
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Plaintiff-Petitioners,))
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ZAHRASADAT MIRRAZI RENANI,))
LEILY AMIRSARDARY, OXFAM))
AMERICA INC., ALI SANIE, FATEMEH))
YAGHOUBI MOGHADAM, and))
BABAK YAGHOUBI MOGHADAM)	Civil Action No. 1:17-cv-10154-NMG
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Plaintiffs,))
))
v.)	Leave to File Granted on
)	February 3, 2017
))
DONALD J. TRUMP, U.S. CUSTOMS))
AND BORDER PROTECTION, JOHN KELLY,))
KEVIN K. MCALEENAN, WILLIAM))
MOHALLEY, and U.S. DEPARTMENT OF))
HOMELAND SECURITY))
))
Defendants.))
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BRIEF OF AMICI CURIAE MASSACHUSETTS UNIVERSITIES
IN SUPPORT OF PLAINTIFFS’ COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

INTRODUCTION

Amici are eight private American institutions of higher education.¹ Although each *amicus* institution is located in Massachusetts, each has a global connection to a far greater

¹ They include Trustees of Boston College (“Boston College”), Trustees of Boston University (“Boston University”), Brandeis University, President and Fellows of Harvard College (“Harvard University”), Massachusetts Institute of Technology (“MIT”), Northeastern University, Trustees of Tufts College (“Tufts University”), and Worcester Polytechnic Institute (“WPI”).

network of international learning, research, and education. Together, they enroll tens of thousands of students from all over the United States and the world in undergraduate, graduate, and professional degree and certificate programs. *Amici* also employ faculty and researchers from throughout the globe. These faculty and researchers routinely publish pioneering peer-reviewed work in virtually all fields of knowledge. Many have gone on to invent groundbreaking technology, start thriving businesses, and assume leadership roles in governments and other organizations both in this country and abroad. As one *amicus* institution's President succinctly stated:

We take great pride in the global nature of our community and have always embraced and valued our international members from around the world. They are our colleagues and friends. Our community and the world are better places because of what we learn and create together.²

Over the course of the past week, *amici* institutions have seen their students stranded abroad and their faculty members prevented from travelling to and from foreign countries. Scholars based abroad have expressed a determination to boycott academic conferences in the United States, and potential faculty recruits have expressed serious doubts about teaching at *amici*'s schools. These consequences undermine *amici*'s bedrock commitment to serving the Commonwealth of Massachusetts, the United States, and the world through innovative teaching and research. That effort depends on maintaining a consistent pipeline of the most talented students and scholars from around the world, who bring with them unique skills and perspectives that inure to the benefit of their classmates, colleagues, and society as a whole. And after

² Letter from Tony Monaco to Members of the Tufts Community (Jan. 29, 2017), <http://president.tufts.edu/blog/2017/01/29/supporting-and-protecting-the-international-members-of-our-community/>.

Statements from leaders of other *amici* institutions are included at Exhibit 2 of the Motion for Leave To File *Amici Curiae* Brief In Support Of Plaintiffs' Complaint for Declaratory and Injunctive Relief.

receiving first-class educations in the United States, the benefits flow in the opposite direction, as those students and scholars take back to their countries the lessons and values they learned here.

At the same time, *amici* are equally committed to the security of their campuses and the United States. Each university places the highest priority on the safety of its students and scholars and recognizes that security is essential to maintaining a productive learning environment. But it is essential that our commitments to national security not unduly stifle the free flow of ideas and people that are critical to progress in a democratic society. The inquiry, innovation, and invention that take place every day within *amici*'s classrooms, libraries, and laboratories depend on the ability of scholars and students to travel to and from the United States. Without that ability, the academic achievement and the economic growth that such achievement generates are profoundly at risk.

For these reasons, *amici* submit this brief to express their concern that the January 27, 2017 Executive Order (“EO”), entitled “Protecting the Nation from Foreign Terrorist Entry into the United States,” undermines the values and contributions of open academic exchange and collaboration. *Amici* are not alone in expressing these concerns—universities and academic organizations across the United States have voiced similar views.³ Like many other institutions, *amici* have been directly impacted by the EO in the week since it was issued, even despite the Temporary Restraining Order (“TRO”) the Court entered on January 28, 2017. At bottom, those adverse impacts impair the cross-border exchange of ideas that is critical to *amici*'s success as educational institutions—and to the success of the country as a whole.

³ See International Higher Education Consulting Blog, *Running List of University/College and Higher Education Organization/Association Responses to President Trump's Executive Order Entitled “Protecting the Nation from Terrorist Entry into the United States by Foreign Nationals” Issued Jan. 27, 2017*, <http://ihec-djc.blogspot.com/2017/01/running-list-of-universitycollege-and.html>.

I. The Free Exchange of Information, Ideas, and Scholars Across Borders Is Vital to American Interests.

A. Universities and Their Communities Rely and Thrive on the Unhampered Exchange of Scholars and Ideas Across Borders.

In any ranking of the world's finest institutions of higher education, colleges and universities in the United States predominate.⁴ The consistent success and acclaim that American colleges and universities enjoy arise, in no small part, from their ability to attract the very best students and faculty, including those from other countries. By attracting the sharpest minds to work together on the world's most challenging problems, these institutions are best equipped to improve the human condition through medical advances, new political and economic insights, innovative technologies, and the rich learning experiences that an internationally diverse group of students and teachers helps cultivate.

As the statistics provided by each *amicus* reveal, universities throughout Massachusetts educate and employ tens of thousands of international students, scholars, and staff. Consider the following examples: More than 11,000 international students and scholars from 140 different countries connect on Northeastern's campus in Boston, and its faculty members collaborate with colleagues all over the world to combat global challenges in health, security, and sustainability. At MIT, 3,289 international students are enrolled in degree programs, and 2,403 international scholars are engaged in teaching and research.⁵ Boston University hosts more than 9,000

⁴ See Times Higher Educ. World Univ. Rankings, [https:// www. timeshighereducation. com/world-university-rankings/2017/world-ranking#](https://www.timeshighereducation.com/world-university-rankings/2017/world-ranking#) (last visited Feb. 2, 2017).

⁵ *International Students and Scholars*, MIT Facts, [http://web.mit.edu/facts/international. html](http://web.mit.edu/facts/international.html) (last visited Feb. 2, 2017).

international students and more than 1,300 international scholars from 88 countries.⁶ Tufts University enrolls approximately 1,500 international students each year and maintains a global footprint that includes research and academic collaborations in more than 135 countries around the world.⁷

Amici's ability to attract these gifted, accomplished, and motivated students and scholars depends on ensuring their ability to travel freely to and from the countries they once called home—and for that matter, to other nations overseas in support of their scholarship. If *amici* and their peer institutions cannot assure their students, professors, and researchers that they can freely leave the country to visit their families, attend international symposia or conferences, or engage in overseas field research without encountering impediments to their return, then they will struggle to maintain the level of talent and experience that makes the United States the world leader in higher education and research and development.

The importance of maintaining international inclusion on our campuses cannot be overstated. Regular interactions with students and professors who come from different cultures and who have had vastly different life experiences promote both a richer understanding and a deeper appreciation of the pluralistic world in which we live. Equally important, international diversity challenges all of the members of an academic community to reevaluate their assumptions and to reconsider their beliefs and biases. As the President of one *amicus* institution explained, our institutions are places of “rigor, ingenuity and real-world problem-solving where

⁶ *International Students and Scholars Data*, <http://www.bu.edu/isso/about/statistics/> (last visited Feb. 2, 2017).

⁷ *International Students and Scholars Data*, http://provost.tufts.edu/institutionalresearch/files/Fact-Book-2015-16_Final.pdf (last visited Feb. 2, 2017).

generations of bright young minds have come from every corner of the Earth to make something of themselves and work together to make a better world.”⁸

By way of example, the five Syrian students enrolled at MIT this past semester undoubtedly were able to contribute to their peers’ understanding of the wide-ranging consequences of the war in Syria in a way no textbook or lecture ever could.⁹ Similarly, the Iranian students enrolled at *amici*’s schools could offer a unique perspective on the strengths and weaknesses of the recent nuclear deal and other aspects of the United States’ foreign policy that students could not absorb by simply reading op-eds in domestic newspapers. The presence of international scholars and students enriches the experiences of all members of *amici*’s communities. Indeed, *amici* would find it extraordinarily difficult to realize the ideals described in their respective mission statements, if students and scholars from countries around the globe could not predictably exit and enter our country.

In addition to contributing to a diversity of perspective, scholars hailing from different countries have necessarily confronted different social and political conditions and so can identify different problems to solve—and see different solutions to offer. For this reason, Harvard operates a “Scholars at Risk” program that allows scholars from war-torn countries or who face persecution to continue their important work under safe conditions—and with greater reach.¹⁰

⁸ See Letter from L. Rafael Reif to Members of MIT Community (Nov. 9, 2017), <http://president.mit.edu/speeches-writing/our-eyes-future> (last visited Feb. 2, 2017).

⁹ *Geographic Distribution of Students*, MIT Registrar’s Office, <http://web.mit.edu/registrar/stats/geo/> (last visited Feb. 2, 2017).

¹⁰ See *Harvard Scholars at Risk*, <http://projects.iq.harvard.edu/scholarsatrisk/home> (last visited Feb. 2, 2017). See also *infra* p. 11–12 (describing the research projects and contributions of select international scholars from the seven nations affected by the EO).

B. International Scholars Bolster the American Economy and Strengthen Our Democracy.

The benefits of a free-flowing exchange of scholars and ideas redound well beyond American colleges and universities. The United States reaps tremendous profits—both tangible and intangible—from its colleges’ and universities’ commitment to welcoming academics, researchers, and innovators from around the world.

As a matter of pure economics, few investments produce a greater return for our nation than investments in higher education, innovation, and research.¹¹ The United States economy has been fueled by foreign-born innovators who came to this country and chose to stay for extended periods of time.¹² According to one study by the National Foundation for American Policy (NFAP), “[i]mmigrants have started more than half (44 of 87) of America’s startup companies valued at \$1 billion or more and are key members of management or product development teams in over 70 percent (62 of 87) of these companies.”¹³ Indeed, one can only imagine how different the American economy would be if Abdul Fattah Jandali—Steve Jobs’s

¹¹ See, e.g., Eric A. Hanushek, et al., *Education and Economic Growth*, Education Next 62, 64 (Spring 2008) (describing the “large effect” such investments exert on a nation’s economic growth rate); Jennifer Erickson & Sean Pool, Science Progress, *The High Return on Investment for Publicly Funded Research*, <https://scienceprogress.org/2012/12/the-high-return-on-investment-for-publicly-funded-research/> (last visited Feb. 2, 2017) (estimating that a “return on investment for publicly funded scientific research and development is somewhere between 30 percent and 100 percent or more” and citing DARPA, the Apollo Project, NSF, and the Human Genome Project as examples of high ROI programs).

¹² See, e.g., Adams Nager, et al., Information Technology & Innovation Found., *The Demographics of Innovation in the United States* (Feb. 24, 2016), <https://itif.org/publications/2016/02/24/demographics-innovation-united-states> (suggesting that more than one third of U.S. innovators were born outside the country, and another 10 percent have at least one parent who was born abroad) (last visited Feb. 2, 2017).

¹³ Stuart Anderson, Nat’l Found. for American Policy, *Immigrants and Billion Dollar Startups*, <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf> (last visited Feb. 2, 2017).

biological father—were not permitted to enter the United States from his original home in Homs, Syria, to study at the University of Wisconsin.¹⁴ The creation of new wealth generates obvious financial benefits for the United States, as well as considerable job growth. Each of the \$1 billion startups in the NFAP study has “created an average of approximately 760 jobs . . . in the United States.” *Id.*

Finally, the education of foreign-born students and collaboration between American students and foreign-born scholars at institutions like *amici*'s present the United States with an opportunity to promote the ideals that, together, compose the social, political, and cultural fabric of this country. International students and scholars who come to the United States to engage on our academic campuses are exposed to our democratic principles, as well as to our norms of tolerance and respect. They witness American society's steadfast commitment to human rights, our emphasis on education, and our dedication to the rule of law.

These values, in turn, are transmitted around the world when these individuals depart this country. Harvard counts twenty or more alumni who have served as heads of state of foreign countries—many in developing countries—including Liberian President Ellen Johnson-Sirleaf (who studied economics and public policy) and former Prime Minister of Pakistan Benazir Bhutto (who studied comparative government).¹⁵ Former Secretary-General of the United Nations Kofi Annan earned a Master's degree in management from MIT. These world leaders, along with countless other individuals from the *amici* institutions, have come to the United

¹⁴ See Edward C. Baig, *Steve Jobs' Biological Father Was Syrian Migrant, Some Note*, USA Today (Nov. 17, 2015), <http://www.usatoday.com/story/tech/columnist/baig/2015/11/16/steve-jobs-biological-father-syrian-migrant-some-note/75899450/> (last visited Feb. 2, 2017).

¹⁵ *Heads of State*, <http://www.harvard.edu/about-harvard/harvard-glance/honors/heads-state> (visited Feb. 1, 2017).

States, engaged in the vigorous exchange of ideas for which this country is known, and then returned to their countries steeped in American culture and American principles.¹⁶

The importance of a free-flowing exchange of students, scholars, and ideas is reflected in longstanding federal law and policy. In 1961, the government established a special non-immigrant visa program to encourage young leaders, entrepreneurs, research scholars, and professors to come to the United States and engage in “educational and cultural exchange[.]”¹⁷ This program, called the J-1 Visa Program, expressly instructs visitors who have completed the program to “return to their home country . . . to share their exchange experiences.” *Id.* Given the important role these exchanges play in maintaining American relationships and influence abroad, it is no surprise that administration of the J-1 program is entrusted to the Department of State. And yet the EO notably did not include J-1 visa holders in its list of foreign nationals exempted from its entry ban. *See* EO, § 3(c).

Other provisions of law advance Congress’s intention that, notwithstanding the national security interest, borders should not constrain the dissemination of knowledge. *See, e.g.*, 50 U.S.C. § 5(b)(4) (the “Berman Amendment”); 50 U.S.C. § 1702(b)(3) (the “Free Trade in Ideas

¹⁶ What is more, the wide array of executive education programs offered by *amici* allow for direct instruction to foreign public servants, government officials, and business leaders. For example, students from all over the world—including several of the countries specified in the EO—have recently participated in programs that are conducted by Harvard Kennedy School (HKS). *See* HKS Executive Education, Participant Mix, https://exed.hks.harvard.edu/HKS_Advantage/Participant_Mix.aspx (last visited Feb. 2, 2017). Similarly, HKS and Harvard’s T.H. Chan School of Public Health offer an annual Harvard Ministerial Leadership Program, in which ten to twelve “serving education, health, and finance ministers from Africa, Southeast Asia and Latin America” are invited into a rigorous summer course in Cambridge for leadership enhancement. *Harvard Ministerial Leadership Program*, <https://ministerialleadership.harvard.edu/the-program/> (last visited Feb. 2, 2017).

¹⁷ U.S. Dep’t of State, J-1 Visa Exchange Visitor Program, *Common Questions*, <https://j1visa.state.gov/basics/common-questions/> (last visited Feb. 2, 2017).

Act”) (barring the President from restricting the importation or exportation of “any information or informational materials” to or from any country, including in times of war). Similarly, pursuant to *National Security Research Directive 189, National Policy on the Transfer of Scientific, Technical, and Engineering Information*, the government has taken steps to ensure that “any basic or applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community,” is exempted from export controls. See 15 C.F.R. § 734.8(a) (applying the fundamental research exclusion to Department of Commerce export control regulations); 22 C.F.R. § 120.11(a) (defining the scope of the exclusion in State Department International Trafficking in Arms Regulations).

II. The Executive Order Endangers Academic Exchange with International Students and Scholars.

By “suspend[ing] entry into the United States, as immigrants and nonimmigrants,” of persons from Iran, Iraq, Syria, Sudan, Yemen, Libya and Somalia for at least 90 days, EO § 3(c), the EO stands in the way of the open academic exchange that is so vital to modern higher education and our national interests. All eight *amici* have students and scholars with non-immigrant visas from the countries specified in the EO:

- Boston College counts 8 students and 5 scholars;
- Boston University counts 97 students and 16 scholars;
- Brandeis University counts 12 students and 10 scholars;
- Harvard University counts 49 students and 62 scholars;
- MIT counts 47 students and 69 scholars;
- Northeastern counts 250 students and 30 scholars;
- Tufts University counts 32 students and 25 scholars;
- WPI counts 40 students.

Amici also host and employ numerous nationals of the seven specified countries, including:

- An activist and journalist who helped galvanize Yemeni support for the Arab Spring and has been appointed a visiting lecturer on public policy;
- A Syrian trauma surgeon who was instrumental in coordinating NGO support for medical care to casualties of the civil war and is now assessing the relative availability and quality of trauma care at Syrian hospitals;
- An Iranian professor who previously worked at a leading European architectural firm, taught throughout Europe, and has received numerous prestigious awards and appointments for her contributions to the field;
- A Sudanese medical professor (and practicing physician at a local hospital) who has received awards and public acclaim for her work on female genital cutting;
- An Iranian medical professor who has developed novel methods for studying the long-term risks of myocardial infarction and stroke following blood infection;
- An Iranian postdoctoral student whose stem cell research has broad implications for lung regeneration and precision medicine approaches to treating children and adults with lung disease;
- A Syrian professor and recipient of a MacArthur “Genius” grant who has, among other things, founded a company that develops systems to monitor vital signs to detect the onset of illness in the elderly;
- An Iranian professor, widely-regarded as a leader in the exploration of the Earth, who has worked closely with NASA and received numerous awards in his field; and
- An Iranian postdoctoral researcher whose research will contribute to the development of next-generation therapeutics for cancer patients.

From the moment the EO was signed, *amici*'s students and scholars like these have acutely felt its negative effects.

A. Students and Scholars At *Amici* Universities Have Been Directly Impacted by the EO.

At the moment the EO took effect, members of the Massachusetts academic community were both locked out of and locked into the United States. Numerous students and scholars from

amici institutions who were outside of the United States at the time the EO was signed have been barred from returning to the United States to continue their studies and work. These include undergraduates who were simply trying to return to campus after spending their winter breaks with their families.¹⁸ Many students and scholars were barred from travelling to Boston, even after this Court's entry of a TRO.¹⁹ To take just one case, a Ph.D. student at an *amicus* institution traveled home to Iran in December for a family emergency. The EO has prevented her from returning to the United States to resume her coursework, so her progress toward her degree has stalled. In another case, a research scientist who holds a Ph.D. in theoretical physics received a fellowship from the New England Complex Systems Institute to study the behavior of complex social networks. That scholar had planned to arrive last weekend, but has had to remain in Iran because of the EO. It is now unclear when, if ever, she will be able to travel to the United States for her project. In a third case, a postdoctoral scholar at another *amicus* university was visiting family in Iran when the EO took effect and has since been unable to return to the United States despite repeated efforts to board flights bound for Logan Airport through no fewer than three international cities. Another Iranian researcher with a joint appointment at Harvard Medical School and Brigham & Women's Hospital was unable to board a flight from Zurich to

¹⁸ See, e.g., Stephanie Ebbert, *MIT Engineering Student From Iran Not Allowed To Reenter US*, Boston Globe, Jan. 31, 2017, <http://www.bostonglobe.com/metro/2017/01/31/mit-engineering-student-from-iran-barred-entry-into/fQBJ7kLlhY7P79YNKVKfTN/story.html>; Anya Kamenetz, *Students Stranded Worldwide By Trump Order*, NPR (Jan. 30, 2017), <http://www.npr.org/sections/ed/2017/01/30/512431112/students-stranded-worldwide-by-trump-order>.

¹⁹ See Stephanie Ebbert, *MIT Engineering Student From Iran Not Allowed To Reenter US*, Boston Globe, Jan. 31, 2017, <http://www.bostonglobe.com/metro/2017/01/31/mit-engineering-student-from-iran-barred-entry-into/fQBJ7kLlhY7P79YNKVKfTN/story.html>.

Logan Airport—even with the TRO in effect—and filed a lawsuit yesterday to gain entry to start her work.²⁰

Just as many individuals have been kept out of the United States in the wake of the EO, others are effectively kept in. Those scholars and students from the seven countries covered by the EO who were fortunate enough to be in the United States at the time the EO took effect cannot confidently travel outside of the United States and expect reentry. This means that, despite having valid visas, faculty members from the seven countries covered by the EO cannot attend academic conferences, give lectures to colleagues at sister universities, or conduct field research in foreign nations. Others are cancelling both their personal and professional travel plans.

The experience of a professor at one *amicus* institution exemplifies these adverse academic and personal consequences. Prior to settling in Massachusetts, this professor taught at universities around the world and maintained close ties with academic colleagues at these foreign institutions. The EO struck a sudden, significant blow to these connections, casting in doubt the professor's ability to present as scheduled at upcoming conferences overseas, because her return to the United States is not guaranteed. The professor also has concerns about traveling abroad to visit and care for her mother, who is terminally ill, while the EO remains in place. This case illustrates how significantly the EO upends both lives and learning.

Equally to the point, students cannot pursue their own research in foreign libraries or laboratories, participate in study abroad programs, or attend satellite campuses in other

²⁰ See Milton J. Valencia, Boston-Bound Iranian Scientist with Visa Sues US over Ban, Boston Globe, Feb. 2, 2017, <https://www.bostonglobe.com/metro/2017/02/01/iranian-scientist-with-visa-and-bound-for-boston-sues-over-ban/v0rRMIatsOfTTzY0sr8EvL/story.html> (last visited Feb. 2, 2017).

countries.²¹ Nor can they travel home for personal reasons, whether to celebrate a family member's marriage or to mourn a loved one's death at a funeral. Two Iranian graduate students who are studying global health at an *amicus* institution may not be able to complete field research and training because of the EO's travel ban. One Ph.D. student at an *amicus* university, moreover, cannot travel to conduct research on changes in family life in urban Iran. And one Harvard graduate student recently published an eloquent editorial in the *New York Times*—worth reading in its entirety—describing how he is now afraid to leave the country and sorrowful about the effects that the EO will have on “thousands who, unlike me, might never get to experience

²¹ *Amici* have invested significant resources in study abroad programs, foreign satellite campuses, and global experiential learning opportunities. The EO imperils the success of innovative international programs like these. For example, *amicus* Northeastern's cooperative experiential learning model integrates study with professional work, research, and service opportunities in more than 130 countries around the world and with more than 3,300 global partners. In addition to global co-op, the university offers the “N.U.in” program, an experiential academic program that expands Northeastern students' education into worldwide locations. The Nu.in Program, <https://www.northeastern.edu/nuin/> (last visited Feb. 2, 2017). Launched in 2007, the program provides educational opportunities in eight different countries. *Amicus* Boston University offers more than 100 study abroad opportunities in more than 20 countries and on six continents, including at its campus in London. See Study Abroad, <http://www.bu.edu/abroad/find> (last visited Feb. 2, 2017). *Amicus* MIT's Sloan Management School allows students to enroll in “Action Learning Labs,” where they are assigned to real-world company partners and work on projects for those companies, often on-site, during an academic term. The school offers Labs in China, India, and Israel, as well as a Global Entrepreneurship Lab, in which students are sent to emerging markets across the globe, “from Argentina to Zambia.” MIT-Sloan, Action Learning, <http://mitsloan.mit.edu/actionlearning/> (last visited Feb. 2, 2017). Finally, the Human Rights Program at Harvard Law School works to protect the rights of clients and communities around the world through a variety of international projects. See Human Rights@Harvard Law, <http://hrp.law.harvard.edu> (last visited Feb. 2, 2017). The Program's clinical projects regularly involve work in several of the countries identified in the EO. For example, in the past five years the Clinic has undertaken work related to the threat posed to civilians in Libya by abandoned weapons. More recently, one clinical project has been engaging with the challenges that Syrian refugees living outside refugee camps encounter when attempting to obtain official documents from the Government of Jordan. Over the past year, another ongoing clinical initiative focused on climate change displacement and included a case study on Somalia.

America at its best.”²² These examples demonstrate just how disruptive the EO has been to universities across the Commonwealth in one short week.

Needless to say, fruitful academic exchange does not only occur abroad. It also takes place within the United States. Foreign scholars frequently travel to *amici* universities for conferences and to collaborate with academic and research colleagues. For example, the Boston College Islamic Civilization Program plans to host an international conference in the fall of 2017. However, plans for the program are in jeopardy, as one key speaker from the Middle East has already cancelled, and there is considerable uncertainty whether other scholars from the Middle East will submit an adequate number of papers. And the EO also burdens foreign academics who wish to come to the United States to foster collaborative study. As more than 20,000 scholars—including 44 Nobel Laureates; 45 recipients of prestigious awards like the Fields Medal, Pulitzer Prize, and MacArthur Fellowship; and 273 Members of the National Academies of Sciences, Engineering, and Arts—explained in an online petition:

The proposed EO limits collaborations with researchers from these nations by restricting entry of these researchers to the US and can potentially lead to departure of many talented individuals who are current and future researchers and entrepreneurs in the US. We strongly believe the immediate and long term consequences of this EO do not serve our national interests.²³

B. The EO Will Have Continuing Adverse Effects on Open Academic Exchange and, by Extension, National Interests.

In addition to the direct effects on *amici*'s existing students and scholars, the EO promises to have indirect deleterious effects on academic exchange going forward. Shortly after

²² Ziad Reslan, *Harvard Student: 'I Worry If I Leave, I Won't Be Let Back In'*, N.Y. Times (Feb. 2, 2017), https://kristof.blogs.nytimes.com/2017/02/02/harvard-student-i-worry-if-i-leave-i-wont-be-let-back-in/?_r=2 (last visited Feb. 2, 2017).

²³ *Academics Against Immigration Executive Order*, <https://notoimmigrationban.com/> (last visited Feb. 2, 2017).

the EO's signing was announced, for example, more than 3,000 international scholars signed a petition to "boycott international academic conferences held in the United States in solidarity with those affected by" the EO.²⁴ This proposed boycott was not a hollow threat. One faculty member at an *amicus* institution had signed an agreement to host an international conference in the fall of 2017. This faculty member recently received correspondence from the funding source calling for all planning for the conference to be suspended, given the large number of expected attendees who have signed the boycott petition. The conference likely will be moved out of the United States or postponed as a result.

Foreign countries have also started cancelling their own conferences in response to the EO. One faculty member at an *amicus* institution has already been informed that an academic conference she was planning to attend in March has been cancelled. That conference, sponsored by the Association for the Study of Persianate Societies and scheduled to take place in Shiraz, Iran, could not proceed due to the travel difficulties posed by the EO and the related uncertainty around who (if anyone) would be able to attend. This professor had planned to participate in the conference to consult with her academic colleagues in her unique field of study, but she will now be unable to do so.

It is difficult to overstate the importance of conferences, colloquia, and symposia to scholarly communication. They enable intellectual give-and-take and real-time digestion and discussion of research. Conferences also allow for in-person encounters and discussions that may give rise to important future collaborations. The prospect of barred entry, and of retaliation

²⁴ Elizabeth Redden, *Boycotting the U.S.*, Inside Higher Ed (Jan. 31, 2017), <https://www.insidehighered.com/news/2017/01/31/protest-trump-entry-ban-some-scholars-are-boycotting-us-based-conferences> (last visited Feb. 2, 2017).

and boycotts, means lost opportunities for the expansion of knowledge. Moreover, American universities risk removal from the epicenter of where cutting-edge ideas are discussed. The EO puts all of these benefits in jeopardy.

The EO will also impair *amici*'s ability to recruit foreign faculty and scholars. Collectively, *amici* universities already employ dozens of faculty members from the seven nations currently covered in the EO. But the aforementioned petitioning scholars offer a powerful reason why foreign academics may be unwilling to teach at an American university in the future:

The implementation of this EO will necessarily tear families apart by restricting entry for family members who live outside of the US and limiting the ability to travel for those who reside and work in the US.²⁵

Given those working conditions, scholars often will not choose to teach in this country. In fact, one *amicus* institution's current recruit to fill a full-time faculty position has disclosed that he is married to a national from one of the seven countries covered in the EO; that recruit has expressed concerns about accepting a position in light of the EO. Another *amicus* institution is conducting two important faculty searches and has identified highly desirable candidates from the affected countries. The EO has created significant uncertainty regarding whether these candidates would be able to obtain visas. Similar problems have arisen at other *amici* institutions, which may lose highly competitive candidates from the affected countries to institutions outside the United States. In addition, the suspension of visa processing under the EO may have financial implications for our students and scholars through the loss of research

²⁵ See Academics Against Immigration Executive Order, <https://notoimmigrationban.com/> (last visited Feb. 2, 2017).

funding and the loss of job opportunities if they are unable to obtain or extend work authorizations during this time period.

Likewise, the EO will prevent *amici* universities from attracting and educating the best and brightest foreign students. For example, while the regular admissions process is still underway at MIT, at least two prospective students from the identified countries have already been admitted for the fall, via early action. One, an 18-year-old from Damascus, was reported on in the media.²⁶ After dreaming for years of earning an engineering degree from MIT, the student was recently accepted for the class of 2021. But when the EO was signed, his ability to attend MIT became uncertain. As he puts it: “My dreams are basically ruined.”²⁷ Regrettably, this young man is not the only talented applicant whose dreams may be dashed. Tufts University has already observed a drop in applications for one of its international scholarship programs. In fact, one of the program’s most highly qualified applicants withdrew his application after the EO issued, saying that he was not ready to commit to the program “under the current climate.” This withdrawal is causing concern about the pipeline of future applicants for the scholarship program. Tufts’ experience suggests that fewer students from the seven affected nations will continue to apply to American universities so long as the EO’s restrictions remain in effect.

Finally, the uncertainty of the current situation likely will deter international scholars and students from countries *not* currently listed in the EO from visiting the United States for academic purposes. To give one example, an *amicus* had recently extended a postdoctoral offer to a prospective student from Ukraine, but the student has indicated that she is unlikely to accept

²⁶ See Justin Lear, A Syrian teen was headed to MIT and then came the ban (Jan. 29, 2017), <http://www.cnn.com/2017/01/29/us/mit-syria-student-ban-trnd/> (last visited Feb. 2, 2017).

²⁷ *Id.*

due to the unpredictable environment. Although there are reportedly no current plans in place to expand the EO's current list of seven countries, high-ranking Executive Branch officials have suggested that an expansion may well occur in the future.²⁸ Given those statements and the abruptness with which the existing EO was issued, foreign scholars and students may not be willing to risk being stranded here or abroad with hopes of simply gaining an education or educating young minds in the United States.

CONCLUSION

For the foregoing reasons, the EO poses serious risks that *amici* will not be able to remain the successful institutions of higher learning that they are today. Accordingly, the Court should grant the declaratory and injunctive relief requested by the Plaintiffs.

²⁸ See Face the Nation Transcript, January 29, 2017, <http://www.cbsnews.com/news/face-the-nation-transcript-january-29-2017-priebus-mccain-ellison/> (“Now, you can point to other countries that have similar problems, like Pakistan and others. Perhaps we need to take it further.”).

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent via mail to those indicated as non-registered participants on February 3, 2017.

/s/ Alan D. Rose _____