IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, a project of the Urban Justice Center, Inc., on behalf of itself and its clients,
40 Rector St, 9th Fl
New York, NY 10006;

HIAS, Inc., on behalf of itself and its clients,
1300 Spring Street, Suite 500
Silver Spring, MD 20910;

MIDDLE EAST STUDIES ASSOCIATION of North America, Inc., on behalf of itself and its members,
3542 N. Geronimo Avenue
Tucson, AZ 85705;

ARAB-AMERICAN ASSOCIATION OF NEW YORK, on behalf of itself and its clients,
7111 5th Avenue
Brooklyn, NY 11209;

YEMENI-AMERICAN MERCHANTS ASSOCIATION, on behalf of itself and its members,
33-42 9st
Long Island City, NY 11106;

JOHN DOES # 1, 3 through 5;

JANE DOE #2;

MUHAMMED METEAB;

MOHAMAD MASHTA;

GRANNAZ AMIRJAMSHIDI;

FAKHRI ZIAOLHAGH;

SHAPOUR SHIRANI; and

AFSANEH KHAZAELI,[1]

Civil Action No.: 8:17-cv-361-TDC

SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[1] The individual Plaintiffs respectfully request that the Court waive the requirement under Local Rule 102.2(a) to provide addresses. At least one plaintiff in this case has already received harassing phone calls because that plaintiff's address was disclosed in a prior complaint.

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States,
1600 Pennsylvania Avenue NW
Washington, D.C. 20035;

DEPARTMENT OF HOMELAND SECURITY,
Serve on: Elaine Duke,
Acting Secretary of Homeland Security
Washington, D.C. 20528;

DEPARTMENT OF STATE,
Serve on: Rex W. Tillerson,
Secretary of State
2201 C Street NW
Washington, D.C. 20520;

OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE,
Serve on: Dan Coats,
Director of National
Intelligence
Washington, D.C. 20511;

ELAINE DUKE, in her official capacity as Acting
Secretary of Homeland Security
Washington, D.C. 20528;

REX W. TILLERSON, in his official capacity as
Secretary of State
2201 C Street NW
Washington, D.C. 20520;

DAN COATS, in his official capacity as Acting
Director of National Intelligence
Washington , D.C. 20511

Defendants.

INTRODUCTION

In January of this year, a President was inaugurated who had repeatedly and explicitly promised to ban Muslims from entering the United States based on his view that Muslims hate America and the values it represents. One week later, the President signed an executive order seeking to fulfill that promise. The ban it imposed inflicted widespread harm on individuals here and abroad, and the courts swiftly stepped in to stop the Executive from misappropriating powers that belong to Congress and using them to violate individuals' rights. Undissuaded, the President withdrew that order and issued a new one that did essentially the same thing. It, too, was quickly enjoined.

But just before the Supreme Court was to consider whether that second attempt at a Muslim ban was properly enjoined, the President issued a third. This new order, like the first two, cannot be reconciled with the Immigration and Nationality Act or the Constitution, inflicts severe harms on individuals here and abroad, and proffers essentially the same rationale, albeit with a few more bureaucratic trimmings. But this time its bans are indefinite.

Plaintiffs—individuals and organizations injured by the President's attempts to ban Muslims—therefore return to this Court to enforce our constitutional structure and guarantees. Plaintiffs respectfully ask this court to enjoin this latest version of the Muslim ban.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' claims under the U.S. Constitution and federal statutes. The Court has additional remedial authority under 28 U.S.C. §§ 2201-02.

2. Venue is proper under 28 U.S.C. §1391(e) and Local Rule 501.4.a.ii. Defendants are officers or employees of the United States acting in their official capacities, and agencies of the

United States. Plaintiffs HIAS, John Doe #1, Shapour Shirani, and Fakhri Ziaolhagh reside in the Southern Division of this District. No real property is involved in this action.

PARTIES

3. The Plaintiffs in this case are both individuals and organizations. The individual plaintiffs are United States citizens or lawful permanent residents whose efforts to reunite here with relatives abroad have been delayed or indefinitely thwarted by the President's executive order issued on January 27, 2017 ("EO-1"),[2] the executive order issued on March 6, 2017 ("EO-2"),[3] and/or the proclamation issued on September 24, 2017 ("EO-3")[4] (collectively, "the EOs" or "the Orders"). Some individual plaintiffs have approved immigrant visa petitions for their relatives abroad and await the issuance of these visas. Others were forced to endure a prolonged separation from their loved ones because of the EOs.

4. The organizational plaintiffs have members and clients who, like the individual plaintiffs, have relatives abroad who are nationals of a banned country and who are seeking immigrant or nonimmigrant visas. The organizational plaintiffs assert standing on their own behalf and well as on behalf of their clients or members.

5. Plaintiff International Refugee Assistance Project ("IRAP"), a project of the Urban Justice Center, Inc., provides and facilitates free legal services for vulnerable populations around

---

[2] Exec. Order 13769, P*rotecting the Nation From Foreign Terrorist Entry Into the United States*, 82 Fed. Reg. 8977 (Jan. 27, 2017).

[3] Exec. Order 13780, P*rotecting the Nation From Foreign Terrorist Entry Into the United States*, 82 Fed. Reg. 13209 (Mar. 6, 2017).

[4] Proc. No. 9645, *Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public Safety Threats*, 82 Fed. Reg. 45161 (Sept. 24, 2017).

the world, including but not limited to refugees, who seek to escape persecution and find safety in the United States and other Western countries. IRAP has clients in the United States and abroad.

6. Founded in 2008 as a student organization at Yale Law School, IRAP initially served Iraqi refugees who were victims of the Iraq War. In 2010, IRAP became part of the Urban Justice Center and now has offices in New York as well as the Middle East. IRAP has expanded its client base since its inception to assist displaced persons from Afghanistan, Egypt, Eritrea, Ethiopia, Iran, Jordan, Kuwait, Libya, Pakistan, Palestine, Somalia, Sudan, Syria, Turkey, and Yemen. Through in-house casework, as well as supervision of 900 students from 29 law schools in the United States and Canada and pro bono attorneys from over 75 international law firms and multinational corporations, IRAP directly assists thousands of displaced persons in urgent registration, protection, and resettlement cases every year.

7. IRAP lawyers provide legal assistance to refugees and other immigrants to the United States throughout their resettlement processes. IRAP lawyers advise their clients on the resettlement process and other avenues to safety, write legal briefs and compile physical evidence in advance of clients' interviews with United States Citizenship and Immigration Services ("USCIS"), prepare them for their oral testimony in their interviews, and conduct regular follow-up with USCIS until the clients are safely resettled.

8. IRAP clients include many individuals in the United States who need assistance filing family reunification petitions for family members overseas.

9. IRAP also assists U.S.-based Iraqi and Syrian citizens and lawful permanent residents in filing petitions in order to get their family members overseas into the Direct Access Program of the United States Refugee Admissions Program (USRAP).

10. IRAP also assists countless Iraqi and Afghan citizens who have served the United States government to obtain Special Immigrant Visas, with the support of U.S. citizen veterans of Iraq and Afghanistan.

11. Since its inception, IRAP has helped to resettle over 3,200 individuals to 55 countries, with the majority resettled to the United States. It has provided legal assistance to nearly 20,000 more individuals.

12. The overwhelming majority of IRAP's clients, including clients abroad and those within the United States, identify as Muslim.

13. As set forth in greater detail below, implementation of the EOs has caused substantial harm to IRAP and its clients, and will continue to harm them.

14. IRAP asserts claims on behalf of itself and its clients in the United States and abroad. The rights of its clients that IRAP seeks to vindicate here are inextricably bound up with its organizational mission and purpose, and its clients face numerous hurdles to bringing suit in their own names.

15. Plaintiff HIAS, the world's oldest refugee resettlement agency, is a faith-based organization that aims to rescue people around the world whose lives are in danger. The organization works toward a world in which displaced people find welcome, safety, and freedom.

16. Founded in 1881 to assist Jews fleeing pogroms in Russia and Eastern Europe, HIAS now serves refugees and persecuted people of all faiths and nationalities around the globe. Since HIAS's founding, the organization has helped more than 4.5 million refugees start new lives.

17. HIAS has offices in eleven countries worldwide, including headquarters in Silver Spring, Maryland, which is its principal place of business, and another domestic office in New York City.

18. Refugee resettlement lies at the heart of HIAS's work in the United States. It is one of nine non-profit organizations designated by the federal government to undertake this humanitarian work through contracts with the Department of State and the Department of Health and Human Services. HIAS also provides resettlement experts in support of the United Nations High Commissioner for Refugees (UNHCR).

19. In 2016, HIAS provided services to more than 350,000 refugees and asylum seekers globally. HIAS's client base includes refugees and other persecuted people abroad and in the United States who are from Syria, Chad, Venezuela, Iraq, Iran, Sudan, Somalia, Yemen, Ukraine, Bhutan, the Democratic Republic of Congo, Afghanistan, Eritrea, Tanzania, Ethiopia, Burundi, South Sudan, Uganda, Russia, Belarus, and Burma, among other countries. Many of these clients are Muslim.

20. HIAS provides programs and services to refugees, including employment, psychosocial, and legal services. HIAS has also been approved to refer cases of particularly vulnerable refugees directly for third-country resettlement to the United States and other countries. Around the world, HIAS provides legal services to protect the rights of refugees, and to register, document, and secure the status of refugees.

21. HIAS is also assigned clients via the State Department's allocation process, which determines which refugee clients will be resettled by HIAS. For clients who have newly arrived in the United States, HIAS either provides direct resettlement services or partners with other organizations across the country to do so. These services include arranging housing and providing essential furnishings, food, clothing, initial cash assistance, initial health screening, cultural and community orientation, and, through case management services, assistance with enrollment in English language classes and employment services, as well as referrals for health and legal services.

22. HIAS, directly and through affiliated agencies, also provides assistance to refugee and asylee clients in the United States who are seeking to gain entry for family members abroad who still face persecution. Such assistance includes (but is not limited to) the preparation and filing of I-130 and I-730 petitions on behalf of its U.S.-based clients seeking to obtain visas permitting their family members abroad to join them in the United States.

23. As set forth in greater detail below, implementation of EO-1 and EO-2 has caused substantial harm to HIAS and its clients, and EO-3 will continue to harm them.

24. HIAS asserts claims on behalf of itself and its clients. The rights of its clients that HIAS seeks to vindicate here are inextricably bound up with its organizational mission and purpose, and its clients face numerous hurdles to bringing this suit in their own names.

25. Plaintiff Middle East Studies Association (MESA) is a non-profit learned society that brings together scholars, educators, and those interested in the study of the Middle East from all over the world. From its inception in 1966 with 51 founding members, MESA has increased its membership to more than 2,400 and now serves as an umbrella organization for fifty-five institutional members. MESA's membership includes both graduate students and faculty working in the field of Middle East studies, both in the United States and abroad.

26. As set forth in greater detail below, MESA and its members have been harmed in a variety of ways by EO-1 and EO-2, and will be harmed by EO-3.

27. MESA asserts claims on behalf of itself and its members.

28. Plaintiff Arab-American Association of New York (AAANY) is a social service and advocacy organization based in Brooklyn, New York. AAANY was founded in 2001 by prominent and active members of the Arab-American and Arab immigrant communities to respond to the needs of low-income Arab immigrants in New York City, and has since become the largest legal service organization in southwest Brooklyn. Serving over 5,000 people a year, the majority

of whom are women and girls, AAANY works to support and empower the Arab-American and Arab immigrant community by providing legal services regarding immigration, family, and housing law matters, among others; mental health care; English as a Second Language (ESOL) classes; academic tutoring for children; cultural events; youth mentorship programs; voter registration; and a host of other free services and programs.

29. As set forth in greater detail below, the implementation of EO-1 and EO-2 has caused substantial harm to AAANY and its clients, and EO-3 will continue to harm them.

30. AAANY asserts claims on behalf of itself and its clients. The rights of its clients that AAANY seeks to vindicate here are inextricably bound up with its organizational mission and purpose, and its clients face numerous hurdles to bringing this suit in their own names.

31. Plaintiff Yemeni-American Merchants Association ("YAMA") is an association of business owners and activists that was founded in response to EO-1 to protect the Yemeni-American community from harassment and harm and to help Yemeni-American business owners navigate immigration and other issues.

32. YAMA is based in New York and has organized strikes, meetings, educational forums, and other events to protest against Muslim-targeted travel restrictions and also provide information and support for Yemeni business owners and other members of the Yemeni community.

33. YAMA currently has between 200 and 300 members. As set forth in greater detail below, YAMA and its members have been harmed in a variety of ways by EO-1 and EO-2, and will be by EO-3.

34. YAMA asserts claims on behalf of itself and its members.

35. Plaintiff John Doe #1 is a lawful permanent resident and national of Iran who lives in Montgomery County, Maryland. He is a scientist. He came to the United States in 2014 on an exchange visitor visa. In 2016, he obtained his lawful permanent resident status through the

National Interest Waiver program for people with extraordinary abilities. His pioneering scholarly works are recognized as cutting edge in the sciences. Both John Doe #1 and his wife, who is not a party, are non-practicing Muslims.

36. Plaintiff John Doe #3 is a lawful permanent resident and national of Iran who lives in Anne Arundel County, Maryland. He came to the United States in 2011 through the diversity (green card) lottery. John Doe #3 worked as a teacher in Iran, and currently works in the engineering field.

37. Plaintiff John Doe #4 is a U.S. citizen of Iranian origin who lives in Georgia. He moved to the United States in 1977 and became a citizen in 1999. He is a tenured professor with over 80 published scientific articles, which collectively have been cited more than a thousand times. Both John Doe #4 and his wife, who is not a party, are non-practicing Muslims. He has an approved I-130 visa petition for his wife, who is a national of Iran, where she still lives.

38. John Doe #5 is a U.S. citizen of Yemeni origin who lives in New York City. He immigrated to the United States in 1994 and now owns a grocery store and several wireless stores. He has an approved I-130 visa petition for his mother, a Yemeni national who fled from her home to Jordan after war broke out in Yemen in 2015.

39. Plaintif Jane Doe #2 is a U.S. citizen of Syrian origin who lives in Mecklenburg County, North Carolina. She is from a Muslim family and is enrolled in college where she is studying to become a healthcare technician. She filed a family-based I-130 visa petition for her sister who is a Syrian refugee currently living in a refugee-designated area in Saudi Arabia with her husband and two young children. That petition has been approved.

40. Plaintiff Mohammed Meteab is a lawful permanent resident of the United States who lives in Springfield, Massachusetts. He came to the United States in 2015 as a refugee along with his wife and two children. He now has a third child, a U.S. citizen born in the United States.

Plaintiff Meteab is one of five brothers; he, his wife, his two elder children, and all five brothers are Iraqi. One brother came to the United States as a refugee. The other three brothers have been approved as refugees by the United Nations High Commission for Refugees and remain in Jordan, awaiting resettlement. Two of the three are approved to come to the United States but do not yet have travel documents. Mr. Meteab is a Sunni Muslim, as are his brothers.

41. Plaintiff Mohamad Mashta is a United States lawful permanent resident of Syrian origin who lives in Celina, Ohio. He came to the United States on a student visa in 2012 and subsequently applied for and was granted asylum. He has a Master's degree in electrical engineering and works as an engineer. His I-130 visa petition for his wife, a Syrian national who fled to Sudan with her family, has been approved. Both Mr. Mashta and his wife are practicing Muslims.

42. Plaintiff Grannaz Amirjamshidi is a United States citizen of Iranian origin who lives in Campbell, California. She came to the United States in 2009 as a diversity visa lottery winner and now works as an engineer manager at a manufacturing company. She has a master's degree in Operation Management. Ms. Amirjamshidi's mother is an Iranian citizen who lives in Canada and who has been granted twelve tourist visas in seven years to come to the United States to visit Ms. Amirjamshidi and her family. Her most recent tourist visa application is pending.

43. Plaintiff Shapour Shirani is U.S. Citizen of Iranian origin who lives in Boyds, Maryland. He moved to the United States in 1993. Mr. Shirani is a nonpracticing Muslim. He has an approved I-130 visa petition for his wife, who is a national of and still lives in Iran.

44. Plaintiff Fakhri Ziaolhagh is a U.S. Citizen of Iranian origin who lives in Gaithersburg, Maryland. Ms. Ziaolhagh moved to the United States in 2008, on an employer-sponsored visa, together with her husband and her younger son. She is a practicing Muslim. She has an approved

I-130 visa petition for her older son, who is a national of and still lives in Iran, separated from the rest of their family.

45. Plaintiff Afsaneh Khazaeli is a U.S. Citizen of Iranian origin who lives in Illinois. She came to the United States in 1977 with her husband, who entered on a student visa. Ms. Khazaeli is the sole proprietor of a sewing store. She has an approved visa application for her sister, an Iranian national. Ms. Khazaeli and her family are nonpracticing Muslims.

46. As set forth in greater detail below, implementation of all the EOs has caused and will continue to cause harm to Plaintiffs John Doe #1, John Does #3 through #5, Jane Doe #2, Mateab, Mashta, Amirjamshidi, Shirani, Ziaolhagh, and Khazaeli (collectively, the "Individual Plaintiffs").

47. Defendant Donald Trump is the President of the United States. He is sued in his official capacity. In that capacity, he issued the EOs.

48. Defendant U.S. Department of Homeland Security ("DHS") is a cabinet-level department of the United States federal government. Its components include U.S. Citizenship and Immigration Services ("USCIS"), Customs and Border Protection ("CBP"), and Immigration and Customs Enforcement ("ICE"). CBP's responsibilities include inspecting and admitting immigrants and nonimmigrants arriving with U.S. visas at international points of entry, including airports and land borders. USCIS's responsibilities include adjudicating requests for immigration benefits for individuals located within the United States. ICE's responsibilities include enforcing federal immigration law within the interior of the United States. Both EO-2 and EO-3 assign DHS a variety of responsibilities regarding their enforcement.

49. Defendant U.S. Department of State ("DOS") is a cabinet-level department of the United States federal government. DOS is responsible for the issuance of immigrant and nonimmigrant visas abroad. Both EO-2 and EO-3 assign DOS a variety of responsibilities regarding their enforcement.

50. Defendant Office of the Director of National Intelligence ("ODNI") is an independent agency of the United States federal government. The ODNI has specific responsibilities and obligations with respect to implementation of EO-2 and EO-3.

51. Defendant Rex Tillerson is the Secretary of State and has responsibility for overseeing enforcement and implementation of EO-2 and EO-3 by all DOS staff. He is sued in his official capacity.

52. Defendant Elaine Duke is the Acting Secretary of Homeland Security. Acting Secretary Duke has responsibility for overseeing enforcement and implementation of EO-2 and EO-3 by all DHS staff. She is sued in her official capacity.

53. Defendant Dan Coats is the Director of National Intelligence, and has responsibility for overseeing enforcement and implementation of EO-2 and EO-3 by all ODNI staff. He is sued in his official capacity.

FACTUAL ALLEGATIONS

President Trump's Expressed Intent To Target Muslims and To Favor Christians Seeking to Enter the Country

54. President Trump has repeatedly made clear his intent to enact policies that exclude Muslims from entering the United States and to favor Christians seeking to enter the United States.

55. On December 7, 2015, then-Presidential candidate Trump issued a statement on his campaign website. Entitled, "DONALD J. TRUMP STATEMENT ON PREVENTING MUSLIM IMMIGRATION," the statement declared that "Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on."

56. The statement, which remained on President Trump's campaign website until it was selectively removed on May 8, 2017—the day this Court's preliminary injunction of Section 2(c) of EO-2 was argued before the Fourth Circuit, sitting en banc—invoked stereotypes of Muslims,

falsely suggesting that all Muslims believe in "murder against non-believers who won't convert" and "unthinkable acts" against women.

57. Defending his proposed Muslim ban the next day, candidate Trump told Good Morning America, "What I'm doing is I'm calling very simply for a shutdown of Muslims entering the United States—and here's a key—until our country's representatives can figure out what is going on."

58. When asked the same day on MSNBC how his Muslim ban would be applied by customs officials, candidate Trump said, "That would be probably—they would say, are you Muslim?" A reporter followed up by asking, "And if they said yes, they would not be allowed in the country[?]" Candidate Trump responded, "That's correct."

59. Candidate Trump repeatedly reiterated his support for targeting Muslims seeking to enter the United States.

60. On March 9, 2016, candidate Trump stated, "I think Islam hates us. There's . . . a tremendous hatred there . . . . There's an unbelievable hatred of us . . . . We can't allow people coming into this country who have this hatred of the United States . . . and [of] people that are not Muslim . . . ."

61. The next day, during a debate, candidate Trump said he would "stick with exactly" what he had said the night before. When asked if he was referring to all 1.6 billion Muslims worldwide, he explained, "I mean a lot of them." Candidate Trump stated later in the same debate, "There is tremendous hate. There is tremendous hate. Where large portions of a group of people, Islam, large portions want to use very, very harsh means."

62. On March 22, 2016, candidate Trump stated that "we're having problems with the Muslims, and we're having problems with Muslims coming into the country," adding, "You need

surveillance. You have to deal with the mosques whether we like it or not . . . . These attacks aren't . . . done by Swedish people. That I can tell you."

63. The same day, candidate Trump stated on Twitter that a Democratic candidate for President, Hillary Clinton, wanted to "let the Muslims flow in."

64. On May 11, 2016, candidate Trump announced that he was putting together an "immigration commission," to be headed by Rudy Giuliani, that would "look at the 'Muslim ban,' or 'temporary ban' as we call it."

65. As Mr. Giuliani corroborated two days after EO-1 was issued, that commission was tasked with coming up with a way to "legally" implement a "Muslim ban," and it recommended using territory as a proxy for religion.

66. In the months after announcing creation of the "immigration commission," candidate Trump heavily foreshadowed the contours of the EOs to come. He explained, for example, that he would impose the ban pursuant to the president's authority under 8 U.S.C. § 1182(f), and that it would operate on the basis of geography. When pressed to name the countries that would be affected, candidate Trump demurred, but stated that his ban would incorporate a pre-existing list of what he called "terror nations." This list, as it turned out, was the list of countries exempted from the Visa Waiver Program, which allows the nationals of participating countries to enter the United States for certain purposes for 90 days without first obtaining a visa.

67. Lest there be any doubt about what he was proposing, however, candidate Trump repeatedly rejected the notion that he was backing away from the promised Muslim ban—which he continued to defend as a good idea—and instead emphasized that he was using territory as a proxy for religion.

68. On June 13, 2016, for example, candidate Trump stated in a major speech on national security, "I called for a ban after San Bernardino and was met with great scorn and anger. But

now many . . . are saying that I was right to do so." In the same prepared speech, he promised to use the president's authority under 8 U.S.C. § 1182(f) to "suspend immigration from [certain] areas of the world."

69. Later that same day, candidate Trump tweeted: "In my speech on protecting America I spoke about a temporary ban, which includes suspending immigration from nations tied to Islamic terror."

70. Two days later, on June 15, candidate Trump explained that "it's a temporary ban, in particular for certain people coming from certain horrible—where you have tremendous terrorism in the world. You know what those places are."

71. On June 25, 2016, candidate Trump stated that he "do[esn't] want people coming in from certain countries." When asked which countries, candidate Trump explained to one media outlet that "they're pretty well decided. All you have to do is look!," and to another, "I want people that have bad thoughts out. I would limit specific terrorist countries and we know who those countries are."

72. When pressed once more, two days later, to identify the countries he would target for his ban, candidate Trump stated that he would focus on "terror nations": "Look it up. They have a list of terror nations."

73. In an interview aired on 60 Minutes on July 17, 2016, when asked about the proposed Muslim ban, candidate Trump replied: "Call it whatever you want. We'll call it territories, ok?" Asked again whether Muslims would be banned, candidate Trump said that "there's nothing like" the Constitution "[b]ut it doesn't necessarily give us the right to commit suicide, as a country, okay?" He again reiterated: "Call it whatever you want."

74. In a July 24, 2016 interview on Meet the Press, candidate Trump was asked if a plan similar to the EOs he eventually signed was a "rollback" from "[t]he Muslim Ban." Candidate

Trump responded: "I don't think so. I actually don't think it's a rollback. In fact, you could say it's an expansion. I'm looking now at territories."

75. Candidate Trump continued: "People were so upset when I used the word Muslim. Oh, you can't use the word Muslim. Remember this. And I'm okay with that, because I'm talking territory instead of Muslim."

76. When speaking to Sean Hannity of Fox News the next day, candidate Trump again rejected the idea that he was retreating from his proposed Muslim ban, stating that his "position's gotten bigger now" because he is "talking about territories now." Candidate Trump explained that "we're talking about territories" because "[p]eople don't want me to say Muslim."

77. In a major prepared speech on immigration on August 15, 2016, candidate Trump again invoked false stereotypes of Muslims. He explained that his immigration policy—which he called "extreme, extreme vetting"—would ensure that those we admit "share our values," which means screening out those who support "honor killings," or "who believe Sharia law should supplant American law."

78. Candidate Trump continued and outlined a plan to ask the Departments of State and Homeland Security to identify "a list of regions where inadequate screening cannot take place" so that the United States could "stop processing visas from those areas until such time as it is deemed safe to resume based on new circumstances or new procedures." Although he then claimed that "[t]he size of current immigration flows are too large to perform adequate screening," the only "immigration flow" he expressed concern about was that from the Middle East: "We admit about 100,000 permanent immigrants from the Middle East every year. Beyond that, we admit hundreds of thousands of temporary workers and visitors from the same regions. Hundreds of thousands. If we don't control the numbers, we can't perform adequate screening."

79. In a speech on September 1, 2016, candidate Trump reiterated that he would task federal agencies with "develop[ing] a list of regions and countries from which immigration must be suspended until proven and effective vetting mechanisms can be put in place. I call it extreme vetting right? Extreme vetting. I want extreme."

80. This "extreme vetting," candidate Trump explained, would include asking immigrant applicants "their views about honor killings, about respect for women and gays and minorities," and their "[a]ttitudes on radical Islam."

81. During a nationally-televised presidential debate on October 9, 2016, candidate Trump was asked again about his proposed Muslim ban. He answered that "[t]he Muslim ban is something that in some form has morphed into extreme vetting for certain areas of the world." When pressed to "please explain whether the Muslim ban still stands," candidate Trump replied: "It is called extreme vetting. We are going to areas like Syria."

82. On December 21, 2016, president-elect Trump was asked whether he "had cause to rethink or reevaluate [his] plans to create a Muslim register or ban Muslim immigration to the United States." He replied: "You know my plans all along, and I've been proven to be right, 100 percent correct."

The January 27 Order/EO-1

83. After conducting a campaign in which a ban on Muslim admissions was a key promise, President Trump took action to carry out that promise by issuing EO-1 on January 27, one week after being inaugurated.

84. Statements made by President Trump and his advisors around the time of the signing of EO-1 confirm President Trump's intent to discriminate against Muslims. In an interview with the Christian Broadcasting Network released the same day that he signed EO-1, President Trump stated that it was designed to give Christians priority when applying for refugee status. "If you

were a Muslim you could come in [to the United States], but if you were a Christian, it was almost impossible," he said. "[T]hey were chopping off the heads of everybody but more so the Christians. And I thought it was very, very unfair. So we are going to help them."

85. Consistent with this expressed religious animus towards Muslims and preference for Christians, EO-1 disfavored Muslims while giving special treatment to non-Muslims.

86. Section 3 of EO-1, for example, banned any entry for 90 days for individuals from seven countries, each of which is more than ninety percent Muslim: Syria, Sudan, Iraq, Iran, Libya, Somalia, and Yemen. The combined population of those countries is more than 97% Muslim.

87. As promised on the campaign trail, EO-1 provided a mechanism for the government to extend and/or expand the 90-day ban at the end of the 90 day period. Section 3 of EO-1 directed the Secretary of Homeland Security to "immediately conduct a review to determine the information needed from any country to adjudicate any visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat," and to "submit to the President a report on the results of the review . . . within 30 days of the date of this order." At that point, the "Secretary of State shall request all foreign governments that do not supply such information to start providing such information," and 60 days after that—precisely at the end of the initial 90 day ban period—EO-1 provided for the President to issue a proclamation indefinitely banning travelers from a list of countries deemed to be non-compliant "until compliance occurs."

88. Although this review provision remained in effect for 48 days, the 30-day review to be conducted by the Secretary of Homeland Security pursuant to EO-1 was never completed.

89. Section 5 of EO-1 prohibited refugee admissions for 120 days, except for Syrian refugees, who were banned indefinitely.

90. EO-1 discriminated between persons of majority and minority faiths in their country of origin. Section 5(b) required the government to "prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality" once the 120-day ban on refugee admissions is complete.

91. During those 120 days, moreover, Section 5(e) allowed the admission of certain refugees on a discretionary case-by-case basis, "only so long as [the Secretaries of State and Homeland Security] determine that the admission of such individuals as refugees is in the national interest—including when the person is a religious minority in his country of nationality facing religious persecution."

92. As the President conceded, these provisions were intended to allow Christian refugees to enter the United States, even while Muslim refugees from the same countries were prohibited from doing so. And indeed, Muslims would have been severely disadvantaged under the minority-faith preferences set forth in Sections 5(b) and 5(e). During the past three fiscal years, only 12% of Muslim refugees hailed from a country where Islam is a minority faith.

93. There is no statutory, regulatory, or constitutional basis for favoring refugees from minority faiths over refugees from majority faiths. There is no basis in the Refugee Act of 1980, as amended—which governs the admission of refugees to the United States and their resettlement herein—to prioritize refugees fleeing persecution on the basis of religion, as opposed to the other congressionally-recognized bases. *See* 8 U.S.C. § 1101(a)(42) (defining "refugee").

94. Section 5(d) of EO-1 reduced, by more than half, the annual refugee admissions allotment that was set prior to the current fiscal year by President Obama (from 110,000 to 50,000).

95. As of February 2017, approximately 41,000 refugees had already been resettled in the United States, and there were tens of thousands more refugees in the USRAP pipeline.

96. Shortly after EO-1 was signed, USCIS cancelled nearly all refugee processing interviews abroad.

97. Additionally, DOS suspended security checks for refugees, a process that typically takes between 18-24 months.

98. Section 5(d)'s reduction in the annual refugee admissions allotment essentially halted the United States' refugee resettlement process.

99. Section 5(g) of EO-1, meanwhile, sought to expand the limited role State and local governments have in the refugee resettlement process in order to facilitate the recently-stated desire and intent of some states and localities to discriminate against refugees on the basis of their nationality and/or religion. *See, e.g.*, *Exodus Refugee Immigration, Inc. v. Pence*, 838 F.3d 902 (7th Cir. 2016) (affirming preliminary injunction on equal protection grounds of state executive order issued by then-Governor of Indiana, Mike Pence, that sought to prevent the resettlement in the State of refugees from Syria).

100. In addition to Sections 3 and 5, other sections of EO-1 reinforced stereotypes about Muslims and discriminated against them. Multiple sections, for example, associated Muslims with violence, bigotry, and hatred, inflicting stigmatic and dignitary harms, among other types of injury. These included Sections 1 and 2, which portrayed EO-1 as protecting citizens from foreign nationals "who would place violent ideologies over American law" and "who intend to commit terrorist attacks in the United States"; and Section 10, which required the Secretary of Homeland Security to periodically publish information about the number of "foreign nationals" involved in, among other things, terrorism-related activities, radicalization, and "gender-based violence against women, including honor killings"—direct echoes of candidate Trump's broad statements denigrating Islam and Muslims.

101. Further, on information and belief, since EO-1 was signed, CBP has questioned foreign nationals entering from certain countries about their religious beliefs to determine whether or not they are Muslim, and has subjected Muslim travelers from countries other than the seven designation nations to disproportionate and unwarranted scrutiny and interrogation.

102. There is no sound basis for concluding that Muslims generally, or Muslims from particular countries, are more likely to commit violent acts of terror.

103. A previous program to track certain foreign nationals predominantly from Muslim-majority countries, the National Security Entry-Exit Registration System ("NSEERS"), did not lead to the conviction or even identification of a single terrorist, even though it subjected tens of thousands of people to additional screening and investigation.

104. EO-1 remained in effect until March 16, 2017, when EO-2, signed on March 6, became effective and rescinded and replaced EO-1.

The Chaotic and Irregular Implementation of EO-1

105. The preparation and implementation of EO-1 were extremely unusual and chaotic, at least in part because President Trump issued it without consulting the federal agencies tasked with protecting the national security.

106. The White House bypassed regular channels for input and cooperation with other components of the Executive Branch, including the Secretaries of Homeland Security, Defense, and State, as well as the Department of Justice.

107. Moreover, CBP was not given clear operational guidance during critical times in the implementation of EO-1.

108. EO-1 was signed without final review or legal analysis from DHS, which—along with the DOS—was principally charged with implementing it.

109. Then-Secretary of Homeland Security Kelly was reportedly in the midst of a conference call to discuss EO-1 when someone on the call learned from watching television that the order they were discussing had already been signed.

110. Similarly, Secretary of Defense Mattis, who had publicly criticized President Trump's proposal to ban Muslims from the United States, reportedly did not see a final version of EO-1 until the day it was signed, and was not consulted during its preparation.

111. EO-1 did not arise out of the usual process of consulting with the relevant cabinet-level officials and agencies before issuing an executive order. Instead, EO-1 was primarily drafted by a small team of Presidential aides, overseen by then-chief White House strategist Stephen K. Bannon.

112. Mr. Bannon has previously made anti-Muslim comments. He criticized former President George W. Bush for referring to Islam as "a religion of peace," calling President Bush "one of the dumbest presidents in the history of these United States."

113. Congressional staff who worked on EO-1 reportedly were required to sign nondisclosure agreements, and not even the members of Congress they served were allowed to know of their work on EO-1. On information and belief, this arrangement was also highly unusual.

114. During the days leading up to and following the signing of EO-1, its scope and provisions were changed without any rational relationship to its purported justifications.

115. For example, the night after EO-1 was signed, DHS issued guidance interpreting § 3(c) as not applying to lawful permanent residents. Overnight, the White House overruled that guidance, applying EO-1 to lawful permanent residents subject to a case-by-case exception process, in a decision closely associated with Mr. Bannon.

116. After the detention at airports of many individuals, including lawful permanent residents, led to chaos nationwide, then-DHS Secretary Kelly issued a statement "deem[ing] the

entry of lawful permanent residents to be in the national interest." Secretary Kelly's statement was made pursuant to Section 3(g) of the order, which requires such a decision to be made "on a case-by-case basis."

117. Finally, on February 1, the Counsel to the President purported to interpret EO-1 as exempting lawful permanent residents from the ban entirely.

118. Similarly, initial guidance from DOS indicated that individuals with dual citizenship, with one country of citizenship subject to the ban, would be banned from entering the United States. Word of a change in that policy spread irregularly, with notice being given to airlines and foreign nations but contradicted in official U.S. government communications.

119. Finally, CBP announced a changed policy, explaining, in response to the question "Does 'from one of the seven countries' mean citizen, national or born in?" that "Travelers are being treated according to the travel document they present." According to this policy the same individual both was and was not subject to the travel ban depending only on the travel document she presented.

120. The government also reversed itself on its policy toward holders of Special Immigrant Visas from Iraq. Holders of these visas were clearly banned under the terms of EO-1, and they were refused entry when it went into effect. However, on February 2, 2017, they were granted a categorical waiver allowing them to enter the United States notwithstanding the ban.

121. Nationals of the seven banned countries who had immigrated to (but were not yet citizens of) Canada, meanwhile, were inexplicably allowed to enter the United States, even without a waiver—unless they had emigrated to Canada as refugees, in which case they remained banned.

122. Still other aspects of EO-1 and its implementation demonstrated utter disregard for the individuals affected by it. For example, the Administration knew that EO-1 would bar the entry of individuals who were literally mid-air when the order was issued. Nonetheless, and absent any

exigency that would justify it, the order was signed late on a Friday afternoon. That decision had a number of predictable consequences, including: making it more difficult for the federal employees tasked with enforcing the order to obtain instruction on how to interpret and enforce the order's sloppily-written provisions; causing prolonged detentions at airports and land borders, and leading many to be wrongfully deported; and increasing the difficulty advocates had in accessing their clients and the courts.

123. In a tweet on January 30, 2017, President Trump appeared to justify the rushed implementation of EO-1 by claiming that "[i]f the ban were announced with a one week notice, the 'bad' would rush into our country during that week. A lot of bad 'dudes' out there!"

124. In another tweet the same day, and again in seeming response to criticism about the rollout of EO-1 President Trump stated that, "This was a big part of my campaign."

125. Even once advocates were able to access the courts and obtain temporary injunctive relief against aspects of EO-1, DHS officials frequently refused or otherwise failed to comply with the court orders, undermining bedrock constitutional principles and inflicting further unlawful injury on the affected individuals.

126. Other actions taken by DHS and DOS to enforce EO-1 exhibited a zealous desire to go beyond even the draconian measures the order actually required.

127. Notwithstanding that Section 3 of EO-1 only barred "entry into the United States of aliens from" one of the aforementioned seven Muslim-majority countries, DHS interpreted it to prohibit the granting of *any* immigration-related benefit to anyone from those countries—including to individuals who are already in the United States. That decision would have had wide-ranging consequences, including: delaying naturalization of lawful permanent residents from those countries who wish to become U.S. citizens; rendering asylees from those countries unable to be lawfully employed once their Employment Authorization Documents expire; and either expelling

or making undocumented any individuals here on nonimmigrant visas (including student, employment, and tourist) that otherwise would have been renewed.

128. DOS, at the request of DHS, issued a letter purporting to provisionally revoke *all* immigrant and nonimmigrant visas of nationals of the seven designated countries on a categorical basis—affecting at least 60,000 people—including of all such individuals already in the United States. The letter is dated January 27, 2017, but only came to light on January 31, 2017, when Department of Justice lawyers filed it in pending litigation. DOS has stated that this action was taken to "implement[]" EO-1.

129. Upon information and belief, DOS has never before revoked a broad swath of valid visas in this manner.

130. Nor, on information and belief, is visa revocation ordinarily undertaken in secret, with no notice to the visa holder and no individualized consideration of whether any particular visa should be revoked.

131. Still further evidence of discriminatory intent and effect is reflected in the statements by President Trump and his Administration seeking to defend and justify EO-1 after it was issued.

132. President Trump, for example, falsely stated that only 109 people were detained over the weekend following the issuance of EO-1, even though he knew or should have known that the number was far higher.

133. Indeed, the federal government has since revealed that at least 2,000 people were detained at airports and land borders while the ban portions of EO-1 were in effect.

134. These chaotic, irregular, and irrational policies, policy changes, and statements indicate that the purported justifications for EO-1 were pretextual and that it was at least substantially motivated by an intent to discriminate against Muslims.

The Nationwide Preliminary Injunction of EO-1

135. A February 3, 2017 order issued by the District Court for the Western District of Washington prohibited the government from enforcing §§ 3(c), 5(a), 5(b), and 5(e) of EO-1. Upon issuance of that injunction, the government appealed to the Ninth Circuit and sought a stay pending appeal.

136. After hearing oral argument, the Ninth Circuit declined to stay the injunction, noting that "although courts owe considerable deference with respect to immigration and national security, it is beyond question that the federal judiciary retains the authority to adjudicate constitutional challenges to executive action." *Washington v. Trump*, 847 F.3d 1151, 1164 (9th Cir. 2017).

137. In reaching its holding, the Court noted that "[t]he government has pointed to no evidence that any alien from any of the countries named in the order has perpetrated a terrorist attack in the United States." *Id.* at 1168.

138. The Court also acknowledged "evidence of numerous statements by the President about his intent to implement a 'Muslim ban'" and observed that "[i]t is well established that evidence of purpose beyond the face of the challenged law may be considered in evaluating Establishment and Equal Protection Clause claims." *Id.* at 1167.

139. Shortly after the Ninth Circuit's opinion issued, President Trump tweeted, "SEE YOU IN COURT, THE SECURITY OF OUR NATION IS AT STAKE!" He subsequently denounced the opinion as "a political decision" and stated, "[W]e're going to see them in court, and I look forward to doing that. It's a decision that we'll win, in my opinion, very easily."

140. On March 7, 2017, the government withdrew its appeal of the preliminary injunction of EO-1.

The March 6 Order/EO-2

141. In the weeks preceding the issuance of EO-2, the President and his closest advisors assured the public that the executive order to come would achieve the same goals as the original, and would have only minor differences.

142. At a press conference on February 16, President Trump defended EO-1 as a "lawful" and "decisive action to keep radical Islamic terrorists out of country," but nonetheless promised a new order would be issued the following week, "tailored to what [he] considered to be a very bad decision" from the Ninth Circuit. President Trump explained that "we can tailor the order [to the Ninth Circuit] decision and get just about everything, in some ways, more."

143. In explaining why he was pressing on with a new travel ban, President Trump explained: "I got elected on defense of our country. I keep my campaign promises, and our citizens will be very happy when they see the result."

144. In the days that followed, senior White House officials reiterated the President's view that EO-1 was fully lawful, and that the new order would be "tailored" to address "minor" and "very technical issues" they claimed troubled the courts with regard to EO-1. Press Secretary Sean Spicer affirmed that "[t]he principles of the executive order remain the same." Stephen Miller, a senior advisor to President Trump, explained that EO-2 would constitute "the same, basic policy outcome for the country."

145. Consistent with these statements, EO-2, explicitly referring to the Ninth Circuit's ruling, exempts from the ban certain categories of noncitizens that "prompted judicial concerns," and alters the original order's "approach to certain other issues or categories of affected aliens" so as "to avoid spending additional time pursuing litigation" over the constitutionality of EO-1.

146. Indeed, notwithstanding an expanded "Policy and Purpose" section and certain other changes discussed more fully below, EO-2 is extremely similar to EO-1 in most material respects.

147. Like its predecessor, EO-2 banned entry for a new 90 day period for individuals from the six of the same seven predominantly Muslim countries identified in EO-1: Syria, Sudan, Iran, Libya, Somalia, and Yemen. EO-2 § 2(c).

148. Like EO-1, and as promised on the campaign, EO-2 also provided a mechanism for the government to extend and/or expand the 90-day ban at the end of the 90 day period. Section 2 of EO-2 directed the Secretary of Homeland Security to "conduct a worldwide review to identify whether, and if so what, additional information will be needed from each foreign country to adjudicate an application by a national of that country for a visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual is not a security or public-safety threat."

149. In addition, EO-2 explicitly provided that the review need not be conducted in a consistent matter between countries: "The Secretary of Homeland Security may conclude that certain information is needed from particular countries even if it is not needed from every country." Again, the order provides for the submission of a report on this review within 30 days of the date of the order, a period (50 days rather than 60) for countries to respond to the order, and a provision for the President to thereafter issue a proclamation indefinitely banning travelers from a list of countries deemed to be non-compliant.

150. EO-2 states that "Iraq presents a special case" because of the "close cooperative relationship between the United States and the democratically elected Iraqi government" and because the latter "has expressly undertaken steps to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal." EO-2 § 4.

151. With this justification, EO-2 exempts foreign nationals of Iraq from the categorical ban on entry applicable to other countries originally targeted by EO-1. Instead, Iraqis are subject to

"thorough review" and "consideration of whether the applicant has connections with ISIS or other terrorist organizations."

152. Like EO-1, EO-2 allows for waivers to this ban on a discretionary case-by-case basis. EO-2§ 3(c). In contrast to EO-1, which simply stated that visas and other immigration benefits may be issued "when in the national interest," EO-2 provides nine examples of situations in which a waiver would be appropriate, such as when "the foreign national is an infant, a young child or adoptee" or "an individual needing urgent medical care." EO-2 § 3(c)(i)-(ix).

153. These and other similar circumstances enumerated in EO-2 reflect specific examples of individuals whose denial of entry pursuant to EO-1 resulted in the filing of lawsuits and widespread public outcry.

154. EO-2 also contains exceptions to this ban for, among others, lawful permanent residents and dual nationals traveling on passports issued by a non-designated country. EO-2 § 3(b).

155. Like EO-1, EO-2 cut the number of refugees who could be admitted to the United States for fiscal year 2017 from 110,000 to 50,000, and prohibits refugee admissions for 120 days, with an exception for discretionary case-by-case admissions. EO-2 §§ 6(a), 6(b). EO-2 also expressly suspended decisions on applications for refugee status for 120 days. EO-2 § 6(a).

156. After EO-2 was issued, but before it went into effect, Defendants began enforcing its provisions regarding refugee resettlement, notwithstanding the fact that the corresponding sections of EO-1 remained enjoined.

157. In addition to the provisions discussed above, EO-2 contains near-verbatim reproductions of all the other substantive provisions of EO-1, including:

- Former Section 4(a), now Section 5(a), which requires the Secretaries of State and Homeland Security, the Attorney General, and the Director of National Intelligence to implement uniform screening standards to identify individuals "who seek to enter the

United States on a fraudulent basis, who support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry."

- Former Section 5(g), now Section 6(d), which seeks to expand the limited role State and local governments have in the refugee resettlement process, potentially facilitating the stated desire and intent of some states and localities in the United States to discriminate against lawfully-admitted refugees on the basis of their nationality and/or religion. *See, e.g., Exodus Refugee Immigration*, 838 F.3d 902.
- Former Section 6, now Section 7, which directs the Secretaries of State and Homeland Security to consider rescinding certain waivers of terrorism-related inadmissibility grounds ("TRIG waivers") authorized by previous administrations. TRIG waivers have historically been used to facilitate the admission to the United States of certain individuals or groups of individuals—often refugees fleeing persecution—who have been forced to give aid to terrorist organizations under duress.
- Former Section 8, now Section 9, which suspends the Visa Interview Waiver Program.
- Former Section 10, now Section 11, which requires the Secretary of Homeland Security to periodically publish information about the number of "foreign nationals" involved in, among other things, terrorism-related activities, radicalization, and "gender-based violence against women, including so-called 'honor killings.'"

158. The signing and implementation of EO-2 was reportedly delayed because of the positive media reviews President Trump received after his address to a joint session of Congress on February 28, 2017. Although the Trump Administration had previously intended on releasing the revised executive order the following day, on March 1, 2017, White House officials stated that

they delayed the release of the revised Executive Order so that President Trump's speech could continue to receive positive press attention.

159. The delay following President Trump's congressional address marked the third time the administration put off the issuance of the revised Executive Order.

160. After EO-1 was enjoined but before EO-2 was issued, President Trump ordered the Department of Homeland Security and the Department of Justice to produce an intelligence report to demonstrate that the seven Muslim-majority countries originally identified in EO-1 present a substantial security threat and have exported terrorism to the United States.

161. Such an attempt to reverse-engineer a national security justification for an executive action is not common practice.

162. In response, analysts at DHS prepared a draft report, released to the press on February 24, 2017, indicating that there was insufficient evidence that nationals of the seven Muslim-majority countries included in EO-1 pose a terror threat to the United States.

163. The draft report found that citizenship is an "unlikely indicator" of terrorism threats to the United States, and that few people from the countries identified in EO-1 have carried out attacks or been involved in terrorism-related activities in the United States since Syria's civil war started in 2011.

164. A second DHS report, dated March 1, 2017, found that of the limited number of the foreign-born, U.S.-based violent extremists, most become radicalized after living in the U.S. for a number of years.

165. EO-2 does not acknowledge or rely on either of these recent, specific security appraisals from DHS.

166. Instead, EO-2 relies on the State Department's Country Reports on Terrorism describing conditions in 2015 (and published in June 2016).

167. In relying on those reports, however, EO-2 disregards other countries that the State Department describes as safe havens for terrorists, and that pose a similar if not larger threat.

168. For example, the State Department noted in its 2015 chapter on Terrorist Safe Havens that Venezuela has become a haven for terrorist groups, explaining that the country's "porous border with Colombia has made [it] attractive to the Revolutionary Armed Forces of Colombia and the National Liberation Army."

169. Similarly, the State Department concluded that "[t]here are ungoverned, under-governed, and ill-governed areas of Mali that terrorist groups have used to organize, plan, raise funds, communicate, recruit, train and operative in relative security."

170. The same day EO-2 was signed, then-Secretary of Homeland Security John Kelly said in an interview that many other countries not banned in EO-2 raise similar security concerns. "There's probably thirteen or fourteen other countries—not all of them Muslim countries, not all of them in the Middle East—that have very questionable vetting procedures that we can rely on."

171. Secretary Kelly's statements were similar to those of then-White House Chief of Staff Reince Priebus, who stated in January that "[y]ou can point to other countries that have similar problems" as those banned by EO-1.

172. EO-2 also states that "more than 300 persons who entered the United States as refugees are currently subjects of counterterrorism investigations by the Federal Bureau of Investigation." EO-2 does not note that very few F.B.I. initial assessments of terrorism threats become intensive investigations: for example, in the four months from December 2008 to March 2009, the F.B.I. began 11,667 "assessments" related to terrorism, only 427 of which—less than 4%—led to more intensive investigations.

173. Approximately one million individuals have been admitted to the United States as refugees since 2001.

174. EO-2 was motivated by the same anti-Muslim purpose that motivated EO-1. In replicating much of the substance of EO-1, EO-2 seeks to prevent the entry of Muslims into the United States and reinforces stereotypes about Muslims by associating them with terrorism, violence, bigotry, and hatred.

The Nationwide Preliminary Injunctions of EO-2

175. On March 16, 2017, this Court granted in part Plaintiffs' motion for a preliminary injunction and issued a nationwide preliminary injunction of § 2(c) of EO-2, the 90-day nationality ban.

176. This Court held that "[i]n this highly unique case," the record establishes that any national security justification for EO-2, even if legitimate, is secondary to its primary religious purpose. Accordingly, this Court held that Plaintiffs are likely to succeed on their claim that § 2(c) of EO-2 violates the Establishment Clause.

177. Sitting en banc, the Fourth Circuit affirmed in relevant part by a 10-3 vote. The majority opinion, joined in full by seven judges and in substantial part by two more, applied the "facially legitimate and bona fide" standard of *Kleindienst v. Mandel*, 408 U.S. 753, 770 (1972), as refined by Justice Kennedy's controlling concurrence (joined by Justice Alito) in *Kerry v. Din*, 135 S. Ct. 2128, 2141 (2015) (Kennedy, J., concurring in the judgment).

178. The majority held that, "in this highly unique set of circumstances," Plaintiffs had presented "ample evidence" that the "the 'facially legitimate' reason proffered by the government is not 'bona fide.'" It therefore "no longer defer[red] to that reason and instead . . . 'look[ed] behind'" EO-2 by examining it under the Establishment Clause.

179. In a parallel proceeding, on March 15, 2016, the U.S. District Court for the District of Hawai'i issued a nationwide preliminary injunction of §§ 2 and 6 of EO-2, which, in addition to the 90-day nationality ban, included the 120-day refugee ban, the cut in refugee admissions from

110,000 to 50,000 for fiscal year 2018, and various reporting requirements. The District Court of Hawai'i held that the plaintiffs are likely to prevail on their claims that these sections violate the Establishment Clause.

180. On appeal, a panel of the Ninth Circuit affirmed the Hawai'i district court's preliminary injunction as to § 2(c) and the refugee-related provisions of §6. The Ninth Circuit held, in relevant part, that §2(c) violates the Immigration and Nationality Act ("INA"); the panel did not reach the plaintiffs' constitutional claims. The Ninth Circuit vacated portions of the Hawai'i preliminary injunction that had halted the review procedures set forth in other parts of §§ 2 and 6 of EO-2.

181. The government petitioned for certiorari in both cases and moved for a stay of the preliminary injunctions.

182. After Plaintiffs pointed out in their opposition to certiorari that the appeal would be moot on June 14—90 days from the "effective date" of the order, EO-2 § 14—President Trump signed a memorandum to the Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence in which he "declare[d]" that "the effective date of each enjoined provision" of EO-2 would "be the date and time at which the referenced injunctions are lifted or stayed with respect to that provision." 82 Fed. Reg. 27965. The memorandum provided further that, "[t]o the extent it is necessary," it "should be construed to amend" EO-2. *Id*.

183. On June 26, 2017, the Supreme Court granted certiorari in both this and the Hawai'i case, consolidated them, and partially stayed both preliminary injunctions. The Court held that the injunctions appropriately "covered not just respondents, but parties similarly situated to them," and stayed the injunctions only to the extent they applied to "foreign nationals abroad who have no connection to the United States at all." *Trump v. Int'l Refugee Assistance Project*, 137 S. Ct. 2080, 2087-88 (2017).

184. Pursuant to President Trump's June 14 memorandum, *see* 82 Fed. Reg. at 27966, the government began implementing § 2(c)'s nationality ban 72 hours later. The 90-day period expired on September 24, 2017.

The September 24 Presidential Proclamation/EO-3

185. In the months preceding the issuance of EO-3, President Trump has repeatedly made clear that he considers EO-2 to be a "watered down" and "politically correct" version of EO-1 that he only reluctantly signed at the best of "the lawyers" who told him to "tailor it," and that his ideal travel ban would be far harsher.

186. Indeed, at a rally on the same day this Court issued its injunction of § 2(c), President Trump claimed that EO-2 was a "new order [that] was tailored to the dictates of the Ninth Circuit, in my opinion, flawed ruling," and as such "was a watered down version of the first order that . . . should have never been blocked to start with."

187. President Trump emphasized that "[t]he best way to keep foreign terrorists or, as some people would say in certain instances, radical Islamic terrorists from attacking our country is to stop them from entering our country in the first place." Accordingly, he claimed that he agreed to "tailor" EO-2 to resist legal challenge at the urging of his lawyers, but that he thought "we ought to go back to the first one and go all the way, which is what I wanted to do in the first place."

188. President Trump repeated these sentiments on June 3, two days after the government filed its petition for certiorari of this Court's preliminary injunction. "We need to be smart, vigilant, and tough," he tweeted. "We need the courts to give us back our rights. We need the Travel Ban as an extra level of safety!"

189. President Trump subsequently issued multiple tweets criticizing EO-2 and the litigation surrounding it, and calling for a return to his original "Travel Ban."

190. On June 5, in a series of tweets, he said, "People, the lawyers and the courts can call it whatever they want, but I am calling it what we need and what it is, a TRAVEL BAN! / The Justice Dept. should have stayed with the original Travel Ban, not the watered down, politically correct version they submitted to S.C. / The Justice Dept. should ask for an expedited hearing of the watered down Travel Ban before the Supreme Court - & seek [a] much tougher version!"

191. After the Ninth Circuit largely upheld the Hawai'i district court's injunction of § 2 and 6 on June 12, President Trump criticized the court for "[r]ul[ing] against the TRAVEL BAN at such a dangerous time in the history of our country."

192. This statement echoed a criticism President Trump had leveled against the district judge that enjoined parts of EO-1 in *Washington v. Trump*: "The opinion of this so-called judge, which essentially takes law-enforcement away from our country, is ridiculous and will be overturned!"

193. Other subsequent tweets reiterate the same anti-Muslim animus that President Trump has expressed since he first proposed a Muslim ban.

194. On August 17, following a terrorist attack in Barcelona, President Trump tweeted, "Study what General Pershing of the United States did to terrorists when caught. There was no more Radical Islamic Terror for 35 years!"

195. This statement refers to the apocryphal story of General Pershing executing 49 out of 50 terrorists with bullets dipped in pigs' blood, leaving the fiftieth person alive to tell the tale. While this is not the first time President Trump has referred to this story, it has been routinely debunked by historians and the press.

196. The next day, President Trump declared that "Radical Islamic Terrorism must be stopped by whatever means necessary! The courts must give us back our protective rights. Have to be tough!"

197. President Trump issued EO-3 on Sunday, September 24, 2017, the day the 90-day nationality ban of EO-2 expired.

198. EO-3 achieves largely the same policy outcomes as both EO-2 and EO-1.

199. Like its predecessors, EO-3's bans are based on nationality. EO-3 applies to five of the same seven predominantly Muslim countries identified in EO-1—Iran, Libya, Somalia, Syria, and Yemen—and bans most, if not all, of their nationals indefinitely.

200. Syrian nationals, for example, are categorically banned, regardless of whether they seek to enter as immigrants or nonimmigrants.

201. For the other four countries, all immigrants are banned, while the permitted entry of nonimmigrants varies based on the type of visa, and will be subjected to "additional scrutiny" or "enhanced screening and vetting requirements."

202. For Iran, Libya, and Yemen, EO-3 bans entry based on visitor and business visas (B-1, B-2, or B-1/B-2 visas)—by far the most commonly used nonimmigrant visa for nationals from these countries.

203. EO-3 also requires "additional scrutiny" for Iraqi nationals and adds bans for the nationals of Chad, North Korea and Venezuela. The severity and impact of the bans placed on each of these countries, however, varies significantly.

204. EO-3 bans only certain Venezuelan government officials and their immediate relatives who seek to enter the United States on non-immigrant visitor and business visas. All other Venezuelan nationals remain free to travel and emigrate to the United States. Estimates suggest that at most a few hundred Venezuelans will be affected by EO-3 each year.

205. EO-3 categorically bans all nationals of North Korea from entering the United States, either as immigrants or nonimmigrants. But the number of entries to the United States by North

Koreans has been so low historically that fewer than 100 North Koreans on average will be affected by EO-3 per year.

206. In contrast, EO-3 bans all nationals of Chad, a Muslim-majority country, who seek to enter either as immigrants or as nonimmigrants on visitor or business visas. EO-3 effectively blocks travel for most nationals from Chad.

207. The following table summarizes and compares the impact of EO-1, EO-2, and EO-3 on non-refugee populations:

Non-refugee populations banned by EO-1, EO-2 and EO-3				
	EO-1 § 3(c)	**EO-2 § 2(c)**	**EO-3**	
			Immigrants	**Nonimmigrants**
Iraq	All for 90 days	None, but subject to additional scrutiny	None, but subject to additional scrutiny	None, but subject to additional scrutiny
Sudan	All for 90 days	All for 90 days	None	None
Iran	All for 90 days	All for 90 days	All indefinitely	All types of visas indefinitely, except for F, M, and J visas
Libya	All for 90 days	All for 90 days	All indefinitely	All B-1, B-2, and B-1/B-2 visas indefinitely
Somalia	All for 90 days	All for 90 days	All indefinitely	None, but subject to additional scrutiny
Syria	All for 90 days	All for 90 days	All indefinitely	All indefinitely
Yemen	All for 90 days	All for 90 days	All indefinitely	All B-1, B-2, and B-1/B-2 visas indefinitely
Chad	None	None	All indefinitely	All B-1, B-2, and B-1/B-2 visas indefinitely
North Korea	None	None	All indefinitely	All indefinitely
Venezuela	None	None	None	B-1, B-2, and B-1/B-2 visas for certain government officials indefinitely

208. Like EO-1 and EO-2, EO-3 allows for waivers to its entry bans on a discretionary case-by-case basis. EO-3 § 3(c). EO-3's waiver provision is nearly identical to that of EO-2. It requires

applicants to establish that their exclusion would impose "undue hardship" and not be in the "national interest," in addition to satisfying the statutory requirement to show that they are not inadmissible for any security reasons. The waiver provision also provides nine examples of situations in which a waiver might be appropriate, such as when "the foreign national is an infant, a young child or adoptee" or "an individual needing urgent medical care." EO-3 § 3(c)(iv)(A)-(J).

209. These and other similar circumstances enumerated in EO-2, now replicated in EO-3, reflect specific examples of individuals whose denial of entry pursuant to EO-1 resulted in the filing of lawsuits and widespread public outcry.

210. Like EO-2, EO-3 also contains exceptions to its bans for, among others, lawful permanent residents and dual nationals traveling on passports issued by a non-designated country. EO-3 § 3(b). These exceptions also reflect specific examples of individuals whose denial of entry pursuant to EO-1 resulted in legal challenges and public condemnation.

211. EO-3 went into effect immediately for individuals already banned from entering the United States by EO-2, as narrowed in the Supreme Court's stay order. EO-3 § 7(a). It will go into effect in full, even for individuals who can claim a bona fide relationship with an individual or entity in the United States, on October 18, 2017. EO-3 §7(b).

212. Like EO-2, EO-3 makes no mention of the DHS reports issued earlier this year, which found that citizenship is an "unlikely indicator" of terrorism threats to the United States, and that of the limited number of the foreign-born, U.S.-based violent extremists, most become radicalized after living in the U.S. for a number of years.

213. Like its predecessors, EO-3 does not identify any visa vetting failures or otherwise explain how the President concluded that existing vetting procedures were or might be inadequate.

214. To support its nation-based bans on the issuance of immigrant and nonimmigrant visas, EO-3 states that it is based on a country-by-country review performed by DHS, as ordered by EO-

2, to assess whether DHS requires additional information from other countries "to determine that [an] individual is not a security or public-safety threat." EO-2 §2(a). In performing this review, DHS adopted "baseline criteria," §1(c), that closely match the statutory requirements for participating in the congressionally established Visa Waiver Program, 8 U.S.C. § 1187(a)(3), (c)(2)(B)-(G), (c)(5)(B).

215. EO-3 claims that "out of nearly 200 evaluated" countries, 16 countries were deemed to be "'inadequate' based on an analysis of their identity-management protocols, information-sharing practices, and risk factors." EO-3 §1(e).

216. Thirty-one other countries were deemed to be "'at risk' of becoming 'inadequate.'" *Id.*

217. EO-3 does not identify which countries were classified as "inadequate" or "at risk."

218. EO-3 further asserts that, as required by the reporting requirement of EO-2 §2(e), the Secretary of DHS submitted a report to President Trump on September 15, 2017, recommending certain "inadequate" countries to be included in a new presidential proclamation that would impose new travel and visa restrictions.

219. EO-3 does not explain why, among the 16 "inadequate" countries and the 31 "at risk countries," only Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen are singled out for new or renewed travel and visa restrictions.

220. EO-3 does not assert that it is impossible to verify the identity or assess the risk of all—or even most—visa applicants from "inadequate" or "at risk" countries.

221. EO-3 acknowledges that information is available from sources other than home-country governments that can facilitate such assessments. EO-3 § 2(f)(i).

222. The government routinely requires and collects such non-governmental vetting information for use in its vetting processes. To take just one example, visa applicants' identity and relation to family sponsors in the United States can be proven with a DNA or blood test, as

provided for by regulation, and which a consular officer may suggest at any time. *See* 8 C.F.R. §204.2(d)(2)(v).

223. Nor does EO-3 explain why other countries who refuse to share identity and other visa screening information with the United States, like Belgium, are not included in EO-3's travel and visa restrictions.

224. Indeed, a report issued by the General Accounting Office in May 2016 noted that at that time, more than a third of countries participating in the Visa Waiver Program—which enables the nationals of the 38 participating countries to enter the United States for business or tourist purposes for up to 90 days without a visa—refused to share terrorist identity or criminal history information. None of these countries, which are predominantly European, Western, and non-Muslim-majority, are included in EO-3.

225. EO-3 likewise does not explain why different categories of non-immigrant visas are banned for different countries.

226. Nor does EO-3 explain why individuals seeking to enter on the banned categories of non-immigrant visas present a greater security threat than any other individual entering on a non-banned category of non-immigrant visa.

227. EO-3 will have a disproportionate and disparate impact on Muslims. The affected populations from Venezuela and North Korea, the only non-Muslim-majority countries targeted by EO-3, are so small as to be relatively negligible, especially when compared to the affected populations from the Muslim-majority countries targeted by EO-3.

228. The same anti-Muslim purpose that motivated EO-1 and EO-2 animates EO-3. In replicating, extending, and expanding its predecessor bans, EO-3 seeks to prevent the entry of Muslims into the United States and reinforces stereotypes about Muslims by associating them with terrorism, violence, and threats to public safety.

The Grave Harm to Plaintiffs and Their Clients & Members

229. Implementation and enforcement of both EO-1 and EO-2 has already caused Plaintiffs and their members and clients substantial, concrete, and particularized injury. Implementation of EO-3 threatens them with continued irreparable harm if not permanently enjoined.

230. Both EO-1 and EO-2 suspended refugee resettlement, barred entry of non-refugees from designated countries, and intentionally discriminated against Muslims. Both EO-1 and EO-2 have therefore frustrated IRAP's mission and imposed a significant burden on IRAP's work. As a direct result of the imposition and enforcement of EO-1 and EO-2, IRAP and its clients have suffered substantial, concrete injuries, and those will continue under EO-3.

231. IRAP serves displaced persons of all faiths, but the vast majority of its clients, both in the United States and abroad, are Muslim.

232. IRAP counsels persecuted individuals on various legal avenues to safe countries and represents them throughout these processes, with a majority of its clients resettling in the United States.

233. IRAP has clients in the United States who seek to be reunited with family members who remain abroad. IRAP assists those clients in filing visa petitions or other family reunification applications.

234. EO-1 severely restricted IRAP's ability to carry out its work and mission. In the ten days immediately following the issuance of EO-1, IRAP provided assistance to more than forty individuals from Iraq, Iran, Sudan, Libya, Syria, Somalia, and Yemen who, despite being vetted and given permission to enter the United States, had been prevented by EO-1 from doing so.

235. IRAP has existing and prospective clients who will be harmed by EO-3.

236. IRAP represents U.S.-based clients who have filed I-130 petitions to be reunited with family members abroad who are nationals of the countries banned by EO-3.

237. IRAP represents thousands more individuals seeking resettlement through USRAP.

238. IRAP has already used a significant portion of its financial resources and time to represent its clients through legal adjudications and to provide counseling through the demanding vetting process. Restricting issuance of visas and refugee resettlement wastes that investment of resources and time.

239. The EOs have restricted IRAP's ability to carry out its work and mission. The reduction in refugee admissions and the entry bans, for example, have delayed the processing of many of IRAP's clients' cases, which forces IRAP to exhaust more of its resources, as the average lifespan of a case now grows significantly.

240. IRAP attorneys are now providing only limited representation in certain new cases, which, prior to the orders, would have received full representation, as a result of the exorbitant delays the orders have caused and will continue to cause.

241. IRAP relies on volunteers from its law school chapters and pro bono firms to meet the needs of its vast client base. With the increased demands of its caseload resulting from the EOs, IRAP now has very limited capacity to open new law school chapters or begin new relationships with law firms to place cases for direct representation.

242. During EO-2's partially implemented suspension of USRAP, IRAP placed significantly fewer new cases with law firms and student chapters due to EO-2's delays and impact on refugee cases as well as the increased demands on IRAP's staff due to the EOs. Under a full freeze, IRAP risks losing hundreds of volunteers, and relationships with numerous law firms, because they are unable to provide them with a way to partner with them on cases.

243. IRAP's law firm partners also provide financial support to IRAP. If IRAP no longer has cases to place at law firms, and thus have to decrease our number of law firm partners, it will significantly cut into the corporate funding IRAP receives.

244. IRAP's Resettlement Deployment Scheme with UNHCR, which allowed IRAP resettlement experts since early 2016 to be deployed to UNHCR for assisting with their resettlement operations, has been terminated due at least in part to the EOs. This has lead to a significant revenue loss to IRAP.

245. Delays caused by the EOs endangers the lives of IRAP's clients abroad, because the longer it takes for their cases to be decided, the longer they are in life-threatening environments.

246. In addition, some of the IRAP clients abroad have family ties to IRAP clients already in the United States, and those U.S. clients are suffering harm as a result of the ongoing delay in reunification with their family members, as well as the risk that their family members may suffer persecution or death in the meantime.

247. The EOs, moreover, have marginalized IRAP's Muslim clients, subjected them to suspicion, scrutiny, and social isolation on the basis of religion and national origin, and inflicted stigmatic and dignitary injuries.

248. IRAP clients who are already inside the U.S. are afraid and fear they are not welcome.

249. Since EO-1's issuance, IRAP clients have been subjected to harassment by law enforcement agencies conducting new security checks. Others have been detained at airports, or rejected from flights multiple times even though they are presenting valid visas.

250. Both EO-1 and EO-2, furthermore, have forced IRAP to devote substantial resources to addressing the order's effects on IRAP's clients and those similarly situated, and the same will be true of EO-3.

251. For example, following the signing of EO-1 on January 27, 2017 at 4:42 P.M. EST, two IRAP clients, Mr. Hameed Khalid Darweesh and Mr. Haider Sameer Abdulkhaleq Alshawi, were detained at John F. Kennedy Airport ("JFK") despite having valid entry documents. As a result, IRAP attorneys were present at JFK from 2 am to 6:30 pm on January 28, 2017 attempting

to secure their lawful release. Together with co-counsel, IRAP filed a habeas petition on behalf of those two clients, together with a motion for class certification (*Darweesh et al. v. Trump et al.*, No. 1:17-cv-480 (E.D.N.Y. filed Jan. 28, 2017)). That litigation recently settled.

252. These actions are not in the scope of normal IRAP legal assistance, as previous IRAP clients were allowed to enter at U.S. ports of entry after receiving final approval to travel.

253. The EOs have further caused IRAP to divert its resources, as IRAP has become the focal point organization for volunteer attorneys all across the country who have sought information on how to assist in responding to the orders.

254. In addition to being the first organization to put out a call to volunteer attorneys, IRAP created and maintains a unique hotline email address (airport@refugeerights.org) to advise attorneys and affected individuals. Since the creation of this email address on January 28, 2017, IRAP has received and responded to over a thousand email messages.

255. IRAP has also developed templates and informational materials for attorneys, affected family members in the United States, and individuals overseas who have been or could be denied travel pursuant to any of the three orders.

256. IRAP also secures and pays for safe housing for clients whose lives are in immediate danger while they await the outcomes of USRAP and other efforts to get them to safety. Clients in urgent situations who face additional delays on their applications will require IRAP to expend significant funding to ensure continued safe housing.

257. IRAP also has at least one current employee who is a national of a country banned by the EOs. EO-3 will prevent this employee from traveling to the United States for IRAP's annual staff retreat, where the organization provides training for its employees and engages in strategic planning for the following year. This employee's absence from the retreat advsersely affects IRAP's mission.

258. HIAS and its clients have likewise been significantly harmed by EO-1 and EO-2, and will be by EO-3.

259. HIAS's humanitarian work is grounded in, and an expression of, the organization's sincere Jewish beliefs. The Torah, Judaism's central and most holy text, commands followers to welcome, love, and protect the stranger. The Jewish obligation to the stranger is repeated throughout the Torah, more than any other teaching or commandment. HIAS believes that this religious commandment demands concern for and protection of persecuted people of all faiths. The Torah also teaches that the Jewish people are to welcome, protect, and love the stranger because "we were strangers in the land of Egypt" (Leviticus 19:34). Throughout their history, violence and persecution have made the Jewish people a refugee people. Thus, both history and values lead HIAS to welcome displaced people in need of protection. A refusal to aid persecuted people of any one faith, because of stigma attached to that faith, violates HIAS's deeply held religious convictions.

260. Like EO-1, EO-2 has severely impeded HIAS's religious mission and work by intentionally discriminating against Muslims and prohibiting the entry of all refugees into the United States for 120 days and nationals of the designated countries for 90 days.

261. Before EO-1 was signed, arrangements had been made for many of HIAS's refugee clients to arrive in the United State in January, February, and the months to follow. Despite having been previously vetted and granted refugee status, however, clients from Iran, Sudan, Somalia, Ukraine, Bhutan, the Democratic Republic of Congo, Afghanistan, Eritrea, Tanzania, Ethiopia, Uganda, Russia, Belarus, and Burma were delayed in or prevented from entering the country because of EO-1.

262. The partial impelentation of EO-2 has inflicted significant injuries on HIAS and its clients.

263. At the time of EO-2's issuance, HIAS had approximtely 1,400 clients worldwide who were allocated through the Department of State process, had been vetted, and had been approved for refugee status. These refugees had already been allocated and assured to one of HIAS's resettlement sites.

264. A significant number of HIAS's clients who have been vetted and approved as refugees were prevented from entering the United States during fiscal year 2017 because of the first two EOs.

265. Because security and medical clearances have expiration dates, it is likely that many of HIAS' clients lost their readiness for travel because of delays in resettlement caused by EO-1 and EO-2. These medical and security checks now must be repeated, which can take months to years.

266. Of the approximately 1,400 HIAS clients worldwide who, at the time EO-2 was issued, had been allocated through the Department of State process, vetted, and approved for refugee status, some 500 were nationals of one of the six countries banned by EO-2. The overwhelmingly majority of these individuals are Muslim.

267. Every day that HIAS clients' entry is delayed, they remain in precarious situations.

268. Many of HIAS's clients abroad, including clients from the six countries banned by EO-2, have family members in the United States, also HIAS clients, who will suffer as a result of the delay in reuniting with their family members. Some of these U.S. ties are, in fact, individuals who petitioned (often through HIAS) to be reunited with their family members, be it through an I-130 immediate relative visa petition, an I-730 petition for a follow-to-join visa, or some other application.

269. In addition, at the time of EO-2's issuance more than 1,300 refugee applications initiated through HIAS by family members residing in the United States were pending for HIAS

clients abroad. The adjudication of these applications has been substantially delayed because of EO-2.

270. In fact, since EO-1 was signed, consideration of most refugee applicant cases in need of security checks has been suspended. This means that, for many refugees in the pipeline, security checks that typically lasted 18-24 months will now be paused and restarted, potentially adding years to their wait for stable resettlement.

271. The delay in processing of these applications will subject these clients to further risk of persecution and abuse in their current situations, and their family members who petitioned for them to come to the United States will remain in limbo as to whether they will ever be reunited.

272. All three EOs convey an official message of disapproval and hostility toward HIAS's Muslim clients, making clear that the government deems them outsiders, and not full members of the political community.

273. HIAS's Muslim clients in the United States have been marginalized as a result of this anti-Muslim message, have been subjected to baseless suspicion, scrutiny, and social and political isolation on the basis of religion and national origin, and have suffered other dignitary and stigmatic injuries.

274. Additionally, as a result of EO-1, at least one of HIAS's Muslim clients in the United States was detained at an airport for an extended period, handcuffed and separated from his family, and many other clients have otherwise had their travel significantly delayed.

275. Because HIAS is a non-profit resettlement organization that has a cooperative agreement with the federal government on a per-capita basis for each refugee served, and because the Department of State asked HIAS to increase its capacity from the 3,884 refugees resettled in federal fiscal year ("FFY") 2016 to 4,794 refugees in FFY 2017, HIAS was denied crucial funding as a result of EO-2.

276. After EO-1 was issued, the U.S. State Department notified HIAS that its resettlement obligation for FY 2017 would be slashed from nearly 4,800 to just over 2,900 refugees, epresenting potentially crippling financial losees, especially for many of HIAS's affiliates, which are heavily dependent on funding that flows through HIAS.

277. Losses of this nature translate to irreparable harm to HIAS, its affiliates, and its clients because they will cause (and have already caused) a substantial reduction in program services and closure of resettlement sites. When this happens, the local expertise, relationships, and good will—developed by affiliate staff, often over years and years—are lost entirely or substantially diminished.

278. Building a new resettlement site can take months or years of relationship-building, including cooperation with local government and elected officials, businesses who would be potential employers, landlords, volunteers, and the refugee communities themselves. In addition, fewer resettlement sites may limit the type of specialized assistance and services (e.g., for LGBT refugees) that clients can receive.

279. The EOs will also result in the waste of HIAS resources. For example, in the past year, HIAS has devoted substantial private resources to developing a program with several congregations in Westchester, New York, to welcome Syrian refugee families. Because of the bans, as well as the unexpected and dramatic lowering of the refugee admissions level, the EOs have put those resources to waste. Congregations and family members of HIAS clients have extended resources to prepare for anticipated refugees, by renting apartments and purchasing furnishings. In addition, some refugees who were anticipating resettlement through HIAS left jobs or travelled through other countries and now face precarious situations as a direct result of the EOs.

280. In the weeks and months prior to EO-1, HIAS concluded a formal plan with the Department of State to increase HIAS's national resettlement capacity by 23.4% from 3,884 refugees in FFY 2016 to 4,794 refugees in FFY 2017. This plan caused HIAS to invest substantial resources into expanding existing resettlement sites and opening new refugee resettlement sites in Wisconsin, Delaware, New York, Illinois, and Massachusetts, as approved by the Department of State. These resources have been and will continue be wasted, at least in part, because of EO-1 and EO-2.

281. In addition, HIAS has been forced to divert substantial resources, and will continue to to do so, to dealing with the fallout from all three executive orders and their effect on HIAS's clients, including devoting staff time to working with clients in the United States and abroad.

282. Plaintiff MESA and its members have also been harmed by EO-1 and EO-2 and will be harmed by EO-3.

283. MESA has members from the countries banned by all three EOs who are outside the United States and lack U.S. visas.

284. MESA also has members who are United States citizens or lawful permanent residents petitioning for visas for family members abroad.

285. Because of EO-2, MESA's members were not be able to travel to the United States to attend academic conferences or to engage in other collobarative work with MESA members and others in the United States.

286. MESA's members will be similarly affected by EO-3.

287. MESA's members will be prohibited or prevented by EO-3 from attending an annual conference sponsored by MESA. Participation in academic conferences is crucial to the professional success of graduate students and professors, and to their ability to fully engage with

the ideas and scholarship of the broader Middle Eastern studies community. Many important conferences, including the MESA annual meeting, take place in the United States.

288. Graduate students who are MESA members or are studying under MESA members in the United States, often leave the country to complete field work for advanced degrees. Because of the EOs, many such students from the six designated countries fear exclusion from the United States if they leave the country. The inability to leave the United States with an assurance they will be permitted to reenter will impair their ability to engage in research and participate in academic conferences.

289. Such students will also lose their ability to visit family and friends abroad with an assurance they will be permitted to reenter. For example, Iranian students affiliated with MESA cancelled plans to return home for Persian New Year, an important holiday that occurred on March 21, 2017, because of EO-1 and EO-2.

290. MESA members who are U.S.-based faculty have been impacted by EO-1 and EO-2 and will be impacted by EO-3 because potential students from the designated countries have been or will be unable to obtain visas to study with them in the United States.

291. Similarly, MESA's current U.S.-based students from the banned countries will not be able to travel abroad for field work with an assurance they will be permitted to reenter, impacting faculty members' ability to facilitate quality research and educational opportunities.

292. Likewise, U.S.-based MESA faculty members will forego opportunities to travel abroad for research and academic conferences for fear that they will not be readmitted, or will be subjected to harassment or discrimination upon application for reentry to the United States.

293. MESA members will also be precluded from traveling to the designated countries for research or academic conferences when those countries institute reciprocal actions in response to the executive orders, as Iran has done.

294. A large number of MESA members are Muslim or are institutional members whose officers, employees, or members are Muslim.

295. All three EOs convey an official message of disapproval and hostility toward these Muslim members, making clear that the government deems them outsiders, not full members of the political community. This marginalizes them, subjects them to suspicion, scrutiny, and social and political isolation on the basis of religion and national origin, and inflicts other stigmatic and dignitary injuries.

296. MESA itself has been and will be harmed by the EOs. As part of its goal to advance learning, facilitate communication, and promote cooperation, MESA sponsors an annual meeting that is a leading international forum for scholarship, intellectual exchange, and pedagogical innovation. Approximately thirty percent of MESA members are based outside of the United States and must travel to the United States to attend MESA's annual conference. MESA expects that a substantial number of scholars will be unable to attend this year's meeting because of the restrictions imposed by EO-2 and EO-3. They will be similarly prevented from attending meetings in future years because of EO-3.

297. Moreover, in part because of the stigmatic message of the EOs, many members based in Europe and the Middle East are likely to heed international calls to boycott academic conferences in the United States in protest of the orders, including the MESA annual conference. The absence of these scholars, attributable to the Orders, will have a substantial negative effect on the meeting.

298. These and other impacts of the all three EOs will negatively impact MESA's mission of fostering the study and public understanding of the Middle East.

299. In addition, EO-2 has caused and EO-3 will cause serious financial harms to MESA. A large portion of MESA's annual budget is funded through annual membership dues and

registration fees to attend the annual meeting. For each individual who cannot or will not attend the annual meeting, MESA will lose $90-250 in registration fees.

300. MESA will also suffer other financial injuries related to its annual meeting as a result of the executive order. Some individuals who cannot or will not attend the meeting will allow their MESA membership to lapse as a result. For each such lapsed membership, MESA will lose $25-300 in membership dues.

301. Plaintiff AAANY has likewise suffered harm due to EO-1 and EO-2 and will continue to be harmed by EO-3.

302. AAANY's mission is to support and empower the Arab-American and Arab immigrant community by providing the tools its members need to achieve independence, productivity, and stability. This includes providing immigration services—which amount to one-third of AAANY's annual budget—ranging from assistance with asylum applications to preparation for the naturalization exam. EO-2 and EO-3 undermine AAANY's mission of helping its clients reunite with their families and build independent and stable lives in the United States.

303. Approximately 20% of AAANY's immigration clients in 2017 are from countries affected by EO-2 and EO-3. Many of AAANY's clients have friends and relatives who have been unable to travel to the United States this year.

304. More critically, EO-2 and now EO-3 threaten the visa petitions of multiple AAANY clients who have relatives abroad in difficult or life-threatening situations. At least 20 AAANY clients have pending visa petitions and therefore will be immediately injured by EO-3, and many more will be affected as their friends and more distant relatives are unable to come to this country.

305. These cases, in which AAANY has spent significant resources helping clients petition for visas for family members, are now in limbo because of EO-3's indefinite bans.

306. In addition, AAANY's clients and staff understand the EOs as official decisions to impugn Islam. This message has a frightening effect for AAANY's clients and staff: anti-Muslim hate crimes have increased and affected many AAANY clients.

307. Indeed, over the past year, AAANY and its Arab and Muslim clients have had to adapt to respond to increasingly mainstream Islamophobia. Hate crimes against Muslims in New York City, particularly against women, have become significantly more common since the federal government has attempted to ban Muslims and suggested that Muslims are a national problem and existential threat.

308. EO-3 will cause serious financial harm to AAANY. The indefinite bans of EO-3 mean that AAANY will either no longer be able to provide assistance with immigration petitions for clients from the banned countries (and thus will no longer receive grant support for those legal service activities), or must expend more resources in each case to file a separate request for a waiver of the ban.

309. EO-3 thus puts at risk the DOJ Accredited navigators whom AAANY employs to assist its clients in filing immigration applications, and who refer clients with complex cases to immigration attorneys for consultation and further aid.

310. YAMA and its members have likewise been significantly harmed by EO-1 and EO-2, and will be by EO-3.

311. YAMA members experienced harassment following candidate Trump's anti-Muslim statements. The harassment and become worse after EO-1 was issued and many members reported being victims of almost daily anti-Islamic slurs and comments.

312. YAMA members were also separated from close family members because of EO-1 and EO-2. Now, as a result of EO-3, some YAMA members who have filed visa petitions and are awaiting the arrival of close family members will now have to wait indefinitely.

313. Many YAMA members fear that their close family members are in danger—and will be in indefinite danger if they are barred from reuniting with family the U.S.—because Yemen is presently in the midst of war.

314. YAMA's mission of helping Yemeni-American business owners with immigration-related issues will also be harmed by a ban that prevents its members from pursuing visa petitions to reunite with family members.

315. Plaintiff John Doe #1, a lawful permanent resident, has suffered and will continue to suffer harm because of the EOs. In August 2016, while John Doe #1's application to become a lawful permanent resident was pending, he married an Iranian national who lives in Iran. He applied for a visa on her behalf, and her application was approved on November 3, 2016. At the time EO-1 went into effect, John Doe #1 expected his wife's interview to be scheduled within no more than six weeks based on information published by the National Visa Center. It took until June for John Doe #1's wife to receive her visa; she traveled to the United States to reunite with John Doe #1 in July.

316. EO-1 and EO-2 created significant fear, anxiety and insecurity for John Doe #1 and his wife regarding their future. John Doe #1 felt like he was being forced to choose between his career and being together with his wife, who was banned from entering the country.

317. EO-3 likewise demonizes John Doe #1 and his family for coming from a Muslim country. EO-3 makes John Doe #1 feel unwelcome and sends a clear message that the U.S. government does not want him here.

318. Plaintiff John Doe #3, a lawful permanent resident, has suffered and will continue to suffer harm because of the EOs. John Doe #3 recently applied to become a naturalized citizen, and that petition remains pending with USCIS.

319. In the summer of 2014, John Doe #3 married a national of Iran. In October 2014, John Doe #3 applied for an immigration visa on her behalf. Approximately 19 months later, in May 2016, she had her interview at the U.S. Embassy. At that time, she was informed that her documentation was complete and she needed to wait for administrative processing, but that she should be able to join her husband in two to three months. Because of the issuance of EO-1 and EO-2, she did not receive her visa until May 2017. John Doe #3's wife has since moved to the United States to join him, and they have not traveled since because they are afraid, in light of the EOs, that if they leave the country, they might not be let back in.

320. EO-2 and EO-3 make John Doe #3 feel like the U.S. government does not welcome Muslims in this country (or people President Trump thinks are Muslim) under the assumption that everyone who comes from Iran is an Islamic terrorist.

321. Because of EO-3, if he and his wife start a family, none of his family members, like his parents, who are Iranian citizens, will be able to travel here to visit and see the new life John Doe #3 is making here in the United State.

322. All three orders contribute to his fear of attacks like the shooting in Kansas, where two Indian immigrants were shot and one was killed by a white man motivated by hate.

323. John Doe #4, a U.S. citizen, has suffered and will continue to suffer harm because of the EOs. In December 2015, John Doe married an Iranian citizen. He filed an I-130 petition on her behalf in March 2016, and in May 2017, she had her visa interview at the U.S. Embassy. At the interview, the consular officer assured that everything was fine and that she should check a specific website in about a month for her case number. It has now been months since her interview date, her case number has not appeared on the website, and her visa has not been issued.

324. John Doe #4 does not know what he will do once his wife is subject to EO-3. Being apart from his wife is excruciatingly difficult for him and and affects his ability to focus and

concentrate for his job. He and his wife want to start a family, and he feels like the government is forcing him to choose between the United States, where he has built his entire life, and his wife and the family they would like to have.

325. John Doe #4 thought he had escaped government sponsorship of religion once he left Iran. He felt insulted by EO-1, which he understood as an attempt to ban Muslims. Ever since EO-1 was issued, he has noticed that he gets more suspicious looks from people and he has been labeled as a Muslim more often.

326. John Doe #4 continues to feel demeaned by EO-3, the latest version of the government's Muslim ban, because it is still about keeping people out of the United States because of their religion.

327. John Doe #5, a U.S. citizen, has suffered and will continue to suffer harm because of all three orders. When war broke out in Yemen in 2015, his mother and grandmother, who has Alzheimer's Disease, fled from Yemen to Jordan. Shortly thereafter, John Doe #5 filed an I-130 petition on his mother's behalf, and his uncle, who is also a U.S. citizen, did the same for John Doe #5's grandmother. Both I-130 petitions for John Doe #5's mother and grandmother are approved and they are waiting for interviews at the U.S. Embassy in Amman, Jordan.

328. When EO-1 issued, John Doe #5 was reminded of what he had left behind in Yemen. He came to the United States to search for freedom, justice, and opportunity, but the EOs violate those principles.

329. Since EO-1 was issued, John Doe #5 has heard anti-Islamic comments more frequently, and he or someone he knows is exposed to anti-Islamic harassment almost weekly. He feels that EO-3 exacerbates this problem because it normalizes Islamophobia and legitimizes the bad things that people say about Muslims, as well as anti-Muslim violence, and even encourages such

statements and acts. He considers EO-3 to be even worse than EO-1 because it has no end date and he has no way of knowing when the government will stop targeting him and his family.

330. Plaintif Jane Doe #2, a U.S. citizen, has suffered and will continue to suffer harm because of the orders. Her family-based visa petition for her sister, who is a Syrian refugee currently living on the Saudi Arabia-Yemen border, has been approved, meaning that Jane Doe #2's sister can either wait for a visa to become available or seek resettlement through the U.S. Refugee Admissions Program (USRAP).

331. If EO-3 goes fully into effect, Jane Doe #2's sister will be barred from obtaining a visa. As Syrian refugees, Jane Doe #2's sister and her family are eligible and qualify for the Priority-2 Direct Access Program for Iraqi and Syrian Beneficiaries of Form I-130 Petition for Alien Relatives. But she will have little chance of traveling to the United States as a refugee given EO-2's suspension of USRAP and the high likelihood that Syrian refugees will continued to be barred from entry to the United States.

332. Jane Doe #2's sister, who is Muslim, was internally displaced within Syria in 2012, when continuous bombing of her neighborhood forced her and her family to move to her parent-in-laws with nothing more than their passports and the clothes on their backs. They subsequently fled to Yemen after learning that the Syrian government's selective service would be expanded to include men over the age of 30, which would include her husband.

333. As a result of the war in Yemen, Jane Doe #2's sister and her family had to flee again, this time to Saudi Arabia, where they now live in a refugee hotel close to the border of Yemen. Because the hotel is infested with bugs and human refuse from the bathroom in the unit above theirs leaks into their room, Jane Doe #2's sister and her family are constantly sick and her children regularly vomit. Jane Doe #2's brother-in-law is often away trying to find work and earn money because, as a refugee, he is often cheated out of benefits or wages and he has no recourse. While

he is gone, Jane Doe #2's sister is unable to leave the apartment where they are staying in the daytime. As a result, her children did not believe that the sun rose and set in Saudi Arabia because the room that they are staying in does not have any windows and they only leave the room at night on the few occasions when their father is home. They remain under constant threat from nearby rocket file and military conflict; they hear shelling every day.

334. Jane Doe #2's sister is running out of options if she is indefinitely banned from the United States by EO-3. The Saudi Arabian government regularly turns off the power to the building there they live with other refugees in order to make life so intolerable that they will leave. Jane Doe #2's sister constantly fears that the government will evict the refugees in her building, as they have done elsewhere, or else so increase the visa fees charged to refugees that she will need to lose her legal status. If she is evicted or loses her status and remains banned from the United States by EO-3, her only option is to go to Mecca and become homeless with her children.

335. Given the terrible living conditions in which her sister's family lives, Jane Doe #2 was devastated when she learned about EO-3. She understands all three EOs as fulfilling the promises President Trump made when he was a candidate to condemn her religion. Ever since the first ban was issued, she has been bullied because of her hijab and she continually doubts that she and her family will have equal opportunities because of their religion. The bans remind her of things the Syrian government would do when they wanted to strip away your rights; these kinds of actions are why she fled Syria. She and her husband question whether they should remain in the United States or pursue other options because they do not want their children to be discriminated against or to think that they are wrong because of the way everyone looks at them.

336. Plaintiff Meteab, a lawful permanent resident, has also suffered and will continue to suffer harm because of the EOs. After the U.S. invasion of Iraq in 2003, Mr. Meteab and his four brothers all cooperated with the U.S. military in helping to establish the transitional government,

in the wake of the conflict in Najaf, Iraq. Because of their cooperation with the U.S. government, they were targeted and threatened by armed militia groups in Iraq.

337. Mr. Meteab is a Sunni Muslim, as are his brothers. In Iraq, they lived together in a Shi'a neighborhood. In 2013, Mr. Meteab and his family were warned by neighbors and community members that if they failed to leave the area, their family would be killed. In 2013, Mr. Meteab's nephew Mosad was shot in the leg. After this, on December 25, 2013, Mr. Meteab's older brother fled to Jordan with his children and two of his nephews, including Mosad. Mr. Meteab and his wife and children joined them in Jordan on January 5, 2014. Mr. Meteab's three other brothers also fled to Jordan in 2014. All of them applied for and received recognition as refugees from the United Nations High Commission for Refugees.

338. In August 2015, after being approved as a refugee, Mr. Meteab came to the United States with his wife and children. His three other brothers, Ali, Abdulateef, and Ahmed, have been approved as refugees but remain in Jordan awaiting resettlement. Abdulateef was approved for resettlement in Canada but is awaiting final clearance. Mr. Meteab's brothers Ali and Ahmed, were approved for resettlement in the United States.

339. In November 2016, Mr. Meteab's brothers Ali and Ahmed were told by the International Organization for Migration that while their refugee applications had been approved, they still did not have travel documents to come to the United States. Jewish Family Services notified Plaintiff Meteab's family of this update at the same time. When Mr. Meteab's brothers learned about EO-1, they realized it would prevent them from joining him in the United States.

340. Since EO-1 was issued, Mr. Meteab and his family have felt afraid because they are Muslim and feel like the EOs have encouraged other people to discriminate against Muslims. His wife, who wears a hijab, does not like to go out in public alone, and his children's teachers have expressed concern for how his children are treated at school because they are Muslim. Mr. Meteab

has noticed that he and his family get more suspicious looks from people in public since EO-1 was issued, and his wife has been harassed so many times taking their children to school that he is considering moving his family to another area.

341. Mr. Meteab feels that EO-3, like its predecessor orders, is a tool for discrimination against Muslims, and he continues to feel personally targeted in this way.

342. Plaintiff Mashta, a United States lawful permanent resident, has also suffered and will continue to suffer harm because of the EOs. Although the immigrant visa petition he filed on behalf of his Syrian wife has been approved and she completed her interview in July this year, she has not yet received her visa. According to the State Department's monthly visa bulletin, a visa is currently available for her, but Mr. Mashta fears she is being unfairly processed because she is a practicing Muslim, as is he. Now she is indefinitely banned from entering the country to reunite with him by EO-3.

343. Being separated from his wife is depressing and painful for Mr. Mashta. He has struggled during the two years that they have been apart, and sometimes he loses hope that they will ever be together. He feels like the ban is making him choose between the country that is his home and being with his wife.

344. The announcement of EO-1 in January devastated Mr. Mashta. He could not sleep and could not work. Now he will always remember the date EO-3 was signed, September 24, because it was so painful to learn that his wife will be banned indefinitely. He continues to have trouble sleeping because of EO-3 and has had to take time off work. He constantly worries about what will happen to him and his wife, and the ban has left him feeling scared, depressed, and anxious. He fears his wife may never get her visa.

345. To Mr. Mashta, the President's bans say that Muslims are not welcome in the country, and that the government does not want Muslims here. He feels like he and his wife are being

accused of being terrorists for no reason, and that Muslims like him cannot get along with other people in America. These accusations are wrong and hurtful. This message of the ban—that Muslims like Mr. Mashta are bad people unless proven otherwise—affects conversations he has all the time. He feels a lot of pressure to defend himself and other Muslims, to prove to people that he is not bad. He never felt that way before EO-1 was issued.

346. Plaintiff Amirjamshidi, a United States citizen, has also suffered and will continue to suffer harm because of the EOs. For the past seven years, her mother has been able to apply for and receive twelve visitor visas to come to the United States from Canada to visit Ms. Amirjamshidi's family. The most recent visa petition, however, has been pending for over a year. Now, if EO-3 goes into effect, it will indefinitely ban Ms. Amirjamshidi's mother from coming to the United States to see her family.

347. Although Ms. Amirjamshidi and her family speak with her mother on the phone every day, that is no substitute for being in the same place and spending time together, especially not for Ms. Amirjamshidi's young son. Ms. Amirjamshidi thinks it is unfair and cruel to keep a child and his grandmother apart like this.

348. In addition, Ms. Amirjamshidi is now pregnant with her second child, which makes the separation from her mother even worse. She cannot stand the idea of her mother not being able to visit while she is pregnant, for the birth, or to meet her new grandchild. Nor will she be able to rely on support and help from her mother after the new baby comes, like so many new mothers do. Every day Ms. Amirjamshidi and her mother are kept apart is painful and unfair.

349. In addition, the EOs make Ms. Amirjamshidi feel singled and condemned just because of who she is. She understands the EOs as an attempt to put in place at least part of the Muslim ban he promised when he was a candidate. The EOs send the message that Muslims like Ms. Amirjamshidi are not welcome in this country and that Muslim communities are bad or dangerous.

EO-3 means the same thing to her as the earlier orders: it is another attempt to make sure that Muslims such as she are viewed as different from other Americans, and sends the message that Muslims should be singled out for worse treatment.

350. Mr. Shirani, a U.S. citizen, has suffered and will continue to suffer harm because of the EOs.

351. In 2004, Mr. Shirani moved back to Iran to marry and live with his wife, an Iranian national. In 2016, Mr. Shirani became more sick following complications from a tumor in his inner ear and moved back to the United States to seek medical treatment. Mr. Shirani filed an I-130 petition for his wife to join him here. The petition was approved, and his wife had her visa interview in February 2017. Mr. Shirani knows of no reason why his wife would not be eligible for a visa. Her visa application is currently in administrative processing.

352. Mr. Shirani suffers severe emotional injury as a result of the forced separation from his wife of over 13 years. He is seriously ill and needs her to care for him. He is also sad and frustrated to be apart from her while dealing with his medical condition.

353. Mr. Shirni believes he has been treated with more suspicion and discriminated against as a Muslim because of the EOs. EO-3 makes him feel even worse because the travel ban is now indefinite.

354. Ms. Ziaolhagh, a U.S. citizen, has suffered and will continue to suffer harm because of the EOs. Ms. Ziaolhagh moved from Iran to the U.S. in 2008 on an employer-sponsored visa with her husband and younger son. She was unable to bring her older sons to the U.S. at the time because they were over 21. One of her sons later came to the United States on a visa, but the older one has remained alone in Iran. She filed an I-130 petition for him in 2009.

355. Ms. Ziaolhagh's I-130 petition was approved, but she and her family knew there would be a long wait for his priority date to become current. The family decided it was worth the wait,

and during the waiting period, Ms. Ziaolhagh's older son decided not to get married and not to travel because the family feared that it could delay or hurt his visa application.

356. Ms. Ziaolhagh's older son's priority date became current in December 2016, and he had his visa interview in May 2017. His visa is now in administrative processing. Ms. Ziaolhagh knows of no reason why his visa should not be issued, and she expects it to issue soon if EO-3 does not go into effect.

357. The continued, and now potentially indefinite separation, from her son is devastating for Ms. Ziaolhagh. Her older son now lives alone in Iran. All of his immediate family members are in the United States. As a mother, Ms. Ziaolhagh constantly thinks of her son, and the pain of separation is especially unbearable at holidays when the entire family should be together.

358. Ms. Ziaolhagh is also injured by the EOs' message to Muslims. She wears a head scarf and notices that people have given her more looks since EO-1; she feels that EO-3 sends the same message, but is even worse because it imposes an indefinite ban.

359. Ms. Khazaeli, a U.S. citizen, has suffered and will continue to suffer harm because of the EOs. Ms. Khazaeli moved to the United States in 1977 with her husband, who entered on a student visa. In 2014, Ms. Khazaeli's husband was diagnosed with liposarcoma, a rare form of cancer. In December 2016, Ms. Khazaeli received the devastating news that her husband's prognosis was terminal.

360. Ms. Khazaeli's sister, an Iranian national, had previously vistited the United States. In January 2017, Ms. Khazaeli's sister's visa application to visit the United States for a second time was approved. Because of EO-1, Ms. Khazaeli's sister was not able to secure a visa appointment at an embassy. Since EO-1 went into effect, the availability of visa interview slots has virtually disappeared. Ms Khazaeli's sister has made active efforts to secure a visa appointment, including by hiring a travel agent to go to embassies in different countries to apply for a new visa on her

behalf. These efforts have been unsuccessful, and now because of EO-3, it is unlikely that Ms. Khazaeli's sister will be able to obtain a visa.

361. Without a visa, Ms. Khazaeli's sister will be unable to say goodbye to her brother-in-law or see him before he dies. Ms. Khazaeli will also be deprived of her sister's support and assistance as she deals with her husband's terminal illness.

362. Ms. Khazaeli feels like a second-class citizen as a result of the EOs. Her family has done everything it can to support the United States. Ms. Khazaeli's son has served for over a decade as a federal counter-terrorism prosecutor, holding positions with both the Department of Justice and the Department of Homeland Security. Ms. Khazaeli's daughter currently serves as a state prosecutor, prosecuting felony cases with child victims. Ms. Khazaeli's husband has been a professor for over 30 years at Southern Illinois University at Edwardsville. In 2017, her husband was awarded the Martin Luther King Jr. Faculty Humanitarian award. Ms. Khazaeli believes her family has been betrayed by the EOs, which have effectively legalized discrimination against Muslims.

363. Ms. Khazaeli has owned a sewing store for 30 years. She was accosted by a customer because of her religion for the first time after EO-1 was issued.

364. The EOs conveys an official message of disapproval and hostility toward the Individual Plaintiffs and their families, making clear that the government deems them outsiders or second-class citizens who are not full members of the political community. This marginalizes them, subjects them to suspicion, scrutiny, and social and political isolation on the basis of religion and national origin, and inflicts other stigmatic and dignitary injuries.

Class Allegations

365. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(b) (1) and (b) (2), on behalf of themselves and all other persons in the United States for whom

EO-2 or EO-3 either interferes with family reunification or the ability to travel internationally and return to the United States. This class includes:

a. Individuals in the United States who currently have an approved or pending petition to the United States government to be reunited with family members who are nationals of banned countries, or who will soon file such petition;

b. Refugees in the United States who have currently pending, or will soon file, a petition to the United States government to be reunited with family members; and

c. Nationals of banned countries who reside in the United States and who wish to travel abroad and return to United States or who, prior to issuance of EO-3, did travel abroad with the intent to return and are currently abroad.

366. Separate Subclasses may be appropriate for the Class defined in the preceding paragraph for individuals affected by EO-2 and EO-3.

367. The Plaintiff Class, including potential Subclasses, is so numerous that joinder is impracticable.

368. According to the Annual Report of the Visa Office, in 2015, the last year for which data are available, the United States issued approximately 80,000 immigrant and non-immigrant visas to nationals from the six countries banned by EO-2.

369. The U.S. government previously estimated that between 60,000 and 100,000 people were affected by Section 3(c) of EO-1 while it was in effect.

370. The claims of the Plaintiff Class and Subclass members share common issues of law, including but not limited to whether the EOs violate their associational, religious exercise and due process rights under the First and Fifth Amendments, the Religious Freedom Restoration Act, the Immigration and Nationality Act and the Administrative Procedure Act.

371. The claims of the Plaintiff Class and Subclass members share common issues of fact, including but not limited to whether the EOs are being or will be enforced so as to prevent them or their family members from entering the United States from abroad or from re-entering the United States should they choose to leave the United States briefly, even though they would otherwise be admissible.

372. The claims or defenses of the named Plaintiffs are typical of the claims or defenses of members of the Plaintiff Class and Subclasses.

373. The named Plaintiffs will fairly and adequately protect the interests of the Plaintiff Class and Subclasses. The named Plaintiffs have no interest that is now or may be potentially antagonistic to the interests of the Plaintiff Class and Subclasses. The attorneys representing the named Plaintiffs include experienced civil rights attorneys who are considered able practitioners in federal constitutional litigation. These attorneys should be appointed as class counsel.

374. Defendants have acted, have threatened to act, and will act on grounds generally applicable to the Plaintiff Class and Subclasses, thereby making final injunctive and declaratory relief appropriate to the class as a whole. The Plaintiff Class and potential Subclasses may therefore be properly certified under Federal Rule of Civil Procedure 23(b)(2).

375. Prosecution of separate actions by individual members of the Plaintiff Class and Subclasses would create the risk of inconsistent or varying adjudications and would establish incompatible standards of conduct for individual members of the Plaintiff Class. The Plaintiff Class and Subclasses may therefore be properly certified under Federal Rule of Civil Procedure 23(b)(1).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
(Establishment Clause, First Amendment to the U.S. Constitution)

376. The foregoing allegations are repeated and incorporated as though fully set forth herein.

377. Both EO-2 and EO-3 violate the Establishment Clause by singling out Muslims for disfavored treatment. Both orders have the purpose and effect of inhibiting religion, and neither is justified by, nor closely fitted to, any compelling governmental interest.

SECOND CLAIM FOR RELIEF
(Equal Protection, Fifth Amendment to the U.S. Constitution)

378. The foregoing allegations are repeated and incorporated as though fully set forth herein.

379. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "No person shall . . . be deprived of life, liberty, or property, without due process of law." The Clause contains an equal protection component.

380. EO-2 and EO-3 discriminate on the basis of religion, national origin, and race—each a suspect classification—and are not narrowly tailored to serve a compelling governmental interest, and thereby violate the equal protection component of the Due Process Clause.

381. Additionally, EO-2 and EO-3 were substantially motivated by an intent to discriminate against Muslims, on whom the orders have a disparate effect, in further violation of the equal protection component of the Due Process Clause.

THIRD CLAIM FOR RELIEF
(Procedural Due Process, Fifth Amendment to the U.S. Constitution)

382. The foregoing allegations are repeated and incorporated as though fully set forth herein.

383. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "No person shall . . . be deprived of life, liberty, or property, without due process of law."

384. Congress has created statutory rights related to the petitioning for and issuance of visas and other immigration benefits.

385. Federal agencies have created regulatory rights related to the petitioning for and issuance of visas and other immigration benefits.

386. Individuals must be given due process prior to any deprivation of these statutory and regulatory rights.

387. Additionally, United States citizens and lawful permanent residents have cognizable liberty interests in family reunification and in the ability of their family members to travel to the United States.

388. Individuals must be given due process prior to any deprivation of these liberty interests.

389. EO-2 and EO-3 deprive affected individuals, including Plaintiffs and their members or clients, of the aforementioned statutory and regulatory rights, and of the aforementioned liberty interests, and without due process.

390. EO-2 and EO-3 thus violate the procedural due process guarantee of the Due Process Clause of the Fifth Amendment.

FOURTH CLAIM FOR RELIEF
(Immigration and Nationality Act & Administrative Procedure Act)

391. The foregoing allegations are repeated and incorporated as though fully set forth herein.

392. The Immigration and Nationality Act provides, with certain exceptions not applicable here, that "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." 8 U.S.C. § 1152(a)(1)(A).

393. EO-2 and EO-3 on their face purport to delay and/or deny entry and/or visas to the family members of Individual Plaintiffs and the members, clients, and employees of the organizational Plaintiffs because of their nationality, place of birth, and/or place of residence, in violation of § 1152(a)(1)(A).

394. EO-2 and EO-3 on their face purport to deny or delay applications because Plaintiffs' family members' nationality, place of birth, and/or place of residence, in violation of § 1152(a)(1)(A).

395. EO-2 and EO-3 on their face mandate discrimination against those who apply for and/or hold immigrant visas on the basis of their nationality, place of birth, and/or place of residence, in violation of § 1152(a)(1)(A).

396. The actions of Defendants, as set forth above, constitute final agency action and are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; and without observance of procedure required by law, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D).

FIFTH CLAIM FOR RELIEF
(Immigration and Nationality Act & Administrative Procedure Act)

397. The foregoing allegations are repeated and incorporated as though fully set forth herein.

398. The Immigration and Nationality Act sets forth a comprehensive, Congressionally enacted scheme for immigration and admission to the United States. Among other things, it establishes criteria for the issuance of immigrant and nonimmigrant visas, and it specifies the grounds on which an alien may be found ineligible for a visa or admission.

399. The INA also allows the President to suspend or impose restrictions on the entry of aliens, "for such period" as deemed necessary, whenever the President "finds that the entry of any aliens or any class of aliens into the United States would be detrimental to the interests of the United States." 8 U.S.C. §1182(f).

400. EO-2 and EO-3 exceed the Executive's authority under the INA, including under 8 U.S.C. § 1182(f).

401. The actions of Defendants, as set forth above, constitute final agency action and are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; and without observance of procedure required by law, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D).

SIXTH CLAIM FOR RELIEF
(Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq*.)

402. The foregoing allegations are repeated and incorporated as though fully set forth herein.

403. EO-2 and EO-3 have had and/or will have the effect of imposing a special disability on the basis of religious views or religious status, by denying or impeding Muslim Plaintiffs, on account of their religion, from accessing benefits relating to their own or their family members' immigration status.

404. In doing so, EO-2 and EO-3 place a substantial burden on Muslims' exercise of religion in a way that is not the least restrictive means of furthering a compelling governmental interest.

405. This substantial burden is not imposed in furtherance of a compelling governmental interest, and is not the least restrictive means of furthering a compelling governmental interest, in violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq*.

SEVENTH CLAIM FOR RELIEF
(Refugee Act & Administrative Procedure Act)

406. The foregoing allegations are repeated and incorporated as though fully set forth herein.

407. EO-2 purported to limit the number of refugees who could be admitted in fiscal year 2017 to 50,000, despite an earlier proclamation setting a limit of 110,000, in violation of the Refugee Act, 8 U.S.C. § 1157(a)(2).

408. President Trump did not engage in "appropriate consultation" prior to altering the number and allocation of refugee admissions for fiscal year 2017, in violation of the Refugee Act, 8 U.S.C. § 1157.

409. EO-2 made other alterations to the refugee admission process that were not authorized by the Refugee Act and are in violation of the Refugee Act.

410. EO-3 could similarly ban the entry of refugees from the affected countries.

411. The actions of Defendants that have been undertaken pursuant to Section 6 of EO-2, as set forth above, constitute final agency action and are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; and without observance of procedure required by law, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D).

EIGHTH CLAIM FOR RELIEF
(Administrative Procedure Act)

412. The foregoing allegations are repeated and incorporated as though fully set forth herein.

413. The actions of Defendants that are required or permitted by EO-2 and EO-3, as set forth above, are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

414. The actions of Defendants that are required or permitted by EO-2 and EO-3, as set forth above, are contrary to constitutional right, power, privilege, or immunity, including rights protected by the First and Fifth Amendments to the U.S. Constitution, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(B).

415. The actions of Defendants that are required or permitted by EO-2 and EO-3, as set forth above, are in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C).

416. The actions of Defendants that are required or permitted by EO-2 and EO-3, as set forth above, were without observance of procedure required by law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(D).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

A. A preliminary and permanent injunction enjoining Defendants, their officials, agents, employees, assigns, and all persons acting in concert or participating with them from implementing or enforcing any portion of EO-2 or EO-3;

B. A declaration pursuant to 28 U.S.C. § 2201 that EO-2 and EO-3 are, in their entirety, unlawful and invalid;

C. An order awarding Plaintiffs costs of suit, and reasonable attorneys' fees and expenses pursuant to any applicable law;

D. Such other and further relief as the Court deems equitable, just, and proper.

Respectfully submitted, Dated: October 5, 2017

/s/ Esther Sung

Karen C. Tumlin†
Nicholas Espíritu†
Melissa S. Keaney†
Omar C. Jadwat†
Lee Gelernt†
Hina Shamsi†

Esther Sung†
National Immigration Law Center
3435 Wilshire Boulevard, Suite 1600
Los Angeles, CA 90010
Tel: (213) 639-3900
Fax: (213) 639-3911
tumlin@nilc.org
espiritu@nilc.org
keaney@nilc.org
sung@nilc.org

Justin B. Cox (Bar No. 17550)
National Immigration Law Center
PO Box 170208
Atlanta, GA 30317
Tel: (678) 279-5441
Fax: (213) 639-3911
cox@nilc.org

Hugh Handeyside†
Sarah L. Mehta†
David Hausman††
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel: (212) 549-2600
Fax: (212) 549-2654
ojadwat@aclu.org
lgelernt@aclu.org
hshamsi@aclu.org
hhandeyside@aclu.org
smehta@aclu.org
dhausman@aclu.org

Cecillia D. Wang†
Cody H. Wofsy†
Spencer E. Amdur†
American Civil Liberties Union Foundation
39 Drumm Street
San Francisco, CA 94111
Tel: (415) 343-0770
Fax: (415) 395-0950
cwang@aclu.org
cwofsy@aclu.org
samdur@aclu.org

David Cole†
Daniel Mach†
Heather L. Weaver†
American Civil Liberties Union Foundation
915 15th Street NW
Washington, DC 20005
Tel: (202) 675-2330
Fax: (202) 457-0805
dcole@aclu.org
dmach@aclu.org
hweaver@aclu.org

David Rocah (Bar No. 27315)
Deborah A. Jeon (Bar No. 06905)
Sonia Kumar (Bar No. 07196)
Nicholas Taichi Steiner (Bar No.19670)
American Civil Liberties Union

Foundation of Maryland
3600 Clipper Mill Road, Suite 350
Baltimore, MD 21211
Tel: (410) 889-8555
Fax: (410) 366-7838
jeon@aclu-md.org
rocah@aclu-md.org
kumar@aclu-md.org
steiner@aclu-md.org

Counsel for Plaintiffs

†Admitted *Pro Hac Vice*
†† Application for admission *Pro Hac Vice* pending

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2017, I caused a PDF version of the foregoing document and any accompanying exhibits to be electronically transmitted to the Clerk of the Court, using the CM/ECF System for filing and for transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

Dated: October 5, 2017

Respectfully submitted,

/s/ Justin B. Cox