

No. 17-2231(L), 17-2232, 17-2233, 17-2240 (Consolidated)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, ET AL.,
Plaintiffs-Appellees,

IRANIAN ALLIANCES ACROSS BORDERS, ET AL.,
Plaintiffs-Appellees,

EBLAL ZAKZOK, ET AL.
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court for the District of Maryland,
case no. 8:17-cv-00361-TDC, Judge Theodore D. Chuang

**BRIEF OF INTERFAITH GROUP OF RELIGIOUS AND
INTERRELIGIOUS ORGANIZATIONS AND CLERGY MEMBERS AS
AMICI CURIAE SUPPORTING PLAINTIFFS-APPELLEES**

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November 17, 2017

**DISCLOSURE OF CORPORATE AFFILIATIONS
AND OTHER INTERESTS**

Pursuant to FRAP 26.1 and Local Rule 26.1, corporate amici curiae make the following disclosure:

1. No amicus has any parent corporation.
2. No amicus has 10% or more of its stock owned by a publicly held corporation or other publicly held entity.
3. No other publicly held corporation or other publicly held entity has a direct financial interest in the outcome of the litigation.

Dated: November 17, 2017

/s/ Marc A. Hearron

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**BRIEF OF INTERFAITH GROUP OF RELIGIOUS AND
INTERRELIGIOUS ORGANIZATIONS AND CLERGY MEMBERS AS
AMICI CURIAE SUPPORTING PLAINTIFFS-APPELLEES**

Amici curiae, an interfaith group of religious and interreligious organizations and clergy members, respectfully submit this brief in support of plaintiffs-appellees.¹

INTEREST OF AMICI CURIAE

Amici are a diverse group of more than sixty faith-based and interfaith religious and interreligious associations, congregations, organizations, and clergy members pursuing our respective faiths alongside each other and standing for the right of all believers to practice their religions, as guaranteed by the First Amendment. Amici have a wide array of beliefs and come from different faith traditions, yet we unite here to speak with one voice to urge the Court to affirm the district court's injunction restricting implementation of Proclamation 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. 45,161 (Sept. 24, 2017) ("Order").

¹ All parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae, their members, or their counsel made a monetary contribution to the preparation or submission of this brief.

Amici have a strong interest in this case because the Order harms us and our right to practice our faiths. Although the Order is ostensibly a nationality-based ban, it is focused by design on citizens of majority-Muslim nations. It is of a piece with its predecessors, Executive Order 13,769, issued January 27, 2017, and Executive Order 13,780, issued March 6, 2017. Amici therefore see it for what it is: anti-Muslim discrimination. Such government-imposed discrimination has real harms. By targeting members of a particular faith, it promotes dangerous stereotypes and fosters baseless fear.

Discrimination against members of one faith harms people of other faiths as well. All religious people in this Nation depend on the right to practice their faith free from discrimination. When religious-based discrimination is permitted—especially when propagated at the highest levels of government—the free-exercise right of members of all faiths is chilled.

Additionally, amici's various faiths teach us to treat others, including immigrants, as we would like to be treated and to welcome the stranger—particularly in times of crisis. The Order offends these profound values and directly impedes amici's ability to carry out our immigrant-assistance missions.

Amici curiae are listed below and are described more fully in an addendum to this brief:

- Alliance of Baptists
- American Baptist Churches - USA
- American Jewish World Service
- Avodah
- Bend the Arc Jewish Action
- Bishops of the Episcopal Diocese of Maryland
- Bishops of the Episcopal Diocese of New York
- Bishops of the Episcopal Diocese of Washington
- Catholic Charities Community Services, NY
- Central Conference of American Rabbis
- Church of the Brethren
- Congregation Beit Simchat Torah
- Congregation B'nai Jeshurun
- Congregation of our Lady of Charity of the Good Shepherd, US Provinces
- Franciscan Action Network
- Franciscans for Justice
- Franciscan Friars Province of St. Barbara

- Friends Committee on National Legislation
- Hyde Park & Kenwood Interfaith Council
- Interfaith Alliance
- Interfaith Worker Justice
- Islamic Relief USA
- Leadership Conference of Women Religious
- Missionary Servants of the Most Holy Trinity
- Multifaith Alliance for Syrian Refugees
- National Advocacy Center of the Sisters of the Good Shepherd
- National Council of Churches
- National Council of Jewish Women
- National Justice for Our Neighbors
- NETWORK Lobby for Catholic Social Justice
- North Carolina Council of Churches
- Reconstructionist Rabbinical Association
- School Sisters of St. Francis
- Sisters of St. Francis of Clinton, Iowa
- Sisters of St. Francis of Penance and Christian Charity, Sacred Heart Province

- Sisters of St. Francis of Penance and Christian Charity, St. Francis Province
- Sisters of St. Francis of Philadelphia
- Sisters of the Holy Names of Jesus and Mary, U.S.-Ontario Province
- Sound Vision Foundation
- Southwest Conference of the United Church of Christ
- Tanenbaum
- T'ruah: The Rabbinic Call for Human Rights
- Union for Reform Judaism
- Union Theological Seminary
- Unitarian Universalist Association
- Unitarian Universalist Service Committee
- Women of Reform Judaism
- Women's Alliance for Theology, Ethics and Ritual
- Rabbi Sharon Brous, IKAR, Los Angeles, California
- Rabbi Ayelet S. Cohen, New Israel Fund
- Reverend Curtis W. Hart, M. Div., Lecturer, Weill Cornell Medical College
- Reverend Doctor Katharine Henderson, President, Auburn Theological Seminary

- Noa Kushner, Founding Rabbi, The Kitchen
- Cindy Lapp, Pastor, Hyattsville Mennonite Church, Hyattsville, Maryland
- Rabbi Joy Levitt, New York, New York
- Rabbi Joel Mosbacher, Temple Shaaray Tefila, New York, New York
- Rabbi James Ponet, Howard M. Holtzmann Jewish Chaplain, Emeritus and Lecturer, Yale University
- Rabbi John Rosove, Temple Israel of Hollywood, Hollywood, California
- Reverend Timothy B. Tutt, Westmoreland Congregational United Church of Christ, Bethesda, Maryland
- Reverend Julie Windsor Mitchell, University Christian Ministry at Northwestern University
- Rabbi Peretz Wolf-Prusan, Lehrhaus Judaica, Albany, California

INTRODUCTION

Amici, who represent members of a wide range of faiths, sects, and interreligious groups, are acutely aware that when the U.S. government carries out official acts that are motivated by religious animus, it harms people of all faiths. Proclamation No. 9645, like its predecessors, is such an act—the continuation of the President’s long-stated objective to exclude Muslims from entering this Nation.

The Order offends the very notion of the United States “as a refuge of religious tolerance” for people of all faiths. *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1153 (10th Cir. 2013) (Gorsuch, J., concurring), *aff’d*, 134 S. Ct. 2751 (2014). The Establishment Clause’s central purpose is to protect religious liberty by prohibiting the government from picking and choosing among faiths, or from singling out any one faith for disfavor. The Order contravenes that purpose. It directly harms Muslims not only by restricting immigration and travel rights but also by singling out Muslims as a disfavored group. In so doing, the Order harms members of all faiths as beneficiaries of this Nation’s commitment to religious free exercise.

The Order further offends the most fundamental tenets of amici’s faiths, including the Golden Rule, the imperative to welcome the stranger, and the belief that every individual has inherent value and dignity. Amici’s faiths compel them to assist immigrants, particularly immigrants fleeing persecution. The Order not only offends amici’s core values; it also impairs our ability to assist immigrants in their hour of need.

The district court’s determination that the Order is unlawful and its injunction restricting implementation of the Order should be affirmed.

ARGUMENT

I. THE ORDER DISCRIMINATES AGAINST MUSLIMS AND HARMS MEMBERS OF ALL FAITHS

Amici are united in our embrace of the Nation's fundamental constitutional commitments to religious freedom and non-discrimination. Amici believe the Order contravenes those basic principles. The Order and its predecessors all were intended to target Muslims—they have resulted in the vilification of Muslims, and they have obstructed Muslims in the practice of their faith. By undermining the constitutional guarantees of free exercise and non-discrimination, the Order harms not only Muslims but members of all faiths, who rely on those basic constitutional rights to freely practice their religions.

A. The Order Is Intended to Target Muslims

The Order is clearly intended to do what the Establishment Clause of the First Amendment forbids: target members of one faith—here, Islam.

The Nation's commitment to religious freedom and non-discrimination is firmly woven into our national fabric and our constitutional system. The government is prohibited from favoring a particular religion over others and from singling out any religion for censure. The Establishment Clause “forbids an official purpose to disapprove of a particular religion or of religion in general.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993); see also *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” “The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.” *Larson v. Valente*, 456 U.S. 228, 244 (1982). Efforts by the government to favor one religion “inevitabl[y] result” in incurring “the hatred, disrespect and even contempt of those who h[o]ld contrary beliefs.” *Engel v. Vitale*, 370 U.S. 421, 431 (1962). Such acts send messages to members of minority faiths “that they are outsiders, not full members of the political community.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Amici, both as faith and interfaith leaders and as members of faiths that have experienced religious persecution, are unfortunately familiar with the history of religious minorities who have faced discrimination and exclusion from the United States based on stereotypes and stigma. One of the most infamous instances occurred in 1939, when a ship carrying more than 900 Jewish men, women, and children fleeing Nazi Germany was turned away from U.S. shores. Many in the United States suspected that these Jewish refugees were threats to national security. The ship was forced to return to Europe, and more than a quarter of its

passengers perished in the Holocaust. *See* Daniel A. Gross, *The U.S. Government Turned Away Thousands of Jewish Refugees, Fearing That They Were Nazi Spies*, Smithsonian.com (Nov. 18, 2015).²

Our history shows that laws that are written to appear neutral on the basis of religion may actually have been designed as tools of religious persecution. Douglas Laycock, *The Religious Freedom Restoration Act*, 1993 BYU L. Rev. 221, 223 (1993). For example, the large influx of Roman Catholic immigrants in the mid-nineteenth century led to anti-Catholic riots, burnings of Catholic churches, beatings of Catholic students who refused to use the King James Bible, and the rise of nativist political movements that campaigned to restrict immigration by Catholics. *See* Michael W. McConnell, *Is There Still a "Catholic Question" in America? Reflections on John F. Kennedy's Speech to the Houston Ministerial Association*, 86 Notre Dame L. Rev. 1635, 1639 (2011). Amidst the furor, the Ku Klux Klan and other nativist groups secured the enactment of a law requiring all children to attend public schools, effectively shuttering Catholic schools. Laycock, 1993 BYU L. Rev. at 223-24. Similarly, Mormons were persecuted in the nineteenth century as they were driven off their lands and forced to flee across the country. *Id.* at 223. Among the tools of

² <http://www.smithsonianmag.com/history/us-government-turned-away-thousands-jewish-refugees-fearing-they-were-nazi-spies-180957324/>.

persecution were neutral-sounding laws enacted to target Mormons, which required citizens to take anti-polygamy oaths as a condition of their right to vote. *Id.* at 223-24.

All three Orders barring entry by citizens of predominantly Muslim countries have similarly been couched in neutral-sounding terms, imposing a categorical ban on nationals from enumerated countries. Yet amici understand these Orders for what they are: official acts of discrimination on the basis of religion. As this Court concluded when reviewing the second Executive Order, its primary purpose is to discriminate against Muslims. *Int'l Refugee Assistance Project v. Trump*, 857 F.3d 554, 594-601 (4th Cir. 2017). All seven countries included in the first Executive Order, all six countries included in the second Executive Order, and six of the seven countries whose nationals are barred by the current Order have predominantly Muslim populations. (The only exception is North Korea.)

The cascade of orders is consistent with President Trump's call as a candidate for "a total and complete shutdown of Muslims entering the United States until our representatives can figure out what is going on." *Id.* at 594. This call for a "Muslim ban" was repeated throughout the 2016 Presidential campaign, accompanied by further statements from then-candidate Trump that "Islam hates us" and that "we're having problems with the Muslims." *Id.* The proposed

“Muslim ban” later morphed into a plan to “call it territories” and impose nationality-based travel restrictions. *See id.* The President, upon signing the predecessor version of the Order, stated that it was meant to protect the Nation from entry by foreign terrorists—and then added, “We all know what that means.” *Id.* Indeed, as recently as September 15, 2017, the President stated: “The travel ban into the United States should be far larger, tougher and *more specific*—but stupidly, that would not be politically correct!” Donald J. Trump (@realDonaldTrump), Twitter (Sept. 15, 2017, 3:54 a.m.)³ (emphasis added).

Moreover, were combating terrorism the true motivation behind restricting immigration and travel, country-based bans would not have been implemented—and certainly not the countries included in the Orders. Former top-ranking national security officials, in a joint declaration quoted by the court below, have concluded that “‘concrete evidence’ has shown that ‘country-based bans are ineffective’” in combating terrorism. *Int’l Refugee Assistance Project v. Trump*, No. 17-cv-0361, 2017 WL 4674314, at *10 (D. Md. Oct. 17, 2017). And a Department of Homeland Security assessment of the rationale of one of the predecessor Orders found that citizens of countries affected by the order were “[r]arely [i]mplicated in

³ <https://twitter.com/realDonaldTrump/status/908645126146265090>.

US-[b]ased [t]errorism.” *Citizenship Likely an Unreliable Indicator of Terrorist Threat to the United States*.⁴

It is therefore plain to members of the faith community that a desire to exclude Muslims motivated the issuance of all three orders, including the current one.⁵ Were the Court to reverse the injunction, despite such overwhelming evidence of animus, it would send a message that religious-based discrimination is tolerable so long as it is framed in a way that appears superficially neutral toward religion. It would provide an Establishment Clause-evading roadmap for governments at all levels that wished to enact policies disfavoring Muslims (or adherents of any faith that is not in or falls out of favor). And it also would have the potential to further fan the flames of anti-Muslim sentiment, signaling to the public that anti-Muslim hatred is not only tolerated but sanctioned by the government. *Cf.* Laycock, 1993 BYU L. Rev. at 223 (describing outburst of private violence against Jehovah’s Witnesses after the Supreme Court’s decision upholding a flag-salute requirement).

⁴ <https://assets.documentcloud.org/documents/3474730/DHS-intelligence-document-on-President-Donald.pdf>.

⁵ Indeed, the second order was not even neutral on its face. It invoked the specter of “honor killings,” which is a coded term that reinforces the stigmatization of Muslims as violent and backward. *Int’l Refugee Assistance Project*, 857 F.3d at 596 n.17.

B. The Order Harms Muslims

The Order is also directly harmful to Muslims who are constitutionally entitled to freely practice their faith in the United States. The Order and its predecessors have disrupted the lives of Muslim Americans who fear that they are being targeted for exclusion and could face separation from their families. *See, e.g.,* Neil Munshi, *Muslim Americans Express Anxiety Over Trump Travel Ban*, *Financial Times* (Feb. 2, 2017);⁶ *see also* Faiyaz Jaffer, *The Travel Ban Has Been Particularly Harsh on Shiite Muslims*, *Gazette* (May 26, 2017) (describing the story of a college student who feared that, if he went to say his final goodbyes to a dying relative in Iran, he might be unable to return to the United States to study).⁷

The three orders have separated couples engaged to be married and caused family members to miss weddings of their loved ones, as well as births and deaths—key moments in the personal and religious life of a faith community. *See* Jack Healy & Anemona Hartocollis, *Love, Interrupted: A Travel Ban Separates Couples*, *N.Y. Times* (Feb. 8, 2017);⁸ Ed Pilkington, *Trump Travel Ban Crackdown Turns Wedding Celebration Into a Family Separation*, *The Guardian*

⁶ <https://www.ft.com/content/ba9f2d88-e905-11e6-893c-082c54a7f539?mhq5j=e2>.

⁷ <http://gazette.com/the-travel-ban-has-been-particularly-harsh-on-shiite-muslims/article/1603972>.

⁸ <https://www.nytimes.com/2017/02/08/us/love-interrupted-a-travel-ban-separates-couples.html>.

(Apr. 14, 2017).⁹ The Order's predecessor interfered with religious practice and community by barring prominent Muslims with citizenship or dual citizenship in the affected countries from fulfilling long-planned speaking engagements at conferences, religious services, festivals, and universities in the United States. *E.g.*, *Aziz v. Trump*, No. 17-cv-116, 2017 WL 580855, at *2 (E.D. Va. Feb. 13, 2017).

The Order also has harmed all American Muslims at a profoundly deeper level. It has ostracized those who simply want to practice their faith freely and live peacefully as neighbors, students, colleagues, families, and members of their communities. It has contributed to an environment in which Muslims are increasingly subject to violence, harassment, and discrimination because of their faith. This is borne out by recent hate crimes that have been perpetrated against Muslims¹⁰—or people *perceived* to be Muslims.¹¹ Indeed, a recent FBI report on

⁹ <https://www.theguardian.com/us-news/2017/apr/14/trump-travel-ban-visa-iran-wedding>.

¹⁰ See Nancy Coleman, *Mosques Targeted in 2017*, CNN.com, available at <http://www.cnn.com/2017/03/20/us/mosques-targeted-2017-trnd/index.html> (last visited September 12, 2017). The map, which contains data from January through July 2017, describes 63 reported incidents of attacks against mosques, including suspected arson and spray-painting of anti-Muslim epithets. See also, *e.g.*, Bill Lindelof, *Two Suspected Hate Crimes in Less Than Two Weeks at Davis, Roseville Mosques*, SACRAMENTO BEE (Feb. 1, 2017), <http://www.sacbee.com/news/local/crime/article130135154.html>.

hate-crime statistics showed that while hate crimes have risen by 6% overall, hate crimes motivated by anti-Islamic bias increased by 26.5% in 2016.¹²

As amicus Islamic Relief USA recounts:

Singling out Muslims in this manner creates fear that additional fundamental freedoms are also under threat. We know of a family that came to the United States because their lives were threatened by ISIS after they helped U.S. troops in Iraq. They now fear that their citizenship applications will be jeopardized. A non-Muslim donor called us weeping after a family member was denied access to a grocery store because she was wearing a head scarf. A wife was afraid she wouldn't be reunited with her husband. A mother fears she will be separated from her child because she wears the hijab. Their fears and experiences demonstrate the underlying intent to target and discriminate against Muslims, whether framed as a regional travel ban or something more explicit.

That the Orders' proffered justifications have been based on the threat of terrorism makes the Orders all the more pernicious. Conflating "Muslims" with "terrorists" obscures the fact that most victims of terrorism are themselves

(Footnote continued from previous page.)

¹¹ See Daniel Victor, *Three Men Stood Up to Anti-Muslim Attack. Two Paid With Their Lives*, N.Y. TIMES (May 28, 2017) (describing stabbing victims' efforts to intervene when a man shouted anti-Muslim insults at two women in Portland, Oregon, and noting that one of the women is not Muslim), <https://www.nytimes.com/2017/05/28/us/portland-stabbing-victims.html>.

¹² Compare FBI, 2016 Hate Crime Statistics, Table 1 (7,321 total offenses and 381 anti-Islamic offenses), <https://ucr.fbi.gov/hate-crime/2016/tables/table-1>, with FBI, 2015 Hate Crime Statistics, Table 1 (6,885 total offenses and 301 anti-Islamic offenses), <https://ucr.fbi.gov/hate-crime/2015/tables-and-data-declarations/1tabledatadecpdf>.

Muslims. National Counterterrorism Center, 2011 Report on Terrorism at 14.¹³ Attempts to justify the Orders based on the threat of terrorism—and to treat populations of entire Muslim-majority countries as potential terrorists—only compound anti-Muslim vilification.

These harms would be revisited if the injunction were to be reversed. Muslims living in the United States would be subjected anew to what they and many others rightly view as official condemnation of their faith.

C. Singling Out Members Of One Faith Erodes Core Constitutional Principles Critical To The Free Exercise Of All Faiths

In contrast with many other countries, where religious conflict has at times led to upheaval and suffering, the United States has generally strived for peaceful co-existence among religions. “It was in large part to get completely away from . . . religious persecution that the Founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion.” *Engel*, 370 U.S. at 433. As a result of those guarantees, the United States today is a country of vibrant religious beliefs, practices, and communities in which faith continues to play an important role in most Americans’ lives.

¹³ <https://fas.org/irp/threat/nctc2011.pdf>.

Thus, the harm caused by singling out members of one religious faith is not restricted to the disfavored sect; it harms all religious groups by eroding core principles that have allowed a multitude of faiths to coexist and to thrive. Protections for the free exercise of religion are critical to “vindicat[e] this nation’s long-held aspiration to serve as a refuge of religious tolerance.” *Hobby Lobby Stores*, 723 F.3d at 1153 (Gorsuch, J., concurring); see *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1823 (2014) (official efforts to “denigrate . . . religious minorities” violate the Establishment Clause). By both protecting the free exercise of religion and prohibiting the government from favoring or disfavoring any one religion, the First Amendment “seek[s] to avoid . . . divisiveness based upon religion that promotes social conflict, sapping the strength of government and religion alike.” *Van Orden v. Perry*, 545 U.S. 677, 698 (2005) (Breyer, J., concurring).

Affirming the injunction is essential to not only protect Muslims from discrimination but to ensure religious liberties for members of all faiths.

II. THE ORDER OFFENDS VALUES THAT ARE CENTRAL TO AMICI’S FAITHS

The indefinite and indiscriminate ban on immigration by more than 150 million people who live in the targeted countries offends values that are central to all of amici’s faiths. Our faiths teach us to treat others as we wish to be treated, to

welcome the stranger, and to honor the inherent dignity and worth of every individual.

Our faith-based commitments toward immigrants arise from multiple sources. Among them, the Golden Rule—to treat others as we wish to be treated—is one of the most widely shared tenets among faiths.¹⁴

- Christianity teaches: “In everything do to others as you would have them do to you.” Matthew 7:12.
- Hinduism commands: “This is the sum of duty: do naught unto others which would cause you pain if done to you.” The Mahabharata, 5:1517.
- Islam instructs: “Not one of you is a believer until he loves for his brother what he loves for himself.” Fortieth Hadith of an-Nawawi, 13.
- Judaism teaches: “What is hateful to you, do not do to your neighbor.” Talmud, Shabbat, 31a.

Beyond the Golden Rule, many faiths specifically instruct that “the stranger” should be embraced, giving rise to a powerful sense of duty toward immigrants. As amicus T’ruah: The Rabbinic Call for Human Rights, observes: “On more than 36 occasions, the Torah declares that our experience as strangers in the land of Egypt obligates us to care for the most vulnerable among us; particularly the sojourners, migrants, and immigrants seeking refuge in our midst.” The ancient Jews’ experience of exile in Egypt has been repeated time and again as members of

¹⁴ *The Golden Rule*, <https://tanenbaum.org/wp-content/uploads/2014/02/The-Golden-Rule.pdf>.

minority sects have been rejected by their countries and forced to take flight from their persecutors, right up to the Rohingya fleeing Myanmar today. Thus, it is no surprise that the texts of many faiths repeat the exhortation to welcome the stranger.

- Islam instructs: “Be kind to parents, and the near kinsman, and to orphans, and to the needy, and to the neighbor who is of kin, and to the neighbor who is a stranger, and to the companion at your side, and to the traveler, and to that your right hands own.” Qur’an 4.36-37.
- Sikhism teaches: “None is our enemy, none is stranger to us, we are in accord with one and all” Sri Guru Granth Sahib, page 1299, Full Shabad.
- Pope Francis recently summed up Catholic teaching: “In migrants, the Church has always contemplated the image of Christ who said, ‘I was a stranger and you made me welcome.’ (Mt. 25:35).” *Address of His Holiness Pope Francis to Members of the International Federation of Catholic Universities* (Nov. 4, 2017).¹⁵

This religious obligation to offer welcome to the stranger is reinforced in the United States by this country’s identity as a nation of immigrants and a refuge to those fleeing religious persecution. Congregations of many faiths can relate to amicus Congregation Beit Simchat Torah’s description of itself as “a community of immigrants and refugees and descendants of immigrants and refugees.” Amicus NETWORK Lobby for Catholic Social Justice notes the words of Pope Francis

¹⁵ http://w2.vatican.va/content/francesco/en/speeches/2017/november/documents/papa-francesco_20171104_federazione-universita-cattoliche.html.

when he addressed Congress: “We, the people of this continent, are not fearful of foreigners, because most of us were once foreigners.”

The Order’s near-absolute ban on entry by citizens of the seven countries it names is entirely contrary to the Golden Rule as well as the religious calling to welcome the stranger. But what is more, it utterly disregards the inherent value of the more than 150 million people who, in one fell swoop, it labels as unfit to enter the United States. Amici understand that the people barred by the Order are mothers and fathers, children and grandparents; they are clerics, congregants, shopkeepers, and students. Each one’s life is sacred—each a unique expression of the divine and a common member of humanity. In the words of Brother John Skrodinsky of amicus the Missionary Servants of the Most Holy Trinity: “Sweeping all people from a certain country or religion under the same discriminatory ban does not allow for the human rights and dignity that each one holds.” The Order is a grave affront to this most basic and unifying insight of the world’s religions.

These fundamental precepts are not merely words. Amici have responded to our religious obligations through action. Amicus Catholic Charities Community Services–NY offers legal and social services to thousands of immigrants each year. Amicus National Justice for Our Neighbors is a ministry that the United Methodist Church established specifically to provide legal help to immigrants. The American

Baptist Home Mission Society, which is part of amicus American Baptist Churches–USA, has just announced an initiative to support vulnerable immigrants in the New York City area with legal services as well as spiritual support.¹⁶ Amicus Islamic Relief provides relief in refugee camps abroad and resettlement aid to refugees here. Members of amicus Congregation Beit Simchat Torah are offering to accompany immigrants to court dates and helping asylum-seekers. As amicus Franciscan Action Network declares, “The U.S. Catholic Church is a church of immigrants and has a long history of protecting immigrant and refugee rights.” Some Roman Catholic religious orders, represented here both individually and through the Leadership Conference of Women Religious, trace their very existence in the United States to sisters who came to this country specifically to work with immigrants.

Providing material and spiritual sustenance to immigrants is central to the practice of churches, synagogues, mosques, and interfaith groups throughout the nation. In the words of amicus National Justice for Our Neighbors, “As people of faith, we are called upon to seek mercy, do justice, and to love our neighbors as ourselves. Times change; governments change; yet these commands remain unchanged.”

¹⁶ <http://abhms.org/about-us/news/abhms-launches-immigration-assistance-initiative-pilot-in-partnership-with-abcmny/>

CONCLUSION

Amici urge the Court to affirm the ruling below, recognizing the profound harm that the Order wreaks on the mission and values that amici, as representatives of a broad range of faith traditions, hold dear.

Dated: November 17, 2017

Respectfully submitted,

/s/ Marc A. Hearron

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APPENDIX

INDIVIDUAL STATEMENTS OF INTEREST OF AMICI CURIAE

The **Alliance of Baptists** is a faith community comprised of 140 congregations across the United States and over 3,000 individual members. We are Christians knit together by love for God, committed—like the Baptists who, generations ago, agitated for religious freedom to be protected by the Bill of Rights—to religious liberty for all, whatever their faith tradition, including those of no faith. Our response to the call of God in Jesus Christ to be disciples and servants includes a commitment to prophetic action to bring about justice and healing in our world. The Alliance, whose congregations work with and support refugees and immigrants, joins this amicus brief in response to a Covenant of commitment to side with those who are poor and to pursue justice with and for those who are oppressed.

The **American Baptist Churches USA** is a spiritual family of approximately 5,000 churches and 1.3 million members. We are an ethnically diverse people called to radical personal discipleship in Christ Jesus. We believe in promoting a society where justice and love reign. Through the love of Christ, we embrace the world as neighbor. Historically, based on Baptist core convictions such as the infinite value of every person, individual liberty, soul freedom, and separation of church and state, ABCUSA has been a leading Protestant agency advocating for fair immigration laws and assisting refugees to resettle in the United States, regardless of their ethnic, cultural, or religious backgrounds.

American Jewish World Service (AJWS) is the first and only Jewish organization dedicated solely to ending poverty and promoting human rights in the developing world. AJWS has joined this amicus brief because it believes that the policies addressed in the brief run counter to the best traditions of the United States—welcoming refugees and immigrants is central to American identity. Furthermore, as a Jewish American organization, AJWS refuses to stand idly by while ethnic and religious minorities are under attack for simply being who they are.

Avodah, an organization committed to developing Jewish leaders who become lifelong agents for social change, offers Jewish leadership programs for young adults and focuses on integrating Jewish identity and social justice. Avodah has joined this amicus brief because Jewish tradition requires that Jews speak out against injustice, and Jewish history teaches the critical importance of standing up for those targeted by hatred and intolerance.

Bend the Arc: A Jewish Partnership for Justice, is the nation's leading progressive Jewish voice empowering Jewish Americans to be advocates for the nation's most vulnerable. Bend the Arc mobilizes Jewish Americans beyond religious and institutional boundaries to create justice and opportunity for all, through bold leadership development, innovative civic engagement, and robust progressive advocacy. Bend the Arc supports this brief because as Jews, we understand personally what it is to be a religious minority in this nation and the pain that religious discrimination causes; we also believe such discrimination betrays fundamental American—and Jewish—values.

Bishops of the Episcopal Dioceses of Washington, New York, and Maryland. The **Right Reverend Mariann Edgar Budde** is the Bishop of the Episcopal Diocese of Washington, which is made up of over 90 congregations located in Washington, D.C. and the counties of Montgomery, Prince George's, Charles, and St. Mary's in Maryland. The **Right Reverend Andrew Dietsche** is the Bishop of the Episcopal Diocese of New York, which is made up of over 190 congregations encompassing Manhattan, the Bronx, and Staten Island in New York City, and the counties of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester in the state of New York. The **Right Reverend Allen K. Shin** is Bishop Suffragan of the Episcopal Diocese of New York. The **Right Reverend Mary D. Glasspool** is Bishop Assistant of the Episcopal Diocese of New York. The **Right Reverend Eugene Taylor Sutton** is the Bishop of the Episcopal Diocese of Maryland, which is made up of over 100 congregations located in the Maryland counties of Garrett, Allegany, Washington, Frederick, Carroll, Baltimore, Baltimore City, Harford, Howard, Anne Arundel and Calvert. The **Right Reverend Chilton R. Knudsen** is Assistant Bishop of the Episcopal Diocese of Maryland. Every bishop of The Episcopal Church, upon his or her consecration, promises to “guard the faith, unity, and discipline of the Church” and “show compassion to the poor and strangers, and defend those who have no helper.” The Church's Baptismal Covenant, which reflects the denomination's core beliefs, asks for commitments from persons being baptized as well as all other witnesses to “strive for justice and peace among all people, and respect the dignity of every human being.” In addition, the Church has adopted a resolution “affirm[ing] its support for religious freedom for all persons” and “affirm[ing] religious freedom as a goal to be sought in all societies.”

Since 1949, **Catholic Charities Community Services, NY (CCCS)** has provided direct human and legal services to over 170,000 people each year from all parts of New York City and the Lower Hudson Valley. These services are offered to all New Yorkers in need, regardless of religious belief, because our work is

grounded in our belief in the dignity of each person and the building of a just, compassionate society, especially for the most vulnerable among us. CCCS is a leading provider of refugee resettlement and immigration legal assistance in its service area, providing reception, reunification, integration, employment and ESL assistance to refugees and asylees and direct legal representation to immigrant families, workers, and those seeking protection, including over 6,000 unaccompanied minors each year.

The **Church of the Brethren** is a Christian denomination committed to continuing the work of Jesus peacefully and simply, and to living out its faith in community. Based in the Anabaptist and Pietist faith traditions, it celebrated its 300th anniversary in 2008 and today counts some 114,000 members across the United States and Puerto Rico, with missions and sister churches around the world. Out of its faith tradition of seeking peace in community and in discipleship to Jesus Christ, the Church of the Brethren opposes the Presidential Proclamation barring immigration and most travel to the United States from six predominantly Muslim countries. As declared in its 1982 statement, *Undocumented Persons and Refugees in the United States*, “The primary truth of faith as we consider immigrants and refugees today is that Christ has made another appearance among us, as Himself an immigrant and refugee in the person of political dissidents, the economically deprived, and foreigners on the run. We are to join them as pilgrims in search of that city yet to come, with foundations of love and justice whose architect and builder is God.”

Congregation Beit Simchat Torah, founded in the 1970s as a “gay synagogue” and led since 1992 by Senior Rabbi Sharon Kleinbaum, is a vibrant spiritual community and a progressive voice within Judaism that rejoices in diversity, denounces social injustice, and strives for human rights for all people. As a community of immigrants and refugees and descendants of immigrants and refugees, it is an active part of the New Sanctuary movement in New York City, meeting the Muslim ban and other anti-immigrant initiatives with a spirit of love and resistance.

For nearly two centuries, **Congregation B’nai Jeshurun (NYC)** has been at the forefront of American Jewish life. As we move into our third century, our vision is focused on the spiritual work of transformation—of ourselves, our community of nearly 1700 member households, and of the larger world. We believe that as a faith community we are called upon to hold ourselves, each other, and our elected leaders accountable for sustaining the core values of our nation, and to bring to bear the moral values of our Jewish tradition and teachings for the benefit

of all. For many years, these beliefs have manifest through engagement in the growing global refugee crisis, and efforts to assist immigrants and refugees in New York City. We are proud to join this brief to help ensure that the rights of all immigrants and refugees, regardless of race, religion, gender identity, sexual orientation, financial status, or country of origin, are treated fairly and equally, and with respect and dignity, by the American government.

The **Congregation of Our Lady of Charity of the Good Shepherd, US Provinces** represents Sisters who, with their Mission Partners address the needs of thousands of low-income people in 22 states of the United States and overseas each year. Dedicated to serving girls, women, and families who experience poverty, exploitation, vulnerability, and marginalization, the Congregation and their lay partners minister to immigrants and victims of human trafficking here and abroad. The **National Advocacy Center of the Sisters of the Good Shepherd** educates and advocates on social-justice issues for the transformation of society to the benefit of all people. The center reflects the spirituality, history, and mission of the Sisters of the Good Shepherd, who have had a presence in the United States for over 175 years. We strongly oppose the Presidential Proclamation barring citizens of six predominantly Muslim countries from immigrating to the United States.

Inspired by the Gospel of Jesus, and the example of Saints Francis and Clare, the **Franciscan Action Network** (FAN) is a collective Franciscan voice seeking to transform U.S. public policy related to peace-making, care for creation, poverty, and human rights including advocacy on behalf of immigrants and refugees. The Presidential Proclamation effectively halting immigration from predominantly Muslim countries is deeply disturbing to Franciscans all over the country. Providing protection to people seeking safety and an open door to immigrants seeking to better their lives in this country are among our nation's proudest and longest standing traditions, which we are morally obligated to uphold. By barring millions of people based on their nationality and religion, this executive action abdicates America's leadership role on human rights.

Franciscans for Justice is a joint project of the Franciscan Friars of the St. Barbara Province and the Our Lady of Guadalupe Province that includes more than 200 friars throughout the western United States. For over 800 years, Franciscans have upheld the fact that twice St. Francis of Assisi went to the Muslim sultan, not to convert him, but to befriend him; Franciscans hold Muslim believers dear to our hearts. Franciscans for Justice challenges the U.S. government to reach out to all Muslims—not to ban them, but to befriend them.

The **Franciscan Friars Province of St. Barbara** is dedicated to serving the poor and promoting justice, peace, care of creation, and reconciliation. Living these values requires that the Friars support this amicus brief.

The **Friends Committee on National Legislation** is the oldest religious lobby in Washington, D.C., lobbying Congress and the Administration to advance peace, justice, opportunity, and environmental stewardship. FCNL opposes the Presidential Proclamation because it goes against our core values of welcome, religious freedom, and assistance to those most in need. The Muslim ban is discriminatory, unconstitutional, and immoral.

The **Hyde Park & Kenwood Interfaith Council**, led by **Rabbi Frederick Reeves**, is an association of congregations and religious and spiritual bodies, founded in the Hyde Park and Kenwood neighborhoods of Chicago in 1911. Our purpose is to provide effective channels for cooperative expression of our shared concern for the well-being of the communities in which our member organizations are situated. As representatives of a large number of faith traditions, we recognize that when one religious group is targeted, it is a threat to us all. We are particularly concerned because we sponsor two Syrian refugee families in our neighborhood and know from them the difficulties that they have faced both leaving Syria and coming to this country.

Interfaith Alliance advocates from a faith perspective for the guarantees of the independence of conscience from government and of government from religion, including special attention to the rights of minorities. It rejects any religious test in this country, not just for elected office but also for securing the blessings of life, liberty, and the pursuit of happiness. It believes the attempt to exclude immigrants because they are part of a particular religion or subset of that religion violates the nation's basic values and constitutional guarantees.

Interfaith Worker Justice is a national affiliate network of more than sixty worker centers and faith-labor organizations. We support our affiliates in worker-led campaigns to bring dignity and justice to all working people, regardless of faith tradition, national origin, ethnicity, or immigration status. Any travel ban which discriminates based on national origin or faith tradition is not only unconstitutional, it is unjust and immoral.

Islamic Relief USA is a nonprofit humanitarian organization that provides the necessities of life in refugee camps outside the United States and resettlement aid to refugees here. Its work to protect the most vulnerable in the human family,

particularly those who have fled poverty, violence, and oppression, is guided by the timeless values and teachings provided by the revelations contained within the Qur'an and prophetic example. Despite the fear and anguish created by this Presidential Proclamation, which has profoundly affected its staff, donors and beneficiaries, Islamic Relief USA continues to reach out to its neighbors in love and serve them with dignity believing that what unites us is stronger than the fears that divide us.

The **Leadership Conference of Women Religious (LCWR)** is an association of leaders of congregations of Catholic women religious in the United States. LCWR has nearly 1,300 members, who represent approximately 38,800 women religious. Catholic sisters began coming to these shores 288 years ago as immigrants to serve immigrant populations and continue to this day to minister to new immigrants in education, health care, and social service agencies. Founded in 1956, LCWR assists its members to collaboratively carry out their service of leadership to further the mission of the Gospel in today's world. As women of faith, we believe that all people are created in God's image and all are worthy of respect and protection. We strongly object to President Trump's attempts to limit our ability to heed God's call to welcome the stranger (Mt. 25:35) and to care for those most in need (Mt. 25:40). We are particularly concerned about rules and regulations that deny access to immigrants because of their religion, race, or nationality. Such discrimination violates our deeply held faith beliefs and is inimical to the Gospel.

The **Missionary Servants of the Most Holy Trinity**, founded in 1929, is a congregation of Catholic priests and Brothers who work in the United States and Latin America with the poor and abandoned, including recent immigrants.

The **Multifaith Alliance for Syrian Refugees (MFA)**, a project of the Tides Center, is a coalition of nearly 90 faith-based and secular organizations. MFA's mission is to mobilize the interfaith response to the Syrian humanitarian crisis; raise funds to alleviate suffering; cultivate partnerships to advance future stability in the region; advocate for sensible and humane refugee policies; and create awareness of the facts, the needs, and the opportunities for positive action. Because the Presidential Proclamation dated September 24, 2017 indefinitely bans immigration and drastically restricts travel from six Muslim-majority countries, including Syria; and because the Proclamation violates the tenets of every major religious faith and the principles on which our democracy is founded, MFA has significant interest in this litigation.

The **National Council of Churches** is the largest and oldest ecumenical organization in the United States and is comprised of 38 denominations numbering some 30 million adherents in more than 100,000 local congregations. Based on its understanding of scripture, the NCC believes we have a responsibility to welcome and assist immigrants and refugees of all faiths and nationalities.

The **National Council of Jewish Women** (NCJW) is a grassroots organization of 90,000 volunteers and advocates who are inspired by Jewish values to strive for social justice. NCJW joins this brief in keeping with its formal resolve to work for “[c]omprehensive, humane, and equitable immigration, refugee, asylum, and naturalization laws, policies, and practices that facilitate and expedite legal status and a path to citizenship for more individuals.”

National Justice for Our Neighbors, a United Methodist ministry, supports a network of 16 sites around the country that provide immigration legal services to low-income immigrants and refugees. Our work reflects the United Methodist belief that human dignity is the image of God in each human being, and that we protect human dignity with human rights.

NETWORK Lobby for Catholic Social Justice educates, organizes, and lobbies for social and economic transformation. Founded by Catholic Sisters in the progressive spirit of Vatican II, we are rooted in the Catholic Social Justice tradition and open to all who share our passion. The NETWORK community of justice-seekers is more than 50,000 strong with members in every state and every congressional district. NETWORK joins in this amicus brief because we are called by faith to welcome the stranger and love our neighbor.

The **North Carolina Council of Churches** is committed to immigration rights and reform, as well as refugee matters. The Council has joined the amicus brief as an expression of its long and proud history of “welcoming the stranger.”

The **Reconstructionist Rabbinical Association**, established in 1974, represents 350 rabbis across North America and serves as a voice of Reconstructionist Jewish values in partnership with more than 100 Reconstructionist Jewish congregations and their members. Its understanding of Jewish tradition and experience compels its support for refugees and immigrants as an act of justice and compassion in the world.

The **School Sisters of Saint Francis, United States Province** are part of an international congregation of religious women. The United States Province was established when immigrant sisters came to the United States from Europe in order

to work with immigrants. Its mission is to serve the poor and otherwise needy. As a province, it joins the ranks of others who wish to speak out to challenge the anti-immigrant Presidential Proclamation.

The **Sisters of St. Francis of Clinton, Iowa** is a Catholic religious order. The Leadership Team of the order decided to join this amicus brief because the order has taken a corporate stand to welcome immigrants and refugees and to advocate for policies that uphold their basic civil and human rights.

The **Sisters of St. Francis of Penance and Christian Charity** are called to solidarity with those who are powerless and work with them to change situations in which the dignity of persons is violated. The Sisters of the **St. Francis Province**, based in Redwood City, California, and the **Sacred Heart Province**, based in Denver, have joined the amicus brief because the ban on immigrants is counter to their beliefs and values as Franciscan Sisters.

The **Sisters of St. Francis of Philadelphia** are a community of approximately 430 Catholic women who choose a Gospel way of life and uphold a long and honored tradition of loving God through service. A community that “seeks to participate in the Spirit’s action in the world,” they have joined this amicus brief because of their commitment to directing personal and corporate resources to the promotion of justice, peace, and reconciliation.

The **Sisters of the Holy Names of Jesus and Mary, U.S.-Ontario Province** is a Catholic Women Religious congregation with 430 Sisters and over 300 Lay Associates in the United States and Ontario, Canada. We have great interest in this amicus brief because our values include welcoming and advocating for immigrants and refugees. Several of our Sisters and Associates work and volunteer with immigrants and refugees, so we are familiar with the roadblocks and struggles they have to endure. We wish to be proactive in assisting and welcoming immigrants and refugees to the United States.

Sound Vision Foundation, based in Chicago, is a Muslim religious institution. We believe singling out any group of people as an instrument of policy is an extremely problematic decision. For that reason, Sound Vision has initiated a large civic coalition called “One America Coalition.” The Foundation’s president, **Imam Abdul Malik Mujahid**, is an interfaith leader who states, “it is not the material aspect of the American dream which is at stake here with the Muslim Ban, but rather the understanding of high constitutional principles of equal treatment and non-discrimination.”

The **Southwest Conference of the United Church of Christ** is the regional body that provides support and services to 49 local UCC congregations and clergy within Arizona, New Mexico, and El Paso, Texas. We join this brief because our sacred texts affirm the right and need of human beings to migrate by instructing their followers, irrespective of national origin, to welcome strangers and to treat aliens and foreigners as they treat citizens. Denying this basic human need puts some people at a disadvantage, maintains privilege for others, and subjects minorities in particular to violence and oppression. Our mission statement, “extravagantly welcoming and affirming followers of Christ called to embody God’s unconditional justice and love,” is manifested in a deep commitment to ministry of extravagant welcome that we extend to all, including migrants, undocumented permanent residents, refugees and the lesbian, gay, bisexual and transgender community.

Tanenbaum (Tanenbaum Center for Interreligious Understanding) is a secular, non-sectarian organization combating religious stereotypes, hatred, and violence through practical approaches in workplaces, schools, health care institutions and conflict zones. Tanenbaum collaborates with religiously driven Peacemakers in Action, who risk their lives in armed conflicts including in Syria, Yemen, and Iraq. The travel ban that is the subject of this submission targets immigrants based on their religious identity; undermines Tanenbaum’s work to support religious pluralism and freedom of belief; and directly impairs Tanenbaum’s work with our Peacemakers from conflict zones.

T’ruah: The Rabbinic Call for Human Rights brings together rabbis and cantors from all streams of Judaism, together with all members of the Jewish community, to act on the Jewish imperative to respect and advance the human rights of all people. We join this amicus brief to express our condemnation of the Presidential Proclamation, which effectively closes our borders to Muslims and flagrantly violates America’s longstanding, values-driven commitment to welcome immigrants to our shores.

The **Union for Reform Judaism**, whose 900 congregations across North America include 1.5 million Reform Jews, the **Central Conference of American Rabbis** (CCAR), whose membership includes more than 2,000 Reform rabbis, and **Women of Reform Judaism**, which represents more than 65,000 women in nearly 500 women’s groups in North America and around the world, come to this issue out of our affirmation of the supreme value of human life and the equal dignity of every human being. We also share a longstanding commitment to the principle of religious liberty that has lifted up people of all faiths while providing more protections, rights and opportunities than have been known anywhere else throughout

history. We are committed to fulfilling the mandate of the Prophets of Israel who bade us to pursue justice, seek peace, and build a society of loving-kindness among all of God's creatures.

Union Theological Seminary is the oldest independent seminary in the United States. The seminary's education is rooted in Christian traditions but instructed by other faiths. The seminary and its President, the **Reverend Doctor Serene Jones**, join this brief in the belief that religious respect and equity are critical to the safety and well-being of our local and national community, and that the Presidential Proclamation is anathema to this core tenet.

The **Unitarian Universalist Association** (UUA) comprises more than 1,000 Unitarian Universalist congregations nationwide and is dedicated to the principle of freedom of religion for all people and to freedom from oppression. The UUA has joined the amicus brief because it believes that the Presidential Proclamation is unconstitutional and undermines the UUA's core principles.

The **Unitarian Universalist Service Committee** is a non-sectarian human-rights organization powered by grassroots collaboration. UUSC began its work in 1939 when Rev. Waitstill and Martha Sharp took the extraordinary risk of traveling to Europe to help refugees escape Nazi persecution. A moral commitment to protecting the rights and dignity of persons, particularly those seeking refuge from violence, discrimination, persecution, and natural disasters, has been at the center of our organization's mission for more than 75 years. Given our history, we seek to promote a just immigration system that upholds the rights of all migrants—regardless of nationality, religion, status or other characteristic—in a manner consistent with our nation's moral, legal, and political obligations as a member of the world community.

The **Women's Alliance for Theology, Ethics and Ritual** is a global network and center for dialogue on feminism, faith, and justice. We connect activists, religious leaders, students, scholars, and allies who are using feminist religious values to create social change. Our commitment to equality, and our special interest in providing for the well-being of those who are marginalized, compels us to reject the travel ban on Muslims.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
APPEARANCE OF COUNSEL FORM

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Clergy Members as the (party name)

[] appellant(s) [] appellee(s) [] petitioner(s) [] respondent(s) [X] amicus curiae [] intervenor(s) [] movant(s)

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CERTIFICATE OF SERVICE

I certify that on 17 November 2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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17 November 2017 Date