

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMEED KHALID DARWEESH and HAIDER
SAMEER ABDULKHALEQ ALSHAWAI, on behalf of
themselves and others similarly situated,

Petitioners,

- against -

DONALD TRUMP, President of the United States; U.S.
DEPARTMENT OF HOMELAND SECURITY (“DHS”);
U.S. CUSTOMS AND BORDER PROTECTION
(“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K.
MCALEENAN, Acting Commissioner of CBP; JAMES T.
MADDEN, New York Field Director, CBP,

Respondents.

17 Civ. 480 (AMD)
EMERGENCY MOTION

**EMERGENCY MOTION FOR DECLARATORY RELIEF TO CLARIFY THE
APPLICABILITY OF THE ORDER DATED JAN. 28, 2017 TO INCOMING LAWFUL
PERMANENT RESIDENT AND MEMBER OF PETITIONER CLASS MARYAM
MIKANIKI**

MARYAM MIKANIKI is a person with interest in this litigation, as a lawful permanent resident of the United States and an Iranian national. As a holder of an immigrant visa, she is a member of the petitioning class on whose behalf this proceeding was brought. Ms. Mikaniki will land at John F. Kennedy International Airport (“JFK Airport”) at approximately 6:35 pm on January 29, 2017. Currently, she is a passenger on Alitalia flight 610, which left Rome for New York City earlier today.

On January 28, 2017, this Court issued a stay of the executive order, which, among other things, enjoined removal of immigrants from Iran who have valid immigrant visas. *See Hameed Khalid Darweesh and Haider Sameer Abdulkhaleq Alsshawhi v. Donald Trump, et. al*, No. 17 Civ. 480 (AMD) (E.D.N.Y.) (January 29, 2017); *see also Mazdak Pourabdollah Tootkaboni and Arghavan Louhghalam, v. Donald Trump*, CV No. 17-cv-10154 (January 29, 2017) (D. Mass) (enjoining the removal or detention of lawfully present immigrants).

Ms. Mikaniki was born on March 29, 1975 in Iran. Her husband is a United States citizen, and in 2013, he sponsored Ms. Mikaniki for permanent residence in the United States. On October 21, 2013, she was granted conditional permanent residence by the U.S. Citizenship and Immigration Services (“USCIS”). On September 21, 2016, USCIS removed the conditions on her permanent residence. In late 2016, she applied for naturalization. That application is currently pending. Ms. Mikaniki currently resides in Brooklyn, New York. She will seek re-entry into the U.S. later today but has justifiable concern that, given the present uncertainty and conflicting information relating to the above executive order, U.S. government officials may detail her or bar her re-entry based upon that executive order.

PRAYER FOR RELIEF

WHEREFORE, Ms. Mikaniki respectfully moves this Court for an order confirming that she is a member of the class of persons whose removal and detention are enjoined by the

decisions in *Hameed Khalid Darweesh and Haider Sameer Abdulkhaleq Alsshawi v. Donald Trump, et. al*, No. 17 Civ. 480 (AMD) (E.D.N.Y.) (January 29, 2017) and *Mazdak Pourabdollah Tootkaboni and Arghavan Louhghalam, v. Donald Trump*, CV No. 17-cv-10154 (January 29, 2017) (D. Mass) (enjoining the removal or detention of lawfully present immigrants). Ms. Mikaniki is therefore entitled to enter the United States under the laws and regulations governing Lawful Permanent Resident immigrant visa holders, and cannot be detained or removed pursuant to the Executive Order.

DATED: New York, New York
January 29, 2017

Respectfully submitted,

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP

/s/Jennifer L. Colyer

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PROPOSED ORDER

ANN DONNELLY, District Judge.

WHEREAS MARYAM MIKANIKI is a member of the petitioning class; and

WHEREAS Ms. Mikaniki will land at John F. Kennedy International Airport (“JFK
Airport”) at approximately 6:35 pm on January 29, 2017; and

WHEREAS on January 28, 2017, this Court issued a stay of the January 27, 2017
executive order, which, among other things, enjoined removal of immigrants from Iran who have
valid immigrant visas;

IT IS HEREBY ORDERED that Ms. Mikaniki, being a member of the class of
petitioners in this proceeding, pursuant to the orders entered in *Hameed Khalid Darweesh and
Haider Sameer Abdulkhaleq Alsshawi v. Donald Trump, et. al*, No. 17 Civ. 480 (AMD)
(E.D.N.Y.) (January 29, 2017) and *Mazdak Pourabdollah Tootkaboni and Arghavan*

Louhghalam, v. Donald Trump, CV No. 17-cv-10154 (January 29, 2017) (D. Mass), may not be detained or removed pursuant to the January 27 executive order.

SO ORDERED.

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
January __, 2017