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8 | **UNITED STATES DISTRICT COURT**
9 | **WESTERN DISTRICT OF WASHINGTON**

10 | STATE OF WASHINGTON and
STATE OF MINNESOTA,

11 | Plaintiffs,

12 | v.

13 | DONALD TRUMP, in his official
capacity as President of the United
14 | States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
15 | KELLY, in his official capacity as
Secretary of the Department of
16 | Homeland Security; REX W.
TILLERSON, in his official capacity
17 | as Secretary of State; and the UNITED
STATES OF AMERICA,

18 | Defendants.
19

CIVIL ACTION NO. 2:17-cv-00141-JLR

STATE OF MINNESOTA’S
RESPONSE TO DEFENDANTS’
NOTICE OF FILING OF
EXECUTIVE ORDER

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21 | On March 6, 2017, Defendants filed a “Notice of Filing of Executive Order.” ECF No.
22 | 108. Defendants attached an Executive Order dated March 6, 2017 entitled “Protecting the
23 | Nation from Foreign Terrorist Entry into the United States” (“Second Executive Order”). ECF
24 | No. 108-1. Defendants stated that they are “preparing to enforce the provisions” of this
25 | Second Executive Order beginning on March 16, 2017, because they had unilaterally
26

1 determined that “[t]his Court’s injunctive order does not limit the Government’s ability to
2 immediately begin enforcing” the Second Executive Order. ECF No. 108 at 1, 14.

3 In response, Plaintiff State of Minnesota writes separately to point out that, under
4 applicable caselaw, Defendants cannot unilaterally modify a preliminary injunction. A
5 preliminary injunction remains in effect until it is modified or dissolved by the Court. *See*
6 *Sharp v. Weston*, 233 F.3d 1166, 1170 (9th Cir. 2000) (party seeking relief from injunction
7 “bears the burden of establishing that a significant change in facts or law warrants revision or
8 dissolution of the injunction”). The appropriate procedure therefore is for Defendants to file a
9 motion to modify the preliminary injunction if they seek to change it.
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12 DATED this 9th day of March, 2017.

13 Respectfully submitted,

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15 LORI SWANSON
16 Attorney General
17 State of Minnesota

18 /s/ **Jacob Campion**
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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2017, I electronically filed the foregoing State of Minnesota's Response to Defendants' Notice of Filing of Executive Order using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: March 9, 2016

/s/ Jacob Campion
JACOB CAMPION

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