

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

CASE NO. C17-0141JLR

ORDER REGARDING
DEFENDANTS' NOTICE OF
THE FILING OF A NEW
EXECUTIVE ORDER AND
PLAINTIFFS' RESPONSE

On March 6, 2017, Defendants filed a notice informing the court that President Donald J. Trump had signed a new Executive Order, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("New Executive Order"), and that the New Executive Order revoked Executive Order No. 13,769, which has been the subject of this litigation. (Notice (Dkt. # 108).) Defendants also informed the court that they intend to begin enforcing the New Executive Order on its March 16, 2017, effective date. (*Id.* at 1, 13.) Defendants' notice outlines the provisions of the New Executive Order, describes how the New Executive Order differs from Executive Order No. 13,769, and

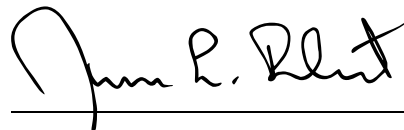
1 states Defendants’ conclusion that the court’s “injunctive order does not limit the
2 Government’s ability to immediately begin enforcing the New Executive Order.” (*Id.* at
3 14.)

4 On March 9, 2017, Plaintiffs State of Washington and State of Minnesota filed
5 responses to Defendants’ notice. (Wash. Resp. (Dkt. # 113); Minn. Resp. (Dkt. # 114).)
6 In its response, State of Washington asserts that sections 2(c) and 6(a) of the New
7 Executive Order have the same effect as portions of Executive Order No. 13,769 that the
8 court has already enjoined. (Wash. Resp. at 6.) Plaintiffs assert that Defendants cannot
9 unilaterally decide to enforce sections 2(c) and 6(a) of the New Executive Order without
10 first moving to modify the court’s prior injunction and demonstrating that they meet the
11 criteria for such a modification. (*See id.* at 6-14; *see also* Minn. Resp. at 2 (“Defendants
12 cannot unilaterally modify a preliminary injunction. . . . The appropriate procedure . . . is
13 for Defendants to file a motion to modify the preliminary injunction if they seek to
14 change it.”))

15 The court notes that there is no pending motion concerning the foregoing issues
16 presently before the court. (*See generally* Dkt.) Defendants filed a “notice”—not a
17 motion to modify the injunction; and Plaintiffs each filed a “response”—not a motion to
18 enforce the injunction. (*See* Notice; Wash. Resp.; Minn. Resp.) The court declines to
19 decide any of the issues raised in the parties’ filings until such time as one of the parties
20 files a motion that is both properly noted under the court’s Local Rules and properly
21 briefed. Further, the court notes that the New Executive Order revokes Executive Order
22 No. 13,769, which was the subject of Plaintiffs’ original complaint and first amended

1 complaint. (*See generally* Compl. (Dkt. # 1); Am. Compl. (Dkt. # 18).) Plaintiffs have
2 informed the court that they intend to move to file a second amended complaint no later
3 than March 15, 2017. (Wash. Resp. at 3 n.1.) Accordingly, the court also declines to
4 resolve the apparent dispute between the parties concerning the applicability of the
5 court's injunctive order to the New Executive Order until such time as an amended
6 complaint that addresses the New Executive Order is properly before the court.

7 Dated this 10th day of March, 2017.

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10 JAMES L. ROBERT
11 United States District Judge
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