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THE HONORABLE _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JEWISH FAMILY SERVICE OF SEATTLE; JEWISH FAMILY SERVICES OF SILICON VALLEY; ALLEN VAUGHT; AFKAB MOHAMED HUSSEIN, JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JANE DOE 4, JANE DOE 5, JANE DOE 6, and JOHN DOE 7, individually and on behalf of all others similarly situated;

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security; U.S. DEPARTMENT OF STATE; REX W. TILLERSON, in his official capacity as Secretary of State; OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE; and DANIEL COATS, in his official capacity as Acting Director of National Intelligence,

Defendants.

Civil Action No. 17-1707

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1
2 1. This lawsuit challenges the Trump Administration’s third attempt since taking
3 office at suspending the United States Refugee Admissions Program (the “USRAP”) and
4 blocking Muslim refugees from reaching the safety of this country.

5 2. For over half a century, the United States has played a leading role in helping
6 refugees from around the world rebuild their lives. In enacting the Refugee Act of 1980, which
7 created the USRAP as it exists today, Congress declared that “it is the historic policy of the
8 United States to respond to the urgent needs of persons subject to persecution in their
9 homelands,” including through resettlement to this country. Pub. L. No. 96-212 § 101(a), 94 Stat.
10 102, 102.

11 3. Despite this historical legacy and the currently unfolding global refugee crisis,
12 President Trump campaigned on rhetoric of fear and hate and a promise to ban Muslim refugees
13 from entering the United States. A week after taking office, on January 27, 2017, the President
14 attempted to deliver on that promise through an executive order (“EO-1”) that indefinitely
15 banned Syrian refugees, suspended the USRAP for 120 days with the exception of case-by-case
16 waivers, ordered a review of the USRAP during the 120-day period, and directed that religious
17 minorities be prioritized for admission once the USRAP resumes. President Trump expressly
18 confirmed that this provision in EO-1 was intended to preference Christian refugees.

19 4. When EO-1 was quickly enjoined, the President withdrew it and issued another
20 executive order on March 6, 2017 (“EO-2”), which also suspended the USRAP for 120 days with
21 the exception of case-by-case waivers, ordered a review of the USRAP during the 120-day
22 period, and directed that after that period the USRAP may resume only for certain nationalities.
23 This order was enjoined before it went into effect, although the Supreme Court allowed it to
24 partially take effect pending appeal in June.

25 5. On October 24, 2017, the day EO-2’s 120-day period expired, the President
26 imposed his third—and most blatantly discriminatory—attempt to ban Muslim refugees. That

1 same day, the President issued the Executive Order on Resuming the United States Refugee
2 Admissions Program with Enhanced Vetting Capabilities, and released an accompanying
3 Memorandum (together, “Refugee Ban 3.0”). Refugee Ban 3.0 continues the suspension of the
4 USRAP in two ways while the Administration purports to continue reviewing the USRAP: (1) it
5 suspends all entry of refugees from 11 countries, 9 of which are majority Muslim, for a minimum
6 of 90 days; and (2) it indefinitely suspends the process known as “follow-to-join,” which allows
7 refugees who have already been admitted to the country to reunite with their spouses and
8 children who remain abroad.

9 6. Refugee Ban 3.0 implements defendant Donald Trump’s and his Administration’s
10 often repeated goal of banning Muslim refugees from the country. Of *all* Muslim refugees
11 resettled in the United States in the last two fiscal years, 80% were from the nine Muslim-
12 majority countries whose nationals are subject to this most recent suspension. For the six
13 nationalities with the highest number of follow-to-join petitions in recent years, 62% of the
14 refugees who arrived from those nationalities in the USRAP generally identified as Muslim. The
15 Administration has not provided any reason justifying this suspension, or any specific criticisms
16 of the current, extensive USRAP process, even after having spent months reviewing the USRAP
17 under the mandates of the prior executive orders.

18 7. Refugee Ban 3.0 will irreparably harm the lives of the plaintiffs, their families,
19 and their loved ones—people like John Doe 1, an Iraqi former interpreter for the U.S. Army who
20 had been told to be ready to travel to the United States when Refugee Ban 3.0 came down and
21 remains stranded outside the country; Allen Vaught, his former Army supervisor, who has been
22 waiting to welcome him to the United States; and Jane Doe 4, a transgender Egyptian student
23 whom the U.S. Embassy had expedited for travel because of grave risks to her safety in her
24 current location.

25 8. These individual plaintiffs and others, along with Jewish resettlement agencies in
26 Seattle and Silicon Valley, request that the Court enter a nationwide injunction against Refugee

1 Ban 3.0 to strike down yet another discriminatory attempt at banning Muslim refugees, and to
2 restore the important, historic American tradition of protecting and aiding people fleeing
3 persecution.

4 **PARTIES**

5 9. The Plaintiffs in this case are individuals and organizations. The individual
6 plaintiffs are either United States residents who are unable to reunite with their family members
7 or close friends because of Refugee Ban 3.0, or refugees in the USRAP who are in limbo as a
8 result of Refugee Ban 3.0.

9 10. Plaintiff Jewish Family Service of Seattle (“JFS-S”) is a 501(c)(3) non-profit
10 corporation with its principal place of business in Washington State.

11 11. Plaintiff Jewish Family Services of Silicon Valley (“JFS-SV”) is a 501(c)(3) non-
12 profit corporation with its principal place of business in California.

13 12. Plaintiff Afkab Mohamed Hussein was admitted to the United States as a refugee
14 from Somalia in 2015. He now lives in Columbus, Ohio. He has an approved follow-to-join
15 petition for his wife and his nearly two-year-old son.

16 13. Plaintiff John Doe 1 is an Iraqi national in the USRAP. He currently lives in
17 Cairo, Egypt. He served as an interpreter for the U.S. military in Iraq.

18 14. Plaintiff Allen Vaught is Doe 1’s former Army supervisor and has agreed to
19 house and to assist in Doe 1’s resettlement once he arrives to the United States. He currently
20 lives in Dallas, Texas.

21 15. Plaintiff John Doe 2 is an Iraqi national in the USRAP. He currently lives in Iraq.

22 16. Plaintiff John Doe 3 is Doe 2’s son-in-law and a lawful permanent resident. He
23 currently lives in Pennsylvania with Doe 2’s daughter.

24 17. Plaintiff Jane Doe 4 is an Egyptian national in the USRAP. She currently lives in
25 Egypt.

26 18. Plaintiff Jane Doe 5 is an Iraqi national in the USRAP. She currently lives in Iraq.

1 19. Plaintiff Jane Doe 6 is Doe 5's sister and a United States citizen. She currently
2 lives in Houston, Texas.

3 20. Plaintiff John Doe 7 is a lawful permanent resident who was admitted to the
4 United States as a refugee from Iraq in 2014. He currently lives in King County, Washington. He
5 has an approved follow-to-join petition for his nineteen-year-old son, whom he has not seen in
6 almost six years.

7 21. Defendant Donald Trump is the President of the United States. Defendant Trump
8 issued the Executive Order that serves as the basis for Refugee Ban 3.0. He is sued in his official
9 capacity.

10 22. Defendant U.S. Department of Homeland Security ("DHS") is a cabinet-level
11 department of the United States federal government. DHS jointly issued the Memorandum that
12 serves as the basis for Refugee Ban 3.0. The Memorandum assigns DHS a variety of
13 responsibilities for implementing and enforcing Refugee Ban 3.0.

14 23. Defendant Elaine Duke is the Acting Secretary of Homeland Security. Acting
15 Secretary Duke has responsibility for overseeing enforcement and implementation of Refugee
16 Ban 3.0 by all DHS staff. She is sued in her official capacity.

17 24. Defendant U.S. Department of State ("DOS") is a cabinet-level department of the
18 United States federal government. DOS jointly issued the Memorandum that serves as the basis
19 for Refugee Ban 3.0. The Memorandum assigns DOS a variety of responsibilities for
20 implementing and enforcing Refugee Ban 3.0.

21 25. Defendant Rex Tillerson is the Secretary of State and has responsibility for
22 overseeing enforcement and implementation of Refugee Ban 3.0 by all DOS staff. He is sued in
23 his official capacity.

24 26. Defendant Office of the Director of National Intelligence ("ODNI") is an
25 independent agency of the United States federal government. ODNI jointly issued the
26

1 Memorandum that serves as the basis for Refugee Ban 3.0. The Memorandum assigns ODNI a
2 variety of responsibilities for implementing and enforcing Refugee Ban 3.0.

3 27. Defendant Dan Coats is the Director of National Intelligence, and has
4 responsibility for overseeing enforcement and implementation of Refugee Ban 3.0 by all ODNI
5 staff. He is sued in his official capacity.

6 **JURISDICTION AND VENUE**

7 28. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 over Plaintiffs’
8 claims under the U.S. Constitution and federal statutes, as well as under 5 U.S.C. § 706. The
9 Court has additional remedial authority under 28 U.S.C. §§ 2201-2202.

10 29. Venue is proper under 28 U.S.C. §1391(e). Defendants are officers or employees
11 of the United States acting in their official capacities, and agencies of the United States. Plaintiff
12 JFS-S is a Washington corporation with its principal place of business in Seattle, Washington.
13 Plaintiff John Doe 7 is a U.S. lawful permanent resident who lives in King County, Washington.
14 No real property is involved in this action.

15 **FACTUAL ALLEGATIONS**

16 **The United States Admitted a Record Number of Muslim Refugees in Response to the**
17 **Current Global Refugee Crisis, Triggering Virulent Islamophobia in Some Quarters**

18 30. The world is currently experiencing the largest refugee crisis since World War II.
19 Globally, there are nearly 22.5 million refugees who have been displaced from their homes and
20 are seeking safety in another country. Of those refugees, fewer than 1 percent are resettled to
21 safety. Those refugees who are referred for resettlement tend to be only the most vulnerable.

22 31. Due to the ongoing civil war in Syria, which the office of the United Nations High
23 Commissioner for Refugees calls “one of the deadliest, most destructive conflicts in recent
24 history,” the largest percentage of refugees in the world currently are Syrian. Over 5 million
25 people have fled Syria, a country that is 87 percent Muslim, since the war began in 2011. In the
26

1 first half of 2017 alone, 1.3 million Syrians were newly displaced—an average of 7,000 people
2 per day who have been forced to flee their homes.

3 32. In response to this global refugee crisis, the United States began to accept more
4 refugees, and in particular significantly more Syrian refugees, starting in 2015. In that year,
5 President Obama directed his administration to accept at least 10,000 Syrian refugees. The
6 Obama Administration also raised the ceiling on annual refugee admissions from 70,000 to
7 85,000 in fiscal year 2016, and then to 110,000 in fiscal year 2017 in response to the scale of the
8 current global refugee crisis. Approximately 98% of the Syrian refugees resettled in the United
9 States were Muslim as of January 2017.

10 33. In part because of the United States' humanitarian response to the Syrian refugee
11 crisis, the number of Muslim refugees arriving to the United States has increased. In fiscal year
12 2016, the United States admitted the highest number of Muslim refugees of any year since data
13 on religious affiliations of refugees became available. Nearly half of the total number of refugees
14 who entered the country in fiscal year 2016 were Muslim; and for the first time in a decade,
15 Muslim refugees outnumbered Christian refugees.

16 34. This increase in Muslim refugees fanned Islamophobia among some politicians, a
17 number of whom would end up in the Trump Administration. Now Vice President Mike Pence,
18 then-Governor of Indiana, was just one of numerous governors who attempted to refuse or
19 otherwise suspend the resettlement of Syrian refugees in their states, based on fearmongering
20 that Syrian refugees represented a “Trojan horse” through which radical Islam could enter the
21 United States.

22 35. These state attempts to ban Syrian refugees were uniformly blocked by the federal
23 courts. *See, e.g., Tex. Health & Human Servs. Comm. v. United States*, 193 F. Supp. 3d 733, 745
24 (N.D. Tex. 2016); *Exodus Refugee Immigration, Inc. v. Pence*, 838 F.3d 902, 903-04 (7th Cir.
25 2016). The Seventh Circuit found then-Governor Pence's actions to be discriminatory and based
26

1 on nothing other than “nightmare speculation” of refugees posing as ISIS terrorists. *Exodus*
2 *Refugee Immigration*, 838 F.3d at 903.

3 36. Now Attorney General Jeff Sessions, then-Senator, claimed in November 2015
4 that “it is an unpleasant but unavoidable fact that bringing in a large unassimilated flow of
5 migrants from the Muslim world creates the conditions possible for radicalization and extremism
6 to take hold.” In September 2016, Sessions blamed the refugee community for “honor
7 killings”— “a well-worn tactic for stigmatizing and demeaning Islam and painting the religion,
8 and its men, as violent and barbaric.” *Int’l Refugee Assistance Project v. Trump*, 857 F.3d 554,
9 596 n.17 (4th Cir. 2017), *cert. granted*, 137 S. Ct. 2080 (2017), and *vacated as moot*, No. 16-
10 1436, 2017 WL 4518553 (U.S. Oct. 10, 2017). When the State Department official in charge of
11 the refugee program at the time responded that there was no evidence that there were any honor
12 killings among the refugee population resettled in the United States, Sessions retorted: “[I]t’s
13 from the same cultural background.”

14 **Responding to the Wave of Islamophobia, President Trump Campaigned on a Promise to**
15 **Ban Muslim Refugees**

16 37. Presidential candidate Donald Trump was one of the politicians who traded on
17 this wave of Islamophobia, constantly conflating refugees—particularly Muslim refugees—with
18 “radical Islamic terrorists” and vilifying the Muslim faith. He repeatedly asserted that refugees,
19 particularly Syrian refugees, were a collective “Trojan horse” through which the Islamic State of
20 Iraq and Syria (“ISIS”) would attack the United States. He campaigned on the promise to
21 exclude Muslim refugees, as well as Muslim migrants generally, from entering the United States.

22 38. This rhetoric dates back at least to September 2015, when President Obama,
23 pursuant to his authority under the Refugee Act, 8 U.S.C. § 1157(a), announced that the United
24 States would resettle 10,000 Syrian refugees in the following fiscal year. Then-candidate Trump
25 derided this decision, claiming that “[t]hey could be ISIS,” or even “a terrorist army in hiding.”
26 If elected, Trump promised, “they’re going back.”

1 39. Several weeks later, on November 13, 2015, ISIS claimed responsibility for
2 coordinated attacks in Paris, France, which killed 130 people. The attackers whose identities
3 have been confirmed were all Belgian and French nationals. While no Syrian nationals were
4 confirmed to have taken part in the attacks, a fake Syrian passport was found near one of the
5 attackers, whose fingerprints matched those of an individual who had entered Greece from
6 Turkey and presented himself as an asylum seeker. Notwithstanding the dramatic differences in
7 refugee screening and admissions to Europe and the United States, candidate Trump’s assertion
8 after the Paris attacks that refugees could be Muslim terrorists in disguise—and therefore must
9 be kept out—became a staple of his campaign.

10 40. In the days after the Paris attacks, candidate Trump tweeted about how Syrian
11 refugees, some of whom “could be ISIS,” were “now pouring into our great country,” claiming
12 further that some “were just caught on the southern border” with Mexico, trying to enter the
13 United States.

14 41. Candidate Trump subsequently suggested in the same month that he would, as
15 President, require all Muslims in the United States to register with the federal government as a
16 way to monitor would-be terrorists. Upon receiving political and media pushback, President
17 Trump sought to “clarify” that his proposal was rather to build a database, not for all Muslims,
18 but just for Syrian refugees—notwithstanding that DHS already has a database of all refugees.

19 42. As the election season progressed, candidate Trump broadened the scope of his
20 attack on Muslim immigrants. On December 7, 2015, candidate Trump issued a statement on his
21 campaign website entitled, “DONALD J. TRUMP STATEMENT ON PREVENTING MUSLIM
22 IMMIGRATION.” The statement declared that “Donald J. Trump is calling for a total and
23 complete shutdown of Muslims entering the United States until our country’s representatives can
24 figure out what is going on.” The statement falsely suggested that all Muslims believe in “murder
25 against non-believers who won’t convert” and “unthinkable acts” against women. It remained on
26 President Trump’s campaign website until May 8, 2017—months after the inauguration.

1 43. Defending his proposed “Muslim ban” on December 7, 2015, candidate Trump
2 explained on Good Morning America, “What I’m doing is I’m calling very simply for a
3 shutdown of Muslims entering the United States—and here’s a key—until our country’s
4 representatives can figure out what is going on.”

5 44. On March 9, 2016, candidate Trump stated, “I think Islam hates us. There’s . . . a
6 tremendous hatred there There’s an unbelievable hatred of us We can’t allow people
7 coming into this country who have this hatred of the United States . . . and of people that are not
8 Muslim”

9 45. The next day, during a debate, candidate Trump said he would “stick with
10 exactly” what he had said the night before. When asked if he was referring to all 1.6 billion
11 Muslims worldwide, he explained, “I mean a lot of them.”

12 46. On March 22, 2016, candidate Trump told Fox Business that “we’re having
13 problems with the Muslims, and we’re having problems with Muslims coming into the country.”

14 47. The same day, candidate Trump took to Twitter to criticize the Democratic
15 candidate for President, Hillary Clinton, for wanting to “let the Muslims flow in.”

16 48. A few days later, candidate Trump tweeted: “Europe and the U.S. must
17 immediately stop taking in people from Syria. This will be the destruction of civilization as we
18 know it! So sad!”

19 49. On May 11, 2016, candidate Trump announced that he was putting together an
20 “immigration commission,” potentially to be headed by Rudy Giuliani, that would “look at the
21 ‘Muslim ban,’ or ‘temporary ban’ as we call it.” As Mr. Giuliani explained later, the commission
22 was formed to devise a way to “legally” implement a “Muslim ban,” and it recommended using
23 territory as a proxy for religion.

24 50. Presumably heeding his commission’s advice, candidate Trump began to discuss
25 the ban as operating on the basis of geography. When pressed to name the countries that would
26

1 be affected, candidate Trump demurred, but stated that his ban would incorporate a pre-existing
2 list of what he called “terror nations.”

3 51. Lest there be any doubt about what he was proposing, however, candidate Trump
4 repeatedly rejected the notion that he was backing away from the promised Muslim ban—which
5 he continued to defend as a good idea—and instead emphasized that he was using territory as a
6 proxy for religion. Candidate Trump also continued to denigrate the Muslim faith and conflate
7 refugees, particularly Muslim refugees, with “Radical Islamic Terrorism.”

8 52. On June 13, 2016, for example, candidate Trump stated in a major speech on
9 national security that “many . . . are saying that I was right” to call for a Muslim Ban in
10 December 2015. In the same prepared speech, he promised to “suspend immigration from
11 [certain] areas of the world.”

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

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

20 55. In a joint interview with candidate Trump and his running mate Pence that aired
21 on 60 Minutes on July 17, 2016, Pence confirmed that he agreed with Trump’s call for “a
22 temporary ban on Muslims entering the United States,” referring to his own attempt to suspend
23 the Syrian refugee program in Indiana. When Pence was asked about whether such calls are
24 offensive and unconstitutional, candidate Trump jumped in to explain that he will be using
25 territories as a proxy for religion, stating: “So you call it territories. OK? We’re gonna do
26 territories. We’re gonna not let people come in from Syria that nobody knows who they are.”

1 Asked again whether Muslims would be banned, candidate Trump said, “there’s nothing like”
2 the Constitution “[b]ut it doesn’t necessarily give us the right to commit suicide, as a country,
3 OK?” He again reiterated: “Call it whatever you want.”

4 56. In a July 24, 2016 interview on Meet the Press, candidate Trump was asked if his
5 plan to ban territories was a “rollback” from “[t]he Muslim Ban.” Candidate Trump responded:
6 “I don’t think so. I actually don’t think it’s a rollback. In fact, you could say it’s an expansion.
7 I’m looking now at territories.” Candidate Trump continued: “People were so upset when I used
8 the word Muslim. Oh, you can’t use the word Muslim. Remember this. And I’m okay with that,
9 because I’m talking territory instead of Muslim.”

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

14 58. In a major prepared speech on immigration on August 15, 2016, candidate Trump
15 outlined a plan to ask the Departments of State and Homeland Security to identify “a list of
16 regions where adequate screening cannot take place” so that the United States could “stop
17 processing visas from those areas until such time as it is deemed safe to resume based on new
18 circumstances or new procedures.” Although he then claimed that “[t]he size of current
19 immigration flows are too large to perform adequate screening,” the only “immigration flow” he
20 expressed concern about was that from the Middle East: “We admit about 100,000 permanent
21 immigrants from the Middle East every year. Beyond that, we admit hundreds of thousands of
22 temporary workers and visitors from the same regions. Hundreds of thousands. If we don’t
23 control the numbers, we can’t perform adequate screening.” He called for developing a new
24 “screening test” that he called “extreme, extreme vetting,” and proposed that the United States
25 “screen out” those who “who believe Sharia law should supplant American law.”
26

1 59. On August 31, 2016, candidate Trump, in another speech on immigration,
2 explained that his immigration policy would include asking applicants “their views about honor
3 killings, about respect for women and gays and minorities,” and their “[a]ttitudes on radical
4 Islam,” to ensure that those we admit “share our values.”

5 60. Throughout the summer and into the fall, candidate Trump issued press releases
6 that baselessly attacked refugees, as a categorical group, for allegedly supporting “Radical
7 Islamic Terrorism” and rejecting American values:

- 8 • “Hillary Clinton wants to dramatically increase admissions from the Middle East,
9 bringing in many hundreds of thousands during a first term—and we will have no
10 way to screen them, pay for them, or prevent the second generation from
11 radicalizing. We need to protect all Americans, of all backgrounds and all beliefs,
12 from Radical Islamic Terrorism—which has no place in an open and tolerant
13 society.”
- 14 • “Why does Hillary Clinton want to bring people here—in vast numbers—who
15 reject our values?”
- 16 • “Hillary Clinton also wants to push to bring in 620,000 refugees in her first
17 term—a number of whom come from countries where women and gays are
18 horribly brutalized—which will weaken our tolerant way of life.”
- 19 • “Terrorists are infiltrating our country. Now, Hillary Clinton wants a 550%
20 increase in Syrian refugees and countless more refugees from across the Middle
21 East. I want to keep you and your family safe.”

22 61. In responding to a question at a presidential debate in October 2016 about the
23 proposed Muslim ban, candidate Trump responded by referring to Muslim refugees, stating: “It’s
24 called extreme vetting. We are going to areas like Syria where they’re coming in by the tens of
25 thousands because of Barack Obama.”

26 62. On October 25, 2016, candidate Trump promised that he will take actions “on the
first day . . . to restore the rule of law,” such as “[s]uspend[ing] immigration from regions
compromised by Radical Islamic terrorism, including the suspension of the Syrian Refugee
Program.”

 63. On October 27, candidate Trump warned that his opponent’s refugee plan to
allow Syrian refugees in the country “would leave us with generations of terrorism, radicalism

1 and extremism inside of our shores.” He claimed: “I only want to admit people who will support
2 this country and love its people.”

3 64. And on October 29, just weeks before the election, candidate Trump promised:
4 “We are going to . . . stop the massive inflow of refugees and keep Radical Islamic Terrorist out
5 of our country.”

6 65. On December 21, 2016, after his election, president-elect Trump was asked
7 whether he “had cause to rethink or reevaluate [his] plans to create a Muslim register or ban
8 Muslim immigration to the United States.” He replied: “You know my plans all along, and I’ve
9 been proven to be right, 100 percent correct.”

10 **The Trump Administration Has Been Attempting Since Inauguration to Deliver on**
11 **President Trump’s Campaign Promise to Ban Muslim Refugees**

12 66. After winning a campaign in which banning Muslim refugees was a key promise,
13 President Trump attempted to deliver on that promise just a week after being inaugurated
14 through an executive order issued on January 27, 2017 (“EO-1”). *See* Exec. Order No. 13769,
15 Protecting the Nation From Foreign Terrorist Entry Into the United States, 82 Fed. Reg. 8977
16 (Jan. 27, 2017).

17 67. EO-1 was the Trump Administration’s first attempt to ban Muslim refugees from
18 the United States and favor Christian refugees. In an interview with the Christian Broadcasting
19 Network released the same day that he signed EO-1, President Trump confirmed that he intended
20 to change the refugee program to prioritize Christians. He explained: “If you were a Muslim you
21 could come in [to the United States], but if you were a Christian, it was almost impossible
22 [T]hey were chopping off the heads of everybody but more so the Christians. And I thought it
23 was very, very unfair. So we are going to help them.”

24 68. EO-1 indefinitely blocked Syrian refugees from entering the United States. EO-1
25 § 5(c).
26

1 69. EO-1 also suspended the USRAP for 120 days and directed the Secretary of State,
2 together with the Secretary of Homeland Security and in consultation with the Director of
3 National Intelligence, to review the USRAP during this period “to determine what additional
4 procedures should be taken to ensure that those approved for refugee admission do not pose a
5 threat to the security and welfare of the United States” and “to implement such additional
6 procedures.” EO-1 § 5(a). During the 120-day period refugees could be admitted only on a
7 discretionary case-by-case basis and only if the Secretaries of State and Homeland Security
8 determined that “the admission of such individuals as refugees is in the national interest—
9 including when the person is a religious minority in his country of nationality facing religious
10 persecution.” EO-1 § 5(a) & (e). Upon the resumption of the USRAP, EO-1 further directed the
11 Secretary of State, in consultation with the Secretary of Homeland Security, to make changes “to
12 prioritize refugee claims made by individuals on the basis of religious-based persecution,
13 provided that the religion of the individual is a minority religion in the individual’s country of
14 nationality.” EO-1 § 5(b).

15 70. EO-1 also slashed by more than half the annual refugee admissions allotment that
16 was set prior to fiscal year 2017. Under 8 U.S.C. § 1157, the President has the power to
17 determine, at the beginning of each fiscal year, the ceiling on the number of refugees that may be
18 admitted in any fiscal year after appropriate consultation with members of Congress. For fiscal
19 year 2017, President Obama determined that admissions of up to 110,000 refugees was justified
20 by humanitarian concerns or was otherwise in the national interest. Three months after President
21 Obama set this ceiling, EO-1 attempted to lower it to 50,000 refugees. EO-1 § 5(d).

22 71. EO-1 further banned any entry for 90 days for individuals from seven countries,
23 each of which is more than 85 percent Muslim: Syria, Sudan, Iraq, Iran, Libya, Somalia, and
24 Yemen. EO-1 § 3(c). EO-1 and the implementation of this travel ban caused chaos throughout
25 the country’s airports and other ports of entry.
26

1 72. On February 3, 2017—less than a week after EO-1 was issued—this Court issued
2 a nationwide temporary restraining order enjoining the refugee ban in Sections 5(a)-(c) and 5(e)
3 and travel ban in section 3(c) of EO-1. *Washington v. Trump*, No. C17-0141JLR, 2017 WL
4 462040, at *2 (W.D. Wash. Feb. 3, 2017).

5 73. The Ninth Circuit, after hearing oral argument and construing the temporary
6 restraining order as a preliminary injunction, denied the government’s motion for a stay of that
7 injunction pending appeal. 857 F. 3d 1151, 1156 (9th Cir. 2017) (per curiam).

8 74. Shortly after the Ninth Circuit’s opinion issued, President Trump took to Twitter
9 to complain: “‘77% of refugees allowed into U.S. since travel reprieve hail from seven suspect
10 countries.’ (WT) [sic] SO DANGEROUS!”

11 75. Rather than pursuing the appeal from EO-1, on March 6, 2017, President Trump
12 signed a new Executive Order (“EO-2”), which became effective on March 16 and rescinded and
13 replaced EO-1. Exec. Order No. 13780, Protecting the Nation From Foreign Terrorist Entry Into
14 the United States, 82 Fed. Reg. 13209 (Mar. 6, 2017).

15 76. EO-2 was the Trump Administration’s second attempt to ban refugees, and it was
16 substantially similar to EO-1. In fact, before issuing EO-2, President Trump explained why he
17 planned to do so: “I got elected on defense of our country. And I keep my campaign promises.
18 And our citizens will be very happy when they see the result.” In the days that followed the
19 issuance of EO-2, Press Secretary Sean Spicer affirmed that “the principles of the executive
20 order remain the same.” Stephen Miller, a senior advisor to President Trump, explained that
21 EO-2 would constitute “the same basic policy outcome for the country.”

22 77. Like EO-1, EO-2 suspended the USRAP for 120 days and directed the Secretary
23 of State, in conjunction with the Secretary of Homeland Security and in consultation with the
24 Director of National Intelligence, to review the USRAP during this period “to determine what
25 additional procedures should be used to ensure that individuals seeking admission as refugees do
26 not pose a threat to the security and welfare of the United States” and “to implement such

1 additional procedures.” EO-2 § 6(a). During the 120-day period, refugees could be admitted only
2 on a discretionary case-by-case basis and only if the Secretaries of State and Homeland Security
3 determined that “the entry of such individuals as refugees is in the national interest and does not
4 pose a threat to the security or welfare of the United States.” EO-2 § 6(c). EO-2 directed that the
5 USRAP shall resume after 120 days “only for stateless persons and nationals of countries for
6 which the Secretary of State, the Secretary of Homeland Security, and the Director of National
7 Intelligence have jointly determined that additional procedures implemented . . . are adequate to
8 ensure the security and welfare of the United States.” EO-2 § 6(a).

9 78. Like EO-1, EO-2 attempted to lower the ceiling on admissions of refugees for
10 fiscal year 2017 to 50,000. EO-2 § 6(b).

11 79. Like EO-1, EO-2 also banned entry into the United States for a new 90-day period
12 for individuals from six of the same seven predominantly Muslim countries identified in EO-1:
13 Syria, Sudan, Iran, Libya, Somalia, and Yemen. EO-2 § 2(c).

14 80. On March 15, 2017, before EO-2 could take effect, the District of Hawai’i issued
15 a nationwide temporary restraining order of the refugee ban in section 6 and travel ban in
16 section 2 of EO-2, holding that these sections likely violated the Establishment Clause. *Hawai’i*
17 *v. Trump*, 241 F. Supp. 3d 1119, 1140 (D. Haw. 2017). On March 29, 2017, the District Court
18 converted the Temporary Restraining Order into a preliminary injunction. *Hawai’i v. Trump*, 245
19 F. Supp. 3d 1227, 1239 (D. Haw. 2017).

20 81. On appeal, the Ninth Circuit affirmed the Hawai’i district court’s preliminary
21 injunction as to the refugee and travel bans, holding that those bans violate the Immigration and
22 Nationality Act (“INA”), and that the President exceeded his statutory authority in suspending
23 refugee admissions. *Hawai’i v. Trump*, 859 F.3d 741, 755-56 (9th Cir. 2017) (per curiam).

24 82. In a parallel proceeding, on March 16, 2017, the District of Maryland issued a
25 nationwide preliminary injunction of the travel ban, finding that it likely violated the
26

1 Establishment Clause. *Int'l Refugee Assistance Project v. Trump*, 241 F. Supp. 3d 539, 566 (D.
2 Md. 2017).

3 83. Sitting en banc, the Fourth Circuit affirmed on the same basis. *Int'l Refugee*
4 *Assistance Project v. Trump*, 857 F.3d 554, 605-06 (4th Cir. 2017) (en banc).

5 84. The government petitioned for certiorari in the Maryland and Hawai'i cases and
6 moved for a stay of the preliminary injunctions. On June 26, 2017, the Supreme Court granted
7 certiorari, consolidated the cases, and partially stayed both preliminary injunctions pending
8 appeal to the extent they applied to "foreign nationals abroad who have no connection to the
9 United States at all." *Trump v. Int'l Refugee Assistance Project*, 137 S. Ct. 2080, 2087-88 (2017)
10 (per curiam).

11 85. President Trump expressed fury that multiple courts had enjoined EO-2, which he
12 called the "watered down" version of EO-1 that he had agreed to only at the urging of his
13 lawyers.

14 86. Shortly after the ruling from the District of Hawai'i preliminarily enjoining
15 portions of EO-2, President Trump stated: "The best way to keep foreign terrorists or, as some
16 people would say in certain instances, radical Islamic terrorists from attacking our country is to
17 stop them from entering our country in the first place." He claimed that he had agreed to "tailor"
18 EO-2 to resist legal challenge at the urging of "the lawyers," but asserted that "we ought to go
19 back to the first one and go all the way, which is what I wanted to do in the first place."

20 87. On June 5, in a series of tweets, he said, "People, the lawyers and the courts can
21 call it whatever they want, but I am calling it what we need and what it is, a TRAVEL BAN! /
22 The Justice Dept. should have stayed with the original Travel Ban, not the watered down,
23 politically correct version they submitted to S.C. / The Justice Dept. should ask for an expedited
24 hearing of the watered down Travel Ban before the Supreme Court - & seek [a] much tougher
25 version!"
26

1 88. On August 18, President Trump declared on Twitter that “Radical Islamic
2 Terrorism must be stopped by whatever means necessary! The courts must give us back our
3 protective rights. Have to be tough!”

4 89. Despite President Trump’s displeasure with the court rulings enjoining EO-2, the
5 Trump Administration had succeeded by the fall of 2017 to admit fewer Muslim refugees. The
6 religious composition of refugees arriving to the United States has shifted on a monthly basis
7 since the inauguration. In February, the first full month of the Administration, 50% of the
8 refugees who entered the United States were Muslim and 41% were Christians. By June,
9 Christians (57%) made up a larger share of arrivals than Muslims (31%).

10 90. On September 24, 2017, with Supreme Court review pending and EO-2’s 90-day
11 travel ban expiring, President Trump replaced EO-2 with a presidential proclamation (“EO-3”).
12 Proclamation No. 9645, Enhancing Vetting Capabilities and Processes for Detecting Attempted
13 Entry Into the United States by Terrorists or Other Public Safety Threats, 82 Fed. Reg. 45161
14 (Sept. 24, 2017) (“EO-3”). EO-3 indefinitely banned entry to the United States of most nationals
15 of six Muslim-majority countries—Chad, Iran, Libya, Somalia, Syria, and Yemen. Although two
16 non-Muslim majority countries—Venezuela and North Korea—were listed in EO-3, the impact
17 on the nationals of those countries was limited. EO-3 banned only certain Venezuelan
18 government officials and their immediate relatives who seek to enter the United States on non-
19 immigrant visitor and business visas, affecting at most a few hundred Venezuelans a year.
20 Similarly, although EO-3 barred all immigrant and non-immigrant entry from North Korea, in
21 recent years there have been only a hundred or so admissions of North Koreans each year.

22 91. On October 17, 2017, before EO-3 could go into effect fully, the District of
23 Hawai’i preliminarily enjoined EO-3, holding that the President again exceeded its statutory
24 authority in banning hundreds of millions of people from the country. *Hawai’i v. Trump*, No. 17-
25 00050 DKW-KSC, 2017 WL 4639560, at *11-12 (D. Haw. Oct. 17, 2017).

1 92. The District of Maryland also issued a preliminary injunction later that day,
2 holding in part that EO-3 likely violates the Establishment Clause for similar reasons as EO-2.
3 *Int'l Refugee Assistance Project v. Trump*, 2012 WL 4674314, at *40-41 (D. Md. Oct. 17, 2017).

4 93. EO-3 did not affect refugees, as the refugee ban in EO-2 was still in effect at the
5 time EO-3 was issued.

6 **Refugee Ban 3.0 Is Yet Another Attempt by the Trump Administration to Ban Muslim**
7 **Refugees**

8 94. On October 24, 2017, the day that EO-2's refugee ban expired, President Trump
9 issued a new executive order ("EO-4"). Exec. Order No. 13815, Resuming the United States
10 Refugee Admissions Program With Enhanced Vetting Capabilities, 82 Fed. Reg. 50055 (Oct. 24,
11 2017).

12 95. EO-4 declared that "Presidential action to suspend the entry of refugees under the
13 USRAP is not needed at this time to protect the security and interests of the United States and its
14 people." EO-4 § 3(a).

15 96. EO-4 also reported that, pursuant to EO-2's directive to review the USRAP,
16 improvements were made to screening and vetting of refugees, and that "[t]he Secretary of State,
17 the Secretary of Homeland Security, and the Director of National Intelligence have advised that
18 the improvements to the USRAP vetting process are generally adequate to ensure the security
19 and welfare of the United States." EO-4 § 2(a).

20 97. Nevertheless, EO-4 required, with respect to "[c]ertain [c]ategories of [r]efugees,"
21 that the Secretary of State and the Secretary of Homeland Security "coordinate to assess any
22 risks to the security and welfare of the United States that may be presented by the entry into the
23 United States through the USRAP of stateless persons and foreign nationals." EO-4 § 3(a)(i).

24 98. EO-4 provided further that the Secretary of Homeland Security, in consultation
25 with the Secretary of State, "shall determine . . . whether any actions should be taken to address
26 the risks to the security and welfare of the United States presented by permitting any category of

1 refugees to enter this country, and, if so, what those actions should be,” and that the two officials
2 “shall administer the USRAP consistent with those determinations.” *Id.*

3 99. EO-4 reported that the Secretary of State, the Secretary of Homeland Security,
4 and the Director of National Intelligence “have advised that . . . they will apply special measures
5 to certain categories of refugees whose entry continues to pose potential threats to the security
6 and welfare of the United States.” EO-4 § 2(a). EO-4 did not, however, state what those “special
7 measures” were, or the “categories” to which they would apply.

8 100. On the same day that EO-4 was issued, a memorandum to the President from the
9 Secretaries of State and Homeland Security and the Director of National Intelligence, dated
10 October 23, 2017, with an accompanying Addendum (the “Memorandum”), was released. The
11 Memorandum continues the refugee bans in EO-1 and EO-2 in two ways: (1) it continues to
12 suspend the USRAP for refugees from 11 countries, 9 of which are overwhelmingly Muslim; and
13 (2) it indefinitely suspends the follow-to-join process, through which refugees already in the
14 United States can be reunited here with their spouses and minor children who remain abroad.

15 The Ban on Refugees from Nine Overwhelmingly Muslim Countries

16 101. The Memorandum imposes a suspension on refugee admissions for “nationals of,
17 and stateless persons who last habitually resided in, 11 particular countries previously identified
18 as posing a higher risk to the United States through their designation on the Security Advisory
19 Opinion (SAO) list.”

20 102. A “Security Advisory Opinion,” or “SAO,” refers to a particular biographic
21 security check administered for refugee applicants, including for those who are members of a
22 group or nationality that the government has designated as requiring this additional check. An
23 SAO is in addition to the extensive security vetting that all refugee applicants receive prior to
24 being resettled to the United States.

25 103. Neither EO-4 nor the Memorandum identify the “11 particular countries” that are
26 on the SAO list and therefore whose refugee nationals are now prohibited from entering, but

1 upon information, belief, and public reporting, those countries are Egypt, Iran, Iraq, Libya, Mali,
2 Somalia, Sudan, Syria, Yemen, South Sudan, and North Korea.¹

3 104. Over 40% of all refugees resettled through the USRAP in the last two fiscal years
4 came from one of these 11 countries, with refugees from South Sudan and North Korea
5 accounting for a miniscule percentage. Of those 11 countries, all but South Sudan and North
6 Korea are at least 85 percent Muslim.

7 105. Over 80% of refugees resettled from these 11 countries over the last two fiscal
8 years have been Muslim.

9 106. These countries' nationals comprise an overwhelming percentage of all Muslim
10 refugees resettled through the USRAP. Of *all* Muslim refugees resettled in the United States in
11 the last two fiscal years, 80% were from the 9 Muslim-majority countries whose nationals are
12 subject to the Memorandum's suspension.

13 107. The Memorandum states that, "for countries subject to SAOs," the government
14 will conduct "a review and analysis of each country" that is "to be completed within 90 days."
15 The Memorandum, however, does not explain why such review and analysis is necessary.
16 Indeed, refugees from these countries already receive heightened vetting under current
17 procedures, but the Memorandum does not identify any deficiencies with those procedures.
18 Instead, it inexplicably relies on the existence of those procedures to attempt to justify the need
19 for review and analysis. Nor does the Memorandum explain why the review and analysis was not
20 completed during the 120-day period under EO-2 when the Secretary of State, in conjunction
21 with the Secretary of Homeland Security and in consultation with the Director of National
22 Intelligence, was directed to conduct a review of the USRAP.

23
24
25 ¹ See, e.g., Yeganeh Torbati & Mica Rosenberg, Under Trump Plan, Refugees from 11 Countries Face
26 Additional U.S. Barriers, Reuters (Oct. 24, 2017), <http://reut.rs/2gRvoDh>; Sabrina Siddiqui, Trump Ends Refugee
Ban With Order to Review Program For 11 Countries, The Guardian (Oct. 24, 2017), <http://bit.ly/2llufW9>; Ted
Hesson, Trump Targets 11 Nations in Refugee Order, Politico (Oct. 24, 2017), <http://politi.co/2gJQ5NW>.

1 108. The Memorandum states further that during this new 90-day review period,
2 refugees who are nationals of (or stateless persons who last habitually resided in) one of these 11
3 countries will be “consider[ed] . . . for potential admission” to the United States only if their
4 resettlement here “would fulfill critical foreign policy interests, without compromising national
5 security and the welfare of the United States.” The Memorandum does not explain why such an
6 assessment is necessary specifically for refugees from the 11 SAO countries. Nor does the
7 Memorandum provide any criteria for that assessment, instead stating only that the Secretary of
8 Homeland Security may admit refugees who meet it “on a case-by-case basis only.” This “case-
9 by-case” exception to the Memorandum’s suspension is nearly identical to the case-by-case
10 waiver provisions that existed in President Trump’s prior executive orders banning entry of
11 refugees and nationals of specified Muslim-majority nations.

12 109. The Memorandum does not cite any authority for imposing this suspension on
13 admission of nationals from the 11 SAO countries, nor does it state whether admission of
14 refugees from the SAO countries will resume after 90 days. The Memorandum’s suspension
15 applies even to refugees who have already obtained an SAO, passed it and all other required
16 security checks, and had been preparing to travel to the United States.

17 110. The Memorandum further provides that, during the suspension period, “the
18 Secretary of State and Secretary of Homeland Security will temporarily prioritize refugee
19 applications from other non-SAO countries” by “tak[ing] resources” that would have been used
20 to process the refugee applications of nationals from one of the 11 countries, and “reallocat[ing]
21 them to process applicants” from countries not subject to the suspension. The Memorandum does
22 not cite any authority for this reallocation of resources away from the SAO countries to the non-
23 SAO countries, nor does it state whether the resources will ever be shifted back to SAO
24 countries. The Memorandum also does not provide any rational justification for this reallocation
25 of resources—it states only that it is necessary because processing of applications from SAO
26 countries is “resource intensive.”

1 111. This prioritization of applications from non-SAO countries will have the effect of
2 significantly increasing the percentage of Christian refugees resettled here while significantly
3 decreasing the percentage of Muslim refugees. According to the Pew Research Center, a
4 nonpartisan fact tank, “[o]ne important factor that influences the religious composition of
5 refugee arrivals is country of origin.” In the past two fiscal years, approximately 70% of the
6 refugees resettled from the non-SAO countries were Christian; only 16% were Muslim.

7 112. The Memorandum thus implements the Trump Administration’s oft-repeated
8 desire to ban Muslim refugees while prioritizing the resettlement of Christian refugees, including
9 the President’s pledge to help Christians on the day of EO-1, as well as his claim in April that he
10 is “going to be helping the Christians big league.”

11 113. In fact, the day after EO-4 was issued and the Memorandum was released, Vice
12 President Mike Pence gave an address at the annual dinner of In Defense of Christians, a non-
13 profit organization that, per its website, advocates “for the protection and preservation of
14 Christians and Christianity in the Middle East.” During his address, Vice President Pence called
15 out “radical Islamic terrorists” who have perpetrated “vile acts of persecution animated by hatred
16 for Christians and the Gospel of Christ” and promised Christians in the Middle East that “[h]elp
17 is on the way.”

18 114. On October 26, 2017, in a hearing on Oversight of the United States Refugee
19 Admissions Program, Acting Assistant Secretary Simon Henshaw of the U.S. Department of
20 State testified that the USRAP will “continue to demonstrate America’s commitment to assisting
21 victims of ISIS in northern Iraq and throughout the Middle East,” choosing to highlight only the
22 USRAP’s work in Northern Iraq with “Yezidi, Christian, and members of other religious
23 minorities,” without any mention of the Muslim refugees in need of help in the region.

24 115. Even if EO-4’s suspension on admissions of nationals of SAO countries is limited
25 to 90 days, it will have a devastating impact on Muslim refugees. That is because refugees have a
26 set window to complete their travel—if they miss this window, the time-consuming security and

1 medical checks that they passed will begin to expire. Once a check expires, it must be re-
2 initiated. But because each security check can take months or even years to complete, the
3 expiration of even one can have a cascading effect, as other clearances expire while the first is
4 being re-processed. As a result, even relatively short-term delays in the resettlement process may
5 reverberate for far longer. This cycle may turn even a temporary delay into a lifetime ban.

6 Suspension of the Follow-to-Join Process

7 116. The Memorandum also indefinitely suspends the follow-to-join (“FTJ”) process
8 for refugees.

9 117. The FTJ process (also called the “Visas 93” process) is a family reunification
10 process that allows an individual admitted to the United States as a refugee to petition for his or
11 her spouse and unmarried minor children to come to the United States.

12 118. Pursuant to 8 U.S.C. § 1157(c)(2)(A), a spouse or child of a refugee is entitled to
13 the same admission status as the refugee if certain criteria are met.

14 119. There are numerous steps an FTJ-eligible family member must undergo before
15 being able to travel to the United States.

16 120. First, the refugee in the United States must file an I-730 petition with U.S.
17 Citizenship and Immigration Services (“USCIS”). The petitioner must establish that he or she is
18 a refugee, and bears the burden of establishing by a preponderance of the evidence that the FTJ
19 candidate is an eligible spouse or unmarried minor child. 8 C.F.R. § 207.7(e).

20 121. If the criteria are met, the USCIS adjudicating officer is required to approve the
21 petition. *Id.* § 207.7(f).

22 122. Beneficiaries are then interviewed either by a Department of State consular
23 officer or a USCIS officer at a U.S. embassy or consulate. *Id.*

24 123. Beneficiaries are conditionally approved to travel if the interviewing officer finds
25 that: (1) the beneficiary has established by a preponderance of the evidence his or her identity,
26 and a qualified relationship to the petitioner; (2) the beneficiary is not subject to any mandatory

1 bars or relevant inadmissibility ground; and (3) the beneficiary was not previously granted
2 asylum or refugee status by the United States.

3 124. The beneficiary must also provide ink-free digital fingerprint scans and undergo
4 the same medical examination required of immigrant visa applicants.

5 125. The Memorandum states that “additional security measures must be implemented
6 promptly” for FTJ refugees, and that such measures “must be implemented before admission of
7 following-to-join refugees can resume.”

8 126. The Memorandum claims that FTJ beneficiaries “do not undergo enhanced DHS
9 review,” but does not assert that the current FTJ screening process is inadequate.

10 127. The Memorandum does not cite to any authority for suspending the FTJ process.

11 128. Over the last few years, approximately 2,500 refugees were annually admitted
12 through the FTJ process to be reunited with spouses or parents already in the United States.

13 129. In recent years, the nationalities most represented in the FTJ process were Iraqi,
14 Somali, Burmese, Congolese, Ethiopian, and Eritrean. In fiscal year 2016 and 2017, 62% of the
15 refugees who arrived from these six countries through the USRAP generally identified as
16 Muslim.

17 **Refugee Ban 3.0 Serves No Genuine National Security or Foreign Policy Purpose**

18 130. Even after months of reviewing the USRAP as directed under EO-2, the Trump
19 Administration has not provided any reasoned justifications for the suspension of refugee
20 admissions under Refugee Ban 3.0.

21 131. Refugees already receive the most thorough vetting of any travelers to the United
22 States. The extensive screening process generally starts with the refugee registering with the
23 United Nations High Commissioner for Refugees (“UNHCR”) in the country to which he or she
24 has fled. If the UNHCR determines after an interview and review of documents that the applicant
25 meets the United States’ criteria for resettlement consideration and presents no disqualifying
26 information, the UNHCR refers the case to a U.S. embassy.

1 132. The embassy then transfers the case to one of nine Resettlement Support Centers
2 across the world for further processing. These Centers process refugee applications, prepare case
3 files, and initiate security checks. Once the case files are prepared, the applicant interviews with
4 the USCIS to establish eligibility for refugee status and resettlement in the United States.

5 133. If the refugee is eligible, the case proceeds through multiple layers of security and
6 medical screening, most of which apply separately to every member of the family in the refugee
7 application, including children.

8 134. At the final stages of refugee processing, refugees receive an “assurance” of
9 sponsorship from one of nine private non-profit organizations that are dedicated to welcoming
10 refugees into the country and have been designated as “resettlement agencies” by the
11 government. An assurance is a formal, documented commitment by the resettlement agency and
12 its affiliate to arrange for the reception of the refugee and provide individualized, specialized
13 assistance before and after his or her arrival in the United States.

14 135. The FTJ beneficiaries are also already subjected to their own thorough vetting and
15 security screening procedures.

16 136. The refugee vetting process is also already reviewed and enhanced on an ongoing
17 basis in response to particular threats without the need to suspend the USRAP in order to make
18 adjustments.

19 137. In addition, the government’s own research and analysis concludes that country-
20 based bans, whether of refugees or other immigrants, are ineffective. After EO-1 was enjoined
21 but before EO-2 was issued, President Trump ordered the DHS and the Department of Justice to
22 produce an intelligence report to demonstrate that foreign nationals from particular Muslim-
23 majority countries present a substantial security threat to the United States. In response, analysts
24 at DHS prepared a draft report, released to the press on February 24, 2017, indicating that there
25 was insufficient evidence that nationals of the seven Muslim-majority countries included in EO-1
26 pose a terror threat to the United States. The draft report also found that citizenship is an

1 “unlikely indicator” of terrorism threats to the United States, and that few people from those
2 countries identified in EO-1 have carried out attacks or been involved in terrorism-related
3 activities in the United States since Syria’s civil war started in 2011.

4 138. During the four decades from 1975 to the end of 2015, over three million refugees
5 have been admitted to the United States. Despite this number, according to policy analysis from
6 the Cato Institute, only three refugees have killed people in terrorist attacks on U.S. soil during
7 this period and none of these refugees were from the 11 listed countries in the Memorandum.
8 Although EO-2 claimed that “more than 300 persons who had entered the United States as
9 refugees were then the subjects of counterterrorism investigations by the Federal Bureau of
10 Investigation,” EO-2 § 1(h), EO-2 did not acknowledge that very few FBI initial assessments of
11 terrorism threats become intensive investigations: for example, in the four months from
12 December 2008 to March 2009, the FBI began 11,667 “assessments” related to terrorism, only
13 427 of which—less than 4%—led even to more intensive investigations.

14 **Refugee Ban 3.0 Irreparably Harms Plaintiffs**

15 Afkab Mohamed Hussein

16 139. Afkab Mohamed Hussein is a refugee from Somalia who was admitted to the
17 United States in 2015. Mr. Hussein now lives in Columbus, Ohio and works as a truck driver.
18 Mr. Hussein has approved follow-to-join petitions for his wife and his nearly two-year-old son.
19 He is Muslim. Mr. Hussein is and has been represented in his follow-to-join petition by
20 Community Refugee & Immigration Services (CRIS).

21 140. Mr. Hussein and his parents fled Somalia when Mr. Hussein was only three years
22 old because militias were targeting people of their clan, including Mr. Hussein’s family. Mr.
23 Hussein grew up in a refugee camp in Kenya and married his wife there. When Mr. Hussein was
24 admitted to the United States as a refugee, a year after his marriage, his wife was pregnant with
25 their son. Mr. Hussein has not seen his wife since then and he has never met his son, his only
26 child. His wife and son are both nationals of Somalia.

1 141. Mr. Hussein’s follow-to-join petitions for his wife and son were approved in June
2 2016, his wife was interviewed, and his wife and son have undergone two medical examinations
3 because the results of their first examinations expired while they were waiting for approval to
4 travel.

5 142. Knowing that he will be indefinitely separated from his wife and his son because
6 of Refugee Ban 3.0 has been very difficult for Mr. Hussein. Mr. Hussein has never met his son,
7 his only child, because his son was born after he was admitted to the United States. Mr. Hussein
8 and his wife are very close and they speak on the phone every day. They want to have more
9 children together, but they do not know when they will be together again. Mr. Hussein feels sad
10 about their separation and helpless because he believes it is his responsibility to protect and care
11 for his family and he cannot do that from so far away.

12 143. Mr. Hussein feels that Refugee Ban 3.0’s purpose was to prevent Muslims like
13 him and his family from entering the United States. He feels that he is being personally targeted
14 based on his religious beliefs, and he feels anxiety and stress as a result.

15 John Doe 1

16 144. John Doe 1 (“Doe 1”) is an Iraqi national who currently lives in Cairo, Egypt.
17 Doe 1 is and has been represented in his refugee application by U.S.-based attorneys offering pro
18 bono services through IRAP in the ordinary course of IRAP’s work as a legal services provider.
19 Doe 1 fled Iraq in 2014 after his and his family’s lives were threatened because of his service and
20 loyalty to the United States Army. Doe 1 is waiting to travel to the United States as a refugee
21 through the Direct Access Program for U.S.-Affiliated Iraqis (“DAP”), which provides a path for
22 resettlement for people like him who served the United States government. He was conditionally
23 approved for resettlement to the United States on or around December 2016.

24 145. In early October 2017, the International Organization for Migration (“IOM”)
25 called Doe 1 to tell him to get ready to travel to the United States. While Doe 1 was attempting
26 to update his new passport on IOM’s advice, Refugee Ban 3.0 was issued.

1 146. When Doe 1 learned that that Refugee Ban 3.0 would effectively suspend refugee
2 admissions for nationals from eleven countries, including Iraq, for at least 90 days, he felt scared
3 and helpless. He had been waiting to enter the United States for almost three years in difficult
4 and dangerous conditions, away from his family, without the ability to work. He is afraid any
5 more delay will put him and his family in serious danger. Numerous Iraqi interpreters who
6 served the United States have been murdered by Al Qaeda in Iraq or by ISIS, and he is afraid of
7 meeting the same fate.

8 147. Doe 1 and his family are Sunni Muslim. He believes that the purpose of the
9 Executive Order and Memorandum is to prevent Muslims like him from entering the United
10 States. The anti-Muslim statements and views behind suspending admission from eleven SAO
11 countries—nine of which are Muslim-majority countries—make him feel targeted for his
12 religious beliefs and have caused him anxiety and stress.

13 Allen Vaught

14 148. Allen Vaught is a lawyer, veteran of the U.S. Army, and a former member of the
15 Texas House of Representatives. He is a U.S. citizen and lives in Dallas, Texas. As a Captain in
16 the Army, Mr. Vaught was responsible for hiring Arabic translators. Mr. Vaught hired Doe 1
17 while stationed in Fallujah, Iraq.

18 149. After his honorable discharge from the military, Mr. Vaught has expended
19 significant time, effort, and expense to resettle Doe 1 in the United States. Mr. Vaught submitted
20 a letter of recommendation in support of Doe 1's DAP application and volunteered to house him
21 and pay his expenses when he arrived in the United States. Mr. Vaught and his family held
22 fundraisers and raised approximately \$800 to help Doe 1 get on his feet once he arrived. Upon
23 hearing that Doe 1 was soon to travel to the U.S., Mr. Vaught rearranged his home to make room
24 for Doe 1.

25 150. Mr. Vaught was diagnosed with post-traumatic stress disorder, or PTSD, resulting
26 from his service in the Army. Mr. Vaught's PTSD is exacerbated by Doe 1's inability to enter

1 the United States. Having hired Doe 1, Mr. Vaught feels responsible for the continued danger
2 that Doe 1 is in and has trouble sleeping at night wondering if Doe 1 will be killed before he gets
3 to the United States. Two other translators that Mr. Vaught worked with in Iraq have been
4 murdered.

5 151. Mr. Vaught believes that Refugee Ban 3.0 is intended to target Muslims and
6 believes that it is inconsistent with the values he fought to uphold as a commissioned officer in
7 the Army.

8 John Doe 2

9 152. John Doe 2 (“Doe 2”) is a refugee in DAP. He is a national of, and is currently
10 living in, Iraq. He is Muslim. Doe 2 is and has been represented in his refugee application by
11 IRAP in the ordinary course of IRAP’s work as a legal services provider. Doe 2 worked as an
12 interpreter for the United States Army, and later helped to promote democracy and the new Iraqi
13 constitution. Two of his colleagues were killed for their service promoting the Iraqi constitution,
14 and Doe 2 and his family received threats to their lives. In 2010, he came to the United States,
15 accompanied by his wife and five children, to complete his PhD. Upon graduation in 2014, he
16 travelled back to Mosul, his hometown, because two Iraqi colleagues had personally and
17 financially guaranteed his return at the end of his degree. His wife and children remained in the
18 United States and sought asylum.

19 153. Doe 2 has been unable to rejoin his family since ISIS seized control of Mosul
20 shortly after his return to Iraq. He applied as a refugee through DAP and was conditionally
21 approved for resettlement with his family in Pennsylvania in March 2016. He was awaiting
22 security checks and travel booking at the time of the first, second, and fourth Executive Orders.

23 154. Doe 2 has been apart from his family for over three years now, and the separation
24 is very painful. He is an integral member of the family, and his family worries constantly that his
25 life is in danger in Iraq. He is devastated to miss milestones in his children’s lives and has not
26 been able to meet his two granddaughters. He also feels betrayed because he enthusiastically

1 served the United States’ democratization efforts, endangering his life and his family’s lives in
2 the process, and is now unable to resettle with his family in the United States.

3 John Doe 3

4 155. John Doe 3 (“Doe 3”) is a lawful permanent resident residing in Pennsylvania and
5 is Doe 2’s son-in-law. Doe 3 has been separated from his father-in-law for over three years, and
6 is intensely worried about his father-in-law’s safety in Iraq. He knows that his father-in-law has
7 been targeted by extremists for his service to the United States Army, his support of the Iraqi
8 democratic constitution, and his affiliation with a United States university. He understands that
9 his father-in-law has completed several stages of his refugee application as part of DAP.

10 156. Doe 3’s wife is her father’s resettlement sponsor, and in April 2016 the
11 resettlement agency told Doe 3’s wife to expect her father’s arrival by August 2016. Since then,
12 Doe 3’s father-in-law has been awaiting travel booking to the United States.

13 157. Doe 3 is Muslim, and feels insulted and betrayed by the new refugee restrictions
14 affecting Iraqi nationals. The new restrictions make him feel that the government views all
15 Muslims as national security threats on the basis of their religion. He also feels it is unfair for his
16 father-in-law to be excluded from the United States after dutifully serving U.S. military
17 operations and democratization efforts. Doe 3 witnesses the emotional toll that the prolonged
18 separation is taking on his wife and daughter, and on the rest of Doe 2’s family. Doe 3’s wife
19 often cries because her father is stranded in Iraq, and fears that his life is in danger.

20 Jane Doe 4

21 158. Jane Doe 4 (“Doe 4”) is a national of, and currently lives in, Egypt. Doe 4 is and
22 has been represented in her refugee application by IRAP in the ordinary course of IRAP’s work
23 as a legal services provider. As a transgender woman in Egypt she faces sexual harassment,
24 physical and sexual violence, including multiple attempted rapes, and death threats. The
25 Egyptian government has recently targeted, detained, imprisoned, and tortured members of the
26

1 transgender community because of their gender identity. A few months ago the Egyptian State
2 Security came to Doe 4's home and took her away to be interrogated about her gender identity.

3 159. Before the new refugee restrictions, Doe 4's refugee application was receiving
4 expedited processing by the USRAP because she is at high risk of persecution. She was referred
5 for resettlement to the United States by the U.S. Embassy in Cairo on or around June 2017. Doe
6 4 had an urgent pre-screening interview with IOM in September 2017 and completed her USCIS
7 interview the following day. On information and belief, transgender refugee applicants
8 presenting urgent risks typically travel to the United States between approximately six months to
9 one year after the date of access to the USRAP. Due to the urgent nature of her case, on
10 November 8, 2017, Doe 4's counsel requested that her application be granted a case-by-case
11 foreign policy waiver of the suspension of refugee processing for nationals from SAO countries,
12 but has not been given an indication of how or whether her request will be assessed.

13 160. When Doe 4 learned of the new refugee restrictions she was devastated. She is
14 terrified for her life every day that she must remain in Egypt. She cannot flee because the gender
15 on her identity documents does not match her current appearance. She has no financial resources
16 or income in Egypt, and faces imminent danger due to her increased risk of homelessness. Doe 4
17 also feels that Refugee Ban 3.0 targets her as a Muslim refugee on the basis of her religion.

18 Jane Doe 5

19 161. Jane Doe 5 ("Doe 5") is an Iraqi national currently living in Iraq. Doe 5 is and has
20 been represented in her refugee application by IRAP in the ordinary course of IRAP's work as a
21 legal services provider. Because of her employment as an interpreter and administrator for
22 American companies, she is in danger every day. After receiving death threats in 2014 due to her
23 work, in 2015 she was kidnapped by militants, who held and raped her for over a month. When
24 she was finally released, her captors warned her to stop working for Americans, but she has
25 refused to do so, as she has no other means of supporting herself. Doe 5's husband divorced her
26 three weeks after her release because of the stigma associated with rape.

1 162. In 2012, Doe 5 applied to DAP and received her second interview with USCIS on
2 July 20, 2016. She has completed multiple stages of the admissions process, including two
3 interviews with USCIS and a medical check.

4 163. The other members of Doe 5’s immediate family have all moved to the United
5 States, including her mother, father, two sisters and brother. She remains close to her family, and
6 being separated from them is very painful for her.

7 164. Since Refugee Ban 3.0 was issued, Doe 5 has felt increasingly hopeless about her
8 situation in Iraq, where her life is constantly in danger. With the refugee restrictions in place, she
9 worries that she will never be able to travel to the United States.

10 165. Doe 5 is Muslim, and she believes that the purpose of the Refugee Ban is intended
11 to prevent Muslims from entering the United States. She feels that she is being treated as a
12 potential threat to the United States on the basis of her religion, and this is causing her increased
13 anxiety and exacerbating her depression.

14 Jane Doe 6

15 166. Jane Doe 6 (“Doe 6”) is a United States citizen and is Doe 5’s sister. Doe 6 left
16 Iraq in March 2006 and resettled in the United States in 2008. She currently lives with her
17 husband and children in Houston, Texas, where she runs a successful limousine business.

18 167. Doe 6 is very close to her sister and took care of her sister when her sister was a
19 child. They have been living apart since Doe 6 left Iraq, and she has only seen her sister one time
20 since then—in the summer of 2014, when Doe 6 traveled to Turkey. When she has the
21 opportunity to talk to her sister, the calls are emotionally difficult for both of them. Doe 6 is
22 anxious about her sister’s fate, and feels that she cannot fully enjoy her life in the United States
23 while her sister is in constant danger.

24 168. When Doe 6 learned of Refugee Ban 3.0, she felt brokenhearted. She tried to
25 comfort her sister, but she now believes that it will be many years before they will see each
26 other. Doe 6’s anxiety about her sister’s safety increases the longer her sister remains in Iraq.

1 169. Doe 6 is Muslim, and she believes that the purpose of Refugee Ban 3.0 is to
2 prevent Muslims, like her sister, from entering the United States. She feels that the anti-Muslim
3 policies behind suspending refugee admissions perpetuate stereotypes that all Iraqis are
4 dangerous, and she worries that these stereotypes will impact how people treat her family, and
5 especially her children.

6 John Doe 7

7 170. John Doe 7 (“Doe 7”) is a lawful permanent resident who was admitted to the
8 United States as a refugee from Iraq in 2014. He currently lives in King County, Washington and
9 recently had to stop working due to declining health. Doe 7 has an approved follow-to-join
10 petition for his nineteen-year-old Iraqi son from his first marriage. Doe 7 is Muslim, as is his
11 family.

12 171. Doe 7 fled Iraq in 2012 because he faced persecution and death threats from
13 members of one of the Islamic parties in the Iraqi government. He was forced to flee to Turkey,
14 where he applied for and was granted refugee status with the United Nations. He was
15 subsequently joined by his wife and two of his children in Turkey, and they were able to come to
16 the United States together.

17 172. Doe 7 filed the follow-to-join petition for his son in November 2015. The I-730
18 petition was subsequently approved, and Doe 7’s son completed his interview and fingerprinting.
19 In November 2016, Doe 7’s son was assured for resettlement in the United States by HIAS and
20 Jewish Family Service of Seattle, and has been awaiting travel arrangements since that time.

21 173. Knowing that his son’s follow-to-join petition is indefinitely suspended makes
22 Doe 7 feel hopeless and like his plan to reunite with his son in the United States is fading away.
23 He also fears that his son’s application will be affected by the suspension of refugee admissions
24 from SAO country nationals, including Iraq. It is clear to Doe 7 that the purpose of the Executive
25 Order and Memorandum is to prevent Muslims like him and his family from entering the United
26 States. Doe 7 is too scared to travel to Iraq to visit his son, even though he is able to do so,

1 because he fears he will not be readmitted to the United States. He has not bought a house in the
2 United States because he is not sure that Muslims will be allowed to remain in the country.

3 Jewish Family Service of Seattle

4 174. Plaintiff Jewish Family Service of Seattle (“JFS-S”) is a Washington non-profit
5 corporation with its principal place of business in Washington State. JFS-S has an uninterrupted
6 125-year history of service to refugees—the most vulnerable Jewish and non-Jewish individuals
7 and families from around the globe. JFS-S was founded in 1892 with a mission of helping newly
8 arrived Jewish immigrants and refugees establish their lives in the Puget Sound Region.

9 175. The Torah commands Jewish people to “welcome the stranger,” a teaching that
10 compels JFS-S to serve and protect refugees and to oppose the religious discrimination and
11 unjust targeting of Muslims addressed in this lawsuit. Today, one way that JFS-S answers this
12 command is by resettling and serving refugees from Afghanistan, Burma, the Democratic
13 Republic of Congo, Iran, Iraq, Syria, Sudan, Somalia, and Ukraine. JFS-S’s most intensive
14 services to refugees are delivered through its reception and placement program. One other
15 important aspect of refugee resettlement is helping current and former resettlement clients
16 reunite with family who remain overseas.

17 176. In federal fiscal year (“FFY”) 2016, JFS-S resettled 290 refugees. In FFY2017,
18 JFS-S resettled 333 refugees. For FFY2018, JFS-S has allocated resources to resettle 285
19 refugees, in plans it developed with the Department of State and HIAS, but fears that this latest
20 executive order will result in the resettlement of far fewer refugees. Many of the refugees
21 resettled by JFS-S are from Muslim-majority countries that Refugee Ban 3.0 will impact,
22 including Egypt, Iran, Iraq, Libya, Mali, Somalia, Sudan, Syria, and Yemen.

23 177. Refugee Ban 3.0 burdens and—as to many refugees—would directly end JFS-S’s
24 ability to fulfill its mission in accordance with its religious values. Similarly, in light of the
25 history of persecution that Jewish people have suffered in many times and places throughout the
26

1 world, helping refugees is a critical part of how Jewish people (including JFS-S, its volunteers
2 and its staff) express their religious beliefs and teachings.

3 178. If JFS-S is no longer able to provide resettlement assistance for clients who are
4 banned by Refugee Ban 3.0, JFS-S will no longer receive funding support for these resettlement
5 activities, and JFS-S's staff positions will be at risk. If Refugee Ban 3.0 remains in effect, JFS-S
6 may be forced to lay off at least one employee, and possibly more, or will have to absorb this
7 loss through attrition within the greater organization or through a decrease in quality of service,
8 as staff will have to be reassigned to different positions to perform different duties. All of these
9 alternatives thwart JFS-S's organizational mission and sincerely held religious beliefs, even as
10 JFS-S must grapple with increased expenditures resulting from Refugee Ban 3.0, including
11 devoting staff resources to address the concerns of clients and their family members.

12 179. JFS-S has diverted organizational resources to identify and counteract the
13 negative effects of Refugee Ban 3.0. JFS-S's clients include Muslim follow-to-join refugee
14 petitioners and beneficiaries. Several of JFS-S's clients are petitioning for their family members
15 through follow-to-join petitions. Those clients are now unsure about whether their family
16 members will be permitted to join them in the United States. Refugee Ban 3.0 will undoubtedly
17 require JFS-S to divert resources to address inquiries and concerns arising out of Refugee Ban
18 3.0's implementation. JFS-S staff have been spending at least 25% of their time responding to
19 concerns and inquiries from Muslim and other clients since President Trump issued EO-1. JFS-S
20 has every reason to expect that this percentage of diverted time will not only continue, but will
21 expand significantly in the coming weeks and months as knowledge of and fear of Refugee Ban
22 3.0 grows. These resources could have otherwise been spent on fulfilling the organization's
23 goals.

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

1 clients fear that they will never be reunited with their family members abroad, many of whom
2 live in dangerous and life-threatening situations. But many of them are concerned about sharing
3 the details of their situations publicly, for fear that it could affect their immigration status or
4 applications, or those of their relatives. They are also afraid because of the current anti-refugee
5 and anti-Muslim climate in the United States. They face multiple obstacles to asserting their
6 legal rights, such as language barriers and unfamiliarity with American law and customs.

7 Jewish Family Services of Silicon Valley

8 181. Jewish Family Services of Silicon Valley (“JFS-SV”) is a faith-based organization
9 that was founded in 1978. Since its founding, JFS-SV has assisted nearly 6,000 refugees with
10 resettlement in the United States. JFS-SV’s commitment to assisting refugees with resettlement
11 grows out of its commitment to Jewish values and Torah teachings, which compel it to “welcome
12 the stranger.” JFS-SV serves refugees and persecuted peoples of all faiths and nationalities
13 around the globe. Its client base includes refugees abroad and in the United States who are from
14 Iran, Iraq, Syrian, Eritrea, Congo, Cuba, Egypt, China, Sri Lanka, Burma, Ukraine, Russia,
15 Kyrgyzstan, and Uzbekistan.

16 182. JFS-SV is committed to empowering the individuals and families they serve by
17 providing quality human services inspired by Jewish values. JFS-SV administers a number of
18 programs that serve refugees and the broader community, including Refugee Resettlement and
19 Vocational Services, Aging with Dignity Services, Adult and Family Services, and Volunteer
20 Engagement Services. JFS-SV’s services are available without regard to race, religion, ethnicity,
21 sexual orientation, or ability to pay.

22 183. In FFY 2016, JFS-SV resettled 118 refugees. In FFY2017, in the original plans
23 developed with and approved by the Department of State, JFS-SV planned to resettle 165
24 refugees and SIVs and actually resettled, due to the effect of executive orders of Donald Trump,
25 only 67 refugees. For FFY2018, JFS-SV has allocated resources to resettle 65 refugees and 35
26

1 SIVs, in plans it developed with the Department of State and HIAS, but fears that this latest
2 executive order will result in the resettlement of even fewer refugees.

3 184. Implementation of Refugee Ban 3.0 has caused substantial harm to JFS-SV and
4 its clients, and will continue to harm them. JFS-SV has clients with pending follow-to-join
5 petitions for family members abroad who are also nationals of countries listed on the SAO list.
6 Now these clients do not know when they can reunite with their family members.

7 185. JFS-SV projects that Refugee Ban 3.0 will have a catastrophic impact on its
8 annual budget because a large percentage of the individuals who JFS-SV is planning to resettle
9 will no longer be permitted to arrive in the United States. For each refugee that JFS-SV resettles,
10 it receives certain funds from the government. Income related to refugee services constitutes
11 36% of JFS-SV's revenue. If JFS-SV were to lose this much of its budget, it would be forced to
12 lay off at least 6 of its 17-person staff and would lose significant support in terms of volunteers
13 and partners that the organization has cultivated over the many decades of its work because there
14 would no longer be JFS-SV staff persons to manage those relationships. Such a dramatic
15 reduction in JFS-SV's staff, representing all of JFS-SV's staff working on refugee resettlement,
16 would fundamentally alter the work that JFS-SV could undertake and would grind to a halt their
17 refugee resettlement work, a core part of JFS-SV's mission.

18 186. JFS-SV asserts claims on behalf of itself and its clients. The rights of clients that
19 JFS-SV seeks to vindicate here are inextricably bound up with its organizational mission and
20 purpose. JFS-SV clients include Muslim follow-to-join refugee petitioners and beneficiaries.
21 Moreover, many of its clients are not proficient in English, are unfamiliar with the U.S. legal
22 system, and fear retaliation against themselves and their family members should they join a
23 public lawsuit. Its clients therefore face numerous hurdles to bringing this suit in their own
24 name.

CLASS ALLEGATIONS

1
2 187. Plaintiffs Afkab Mohamed Hussein and Does 1-7 bring this action as a class
3 action pursuant to Federal Rule of Civil Procedure 23(b)(1) and (b)(2), on behalf of themselves
4 and all other similarly situated persons for whom Refugee Ban 3.0 either interferes with their
5 ability to resettle in the United States or impedes their family reunification. This class includes:

- 6 a. Individuals in the United States who are family members of individuals
7 overseas in the USRAP who are nationals of (and stateless persons who
8 last habitually resided in) SAO countries (“SAO Family Sub-Class”).
9 b. Individuals overseas in the USRAP who are nationals of (and stateless
10 persons who last habitually resided in) SAO countries (“SAO Sub-Class”);
11 c. Individuals in the United States who are petitioners for pending follow-to-
12 join petitioners (“FTJ Sub-Class”);

13 188. Separate Subclasses may be appropriate for the Class defined in the preceding
14 paragraph.

15 189. The Plaintiff Class, including Subclasses, is so numerous that joinder is
16 impracticable. On information and belief, the Plaintiff Class consists of well over 40 putative
17 class members. Over the last few years, approximately 2,500 refugees were annually admitted
18 through the FTJ process. In FY17, over 20,000 refugees from the 11 SAO countries arrived in
19 the United States.

20 190. The claims of the Plaintiff Class and Subclass members share common issues of
21 law, including but not limited to whether Refugee Ban 3.0 violates the Immigration and
22 Nationality Act (“INA”), the Administrative Procedure Act (“APA”), the First Amendment, and
23 the Fifth Amendment.

24 191. The claims of the Plaintiff Class and Subclass members share common issues of
25 fact, including but not limited to whether Refugee Ban 3.0 is being or will be enforced so as to
26 prevent them or their family members from entering the United States from abroad.

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

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

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

13 195. Prosecution of separate actions by individual members of the Plaintiff Class and
14 Subclasses would create the risk of inconsistent or varying adjudications and would establish
15 incompatible standards of conduct for individual members of the Plaintiff Class. The Plaintiff
16 Class and Subclasses may therefore be properly certified under Federal Rule of Civil Procedure
17 23(b)(1)).

18 CAUSES OF ACTION

19 FIRST CLAIM FOR RELIEF 20 IMMIGRATION AND NATIONALITY ACT & ADMINISTRATIVE PROCEDURE ACT (On Behalf of All Plaintiffs, including the Class)

21 196. Defendants' suspension of the USRAP through Refugee Ban 3.0, including the
22 suspension of the FTJ refugee process and the suspension in processing and admission of
23 nationals of (and stateless persons who last habitually resided in) SAO countries, violates the
24 INA, including 8 U.S.C. § 1182 and 8 U.S.C. § 1157(c)(2)(A).

25 197. Defendants' suspension of the USRAP through Refugee Ban 3.0, including the
26 suspension of the FTJ refugee process and the suspension in processing and admission of

1 nationals of (and stateless persons who last habitually resided in) SAO countries, constitutes final
2 agency action and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance
3 with law; contrary to constitutional right, power, privilege, or immunity; and in excess of
4 statutory jurisdiction, authority, or limitations, or short of statutory right, and should therefore be
5 set aside pursuant to the APA, 5 U.S.C. §§ 706(2)(A)-(C).

6 198. Defendants' suspension of the USRAP through Refugee Ban 3.0, including the
7 suspension of the FTJ refugee process and the suspension in processing and admission of
8 nationals of (and stateless persons who last habitually resided in) SAO countries, is a legislative
9 rule that violates the procedural requirements of 5 U.S.C. § 553(b) and should be set aside as
10 issued without observance of notice and comment procedure required by law, in violation of the
11 APA, 5 U.S.C. § 706(2)(D).

12 **SECOND CLAIM FOR RELIEF**
13 **FIRST AMENDMENT TO THE U.S. CONSTITUTION - ESTABLISHMENT CLAUSE**
14 **(On Behalf of Hussein, Vaught, Doe 3, Doe 6, Doe 7, JFS-S, JFS-SV, the FTJ Sub-Class,**
15 **and the SAO Family Sub-Class)**

16 199. Defendants' suspension of the USRAP through Refugee Ban 3.0, including the
17 suspension of the FTJ refugee process and the suspension in processing and admission of
18 nationals of (and stateless persons who last habitually resided in) SAO countries, violates the
19 Establishment Clause of the First Amendment to the U.S. Constitution.

20 **THIRD CLAIM FOR RELIEF**
21 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION - EQUAL PROTECTION**
22 **(On Behalf of Hussein, Doe 3, Doe 6, Doe 7, JFS-S, JFS-SV, the FTJ Sub-Class, and the**
23 **SAO Family Sub-Class)**

24 200. Defendants' suspension of the USRAP through Refugee Ban 3.0, including the
25 suspension of the FTJ refugee process and the suspension in processing and admission of
26 nationals of (and stateless persons who last habitually resided in) SAO countries, violates the
equal protection component of the Due Process Clause of the Fifth Amendment to the U.S.
Constitution.

1 **FOURTH CLAIM FOR RELIEF**
2 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION –DUE PROCESS**
3 **(On Behalf of Hussein, Doe 7, JFS-S, JFS-SV, and the FTJ Sub-Class)**

4 201. Defendants' suspension of the FTJ refugee process through Refugee Ban 3.0
5 violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

6 **FIFTH CLAIM FOR RELIEF**
7 **ACCARDI DOCTRINE & ADMINISTRATIVE PROCEDURE ACT**
8 **(On Behalf of Hussein, Doe 7, JFS-S, JFS-SV, and the FTJ Sub-Class)**

9 202. Defendants' suspension of the FTJ refugee process through Refugee Ban 3.0
10 violates agency procedures, including those at 8 C.F.R. § 207.7. The Memorandum should
11 therefore be set aside under the principle articulated in *United States ex. rel. Accardi v.*
12 *Shaughnessy*, 347 U.S. 260 (1954).

13 203. The Memorandum's failure to comply with the issuing agencies' regulations
14 renders it arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,
15 in violation of 5 U.S.C. § 706(2)(A).

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for the following relief:

18 A. A preliminary and permanent injunction enjoining Defendants, their officials,
19 agents, employees, assigns, and all persons acting in concert or participating with them from
20 implementing or enforcing any portion of the Memorandum;

21 B. A declaration that the Memorandum is, in its entirety, unlawful and invalid;

22 C. A determination that the Plaintiffs' claims may properly be maintained as a class
23 action pursuant to Fed. R. Civ. P. 23(b)(1) and (b)(2);

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

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

1 Respectfully submitted,

DATED: November 13, 2017

2
3 /s/ David Burman

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* Application for admission *Pro Hac Vice*
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