Hawaii Attorney General Douglas S. Chin filed this lawsuit on Feb. 3, 2017 against President Trump's Jan. 27, 2017 Executive Order (EO) barring legal immigrants, visitors, and refugees from seven majority-Muslim countries from entering the US and barring Syrian refugees indefinitely. The State filed a concurrent complaint and motion for a temporary restraining order in the U.S. District Court for the District of Hawaii.

The complaint argued that Hawaii has an interest in protecting "its residents, its employers, its educational institutions, and its sovereignty against illegal actions of President Donald J. Trump." The complaint noted that Hawaii is the nation's most ethnically diverse state, and that the EO is tearing apart families and wounding Hawaii's economic institutions. The complaint alleged that the EO violates the First Amendment Establishment Clause, Fifth Amendment equal protection and due process rights, the Administrative Procedure Act, and the Immigration and Nationality Act.

Hawaii sought declaratory and injunctive relief; it asked the court to enjoin defendants nationwide from barring entry into the U.S. of immigrants and nonimmigrants pursuant to the EO.

The case was assigned to Judge Derrick K. Watson. A hearing on the temporary restraining order motion was set for Feb. 8, 2017. However, on Feb. 6, the federal government filed an emergency motion to stay all deadlines pending resolution of the appellate proceedings regarding the nationwide injunction against the EO previously entered in another case, Washington v. Trump. That same day, Hawaii filed a memorandum in opposition to the federal government's emergency motion to stay. On Feb. 7, the court granted the federal government's motion in part: all pending deadlines and the hearing set for Feb. 8 were vacated, and the matter was stayed as long as the Washington v. Trump TRO remained in place. All further requested relief was denied; a written order setting forth the Court's reasoning was entered Feb. 9.

On Feb. 8, Hawaii sought permission to file an amended complaint notwithstanding the stay of proceedings; on Feb. 13, Judge Watson granted that motion, and on Feb. 14, the state filed an amended complaint. (On Feb. 15, the court lifted the stay for the limited purpose of allowing parties to file Motions to Appear Pro Hac Vice, Notices of Appearance, and Applications to Practice. The court granted a number of these motions on Feb. 23. The stay order otherwise remained in place.)

On Mar. 6, prompted by adverse developments in the Washington v. Trump case in the 9th Circuit, the President rescinded the Jan. 27 EO and replaced it with a narrower one, Executive Order 13780. On the same day, the federal government filed notice in this case of the new EO. The new EO covered all the same countries, except Iraq, but left out lawful permanent residents and existing visa holders. For others would-be travelers and immigrants, it banned entry into the United States but set up a case-by-case waiver process.

On Mar. 7, the plaintiffs in this case filed a motion to resume litigation, and to file a Second Amended Complaint. The plaintiffs attached a copy of their proposed Second

Amended Complaint and proposed motion seeking a temporary restraining order (TRO) as exhibits. The State of Hawaii's Second Amended Complaint alleged that "the second Executive Order is infected with the same legal problems as the first Order," namely, that it violated the First and Fifth Amendments along with the INA and APA. Hawaii also argued that the new EO violated the Religious Freedom Restoration Act. Hawaii's proposed TRO requested that the court enjoin sections 2 (suspension of entry for nationals of the six Muslim-majority countries) and 6 (suspension of the U.S. Refugee Admissions Program) of the new EO.

On Mar. 8, the court allowed litigation to resume, gave the plaintiffs permission to file the Second Amended Complaint and motion for TRO, and set a tight briefing schedule. On Mar. 10, a number of parties, including many civil rights advocacy groups, filed their appearance in the suit. A number of parties also filed amici briefs and appearances. Additionally on Mar. 10, Magistrate Judge Kenneth J. Mansfield recused himself. The case was reassigned to Magistrate Judge Kevin S.C. Chang.

On Mar. 13, the U.S. filed a memorandum in opposition to the TRO. The federal government's memorandum argued that Hawaii's claims were nonjusticiable because their alleged injuries were speculative and no individual they sought to protect was in imminent danger of being denied entry. The federal government also argued that the changes to the EO foreclosed Hawaii's claims on the merits and eliminated any occasion to consider emergency relief.

From Mar. 10 to Mar. 15, the court granted permission for a number of organizations to file amicus briefs, and to many news organizations to cover the Mar. 15 TRO hearing.

On Mar. 15, the District Court heard oral argument on the plaintiffs' motion for a temporary restraining order. The court granted the motion on the same day, enjoining the defendants nationwide from enforcing or implementing Sections 2 and 6 of the new EO. Specifically, the court found that the plaintiffs had met their burden of establishing a strong likelihood of success on the merits of their Establishment Clause claim, that irreparable injury is likely if the requested relief is not issued, and that the balance of the equities and public interest counsel in favor of granting the requested relief.

This was the first nationwide injunction of the new EO.

On Mar. 17, the federal government moved for a clarification of the TRO. The federal government noted that the court had enjoined Sections 2 and 6 in their entirety, even though many of the provisions within those sections were not specifically addressed by the plaintiffs' motion. The court denied this motion on Mar. 19, noting that in asking whether the court intended to apply a TRO to Sections 2 and 6 in their entirety, the DOJ "asks the Court to make a distinction that the Federal Defendants' previous briefs and arguments never did...there is nothing unclear about the scope of the Court's order."

On Mar. 21, the plaintiffs filed a motion, along with accompanying declarations, to convert the temporary restraining order into a preliminary injunction. The plaintiffs

argued that the standards for a preliminary injunction and a TRO are "substantially identical," and that the Court has already held that the plaintiffs satisfied each of the grounds for issuance of a preliminary injunction. The DOJ filed a memorandum in opposition to this conversion on Mar. 24, arguing that, should any injunctive relief be granted at all, that relief should be limited to Section 2(c) (the 90-day suspension-of-entry provision) of the new EO, because the plaintiffs' alleged injury stemmed only from Section 2(c). The DOJ further argued that the plaintiffs did not even have standing to challenge Sections 6(a) or 6(b), as they could not show a concrete and particularized injury stemming from the provisions within those sections. On Mar. 25, the plaintiff filed its response to the DOJ's memo.

On Mar. 28, the court approved a number of news organizations for media coverage of the TRO conversion motion.

On Mar. 29, the court heard oral arguments on the plaintiffs' motion to convert the TRO into a preliminary injunction. On the same day, the court granted the motion and enjoined Sections 2 and 6 of the EO across the nation. On Mar. 30, the DOJ filed a notice of appeal.

On Apr. 3, the parties filed a joint motion to suspend district court proceedings pending resolution of the DOJ's appeal. The court granted this motion on the same day, and ordered the parties to submit, within fourteen days of the final disposition of appellate proceedings, a joint status report proposing the schedule for any further proceedings in the matter.

The matter thus moved entirely to the Ninth Circuit. On Apr. 3, the Ninth Circuit granted the DOJ's motion to expedite the briefing and consideration of the merits of the preliminary injunction appeal, and set the hearing for May 15.

On Apr. 6, the Ali v. Trump plaintiffs filed a motion to intervene in the appellate proceedings for this case. DOJ opposed the motion. Similarly, on Apr. 14, the plaintiffs from Doe v. Trump filed a motion to intervene, which DOJ likewise opposed. The Court a few days later denied intervention, finding that the applicants' interests could be adequately pursued through their own respective cases. The court noted that the Ali and Doe plaintiffs could still file briefs as amici curiae in this case.

On Apr. 7, the DOJ moved in the Ninth Circuit for a stay of the district court's injunction pending the Ninth Circuit appeal.

On Apr. 10, fourteen states and the Governor of Mississippi entered appearance in the Ninth Circuit as amici curiae.

On Apr. 11, the States sought an initial hearing en banc (rather than before an ordinary three-judge panel) in light of the "exceptional importance" of the issues at stake, and in light of the Fourth Circuit having just granted initial en banc review in International Refugee Assistant Project v. Trump, which considered a similar challenge to the same

EO. On Apr. 21, the court rejected the request for initial en banc proceedings; the case would be decided, first, by a three-judge panel. (One judge had requested a vote on whether to hear the initial hearing en banc before a limited en banc court, and another judge had requested a vote on whether to hear the initial hearing en banc before the full court.)

From Apr. 19 - May 10, a number of amici curiae filed their appearances, including 165 members of Congress.

On Apr. 28, the DOJ filed its reply brief reasserting that the nationwide injunction was improper. The DOJ requested that, at minimum, the court grant a partial stay of the injunction insofar is it extends beyond particular individuals as to whom the plaintiffs have made a showing of cognizable and irreparable injury.

On May 15, a three-judge panel consisting of Judges Michael Hawkins, Ronald Gould, and Richard Paez heard oral argument on the district court's nationwide preliminary injunction enjoining enforcement of Sections 2 and 6 of the second EO. Limited post-argument supplementation of the record and briefing were also allowed.

On Jun. 1, with the 9th Circuit panel's opinion not yet issued, the Department of Justice filed an application in the Supreme Court seeking a stay of the district court's injunction. (Simultaneously, the DOJ sought a similar stay in IRAP v. Trump, the analogous case in the District of Maryland, and also sought certiorari review of the IRAP case, in which the 4th Circuit had on May 25 upheld the district court's preliminary injunction.) The plaintiffs responded, opposing the stay, on Jun. 12.

That same day, the 9th Circuit issued its opinion upholding the district court's preliminary injunction in major part. In an 86-page per curiam opinion by Judges Michael Daly Hawkins, Ronald M. Gould, and Richard A. Paez, the Court of Appeals addressed only the issues of justiciability and the statutory claims, finding the matter justiciable and holding that the Immigration and Nationality Act forbids nationality discrimination in visa-issuance (and therefore in categorical rules governing entry) and also forbids summary changes to the number of refugees admissible in a given year. The Court of Appeals narrowed the preliminary injunction to remove its direct applicability to President Trump (while affirming its coverage of the governmental actors who would carry out the EO) and to allow the interagency consultation required by the EO to proceed unimpeded.

On Jun. 13, the federal government filed a consent motion requesting that the 9th Circuit immediately issue its mandate vacating the district court's preliminary injunction in part, and instructing the district court to reissue without enjoining the EO's internal revenue procedures. On Jun. 19, the circuit court granted this request and issued the mandate. That day, the district court amended and reissued the preliminary injunction to conform with the 9th Circuit's mandate.

On Jun. 26, the Supreme Court agreed to hear this case and consolidated it with IRAP v.

Trump, the analogous case from the District of Maryland. In addition to the issues identified in the petitions, SCOTUS directed the parties to address the following question: "Whether the challenges to §2(c) [the part of the EO that suspended entry to nationals from Iran, Libya, Somalia, Sudan, and Yemen for ninety days] became moot on June 14, 2017." The Supreme Court declined to stay most of the preliminary injunction, but did reverse that injunction's application to "foreign nationals who lack any bona fide relationship with a person or entity in the United States." SCOTUS noted that foreign nationals who do not have a close family tie or a formal, documented relationship with an entity (such as a school or employer) may have §2(c) enforced against them.

The Supreme Court agreed to hear the cases in Oct. 2017, but in the meantime, it remained for the District Court to adjudicate disputes over what remained of the preliminary injunction. On Jun. 29, the Department of State and the Department of Homeland Security issued several public documents explaining that the administration was interpreting the "bona fide relationship" line to exclude many relatives -- fiances, grandparents/grandchildren, brothers and sisters in law, and others. In addition, the government explained its view that the relationship between a refugee and a sponsoring resettlement agency "is not sufficient in and of itself to establish a qualifying relationship for that refugee" under the bona fide relationship test. Hawaii immediately objected, filing an emergency motion seeking clarification from Judge Watson, at the District Court, on the scope of the preliminary injunction. The federal government filed a memorandum in opposition to the motion on Jul. 3, asking that the court either deny Hawaii's motion or stay any relief pending the Supreme Court's clarification of its ruling. Hawaii replied on Jul. 5.

On Jul. 6, Judge Watson denied the plaintiffs' emergency motion to clarify the scope of the preliminary injunction. The District Court noted that the parties disagreed about the wording of the Supreme Court's injunction, not about anything issued by the District Court, and therefore any clarification is more appropriately sought in the Supreme Court. Hawaii appealed the District Court's denial that same day, but the Ninth Circuit dismissed the appeal for lack of jurisdiction. In its dismissal, the Ninth Circuit noted that, while the District Court may not have the authority to "clarify" an order of the Supreme Court, it does possess the authority to interpret the Supreme Court's order and enforce the injunction.

On Jul. 7, Hawaii filed an emergency motion requesting that the District Court partially lift its Apr. 3 Order staying all proceedings for the limited purpose of issuing an Order enforcing or, in the alternative, modifying the scope of the Jun. 19 amended preliminary injunction. Specifically, Hawaii requested that the Court issue an Order enforcing or modifying its preliminary injunction to reflect that: 1) the injunction bars the federal government from implementing the EO against grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and cousins of persons in the US; 2) the injunction prohibits the federal government from applying sections 6(a) and 6(b) to exclude refugees who: i) have a formal assurance from a resettlement agency within the United States, ii) have a bona fide client relationship with a US legal services organization, or iii) are in the US Refugee Admissions Program through the Iraqi Direct

Access Program for "US-affiliated Iraqis," the Central American Minors Program, or the Lautenberg Program; 3) the injunction bars defendants from suspending any part of the refugee admissions process, including any part of the "Advanced Booking" process, for individuals with a bona fide relationship with a US person or entity; and 4) the preliminary injunction prohibits the federal government from applying a presumption that an applicant lacks "a bona fide relationship with a person or entity in the United States."

On Jul. 11, the federal government filed its memorandum in opposition to the plaintiff's Jul. 7 motion. Hawaii responded on Jul. 12.

On Jul. 13, Judge Watson granted Hawaii's motion in part, finding that the Government's definition of individuals with a "close familial relationship" was too narrow. Accordingly, Judge Watson prohibited the federal government from applying the EO to grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and cousins of persons in the US. Additionally, the District Court held that the federal government could not exclude refugees covered by a formal assurance between the Dept. of State and a US Refugee Resettlement Agency. Judge Watson denied Hawaii's request that he forbid the federal government from excluding refugees who have a bona fide relationship with a US legal services organization, noting that refugee relationships with legal services organization vary, and as such a categorical exemption would run afoul of SCOTUS' order. Judge Watson also denied Hawaii's request that the Direct Access Program for U.S.-affiliated Iraqis and the Central American Minors Program be categorically exempt from the EO. Judge Watson granted the motion as to the Lautenberg Program, however, because all participants admitted through the Lautenberg Program must have a "close familial relationship" as used in SCOTUS' order (and as clarified in this Order), so categorial relief was appropriate. Finally, Judge Watson in his decision disagreed with Hawaii that the federal government could not apply a presumption that an appellant lacks the requisite bona fide relationship identified by SCOTUS.

On Jul. 13, the federal government appealed Judge Watson's decision to the Ninth Circuit. While that appeal was pending, the government filed a motion in the Supreme Court seeking clarification of the Court's Jun. 26 order. On July 19, the Supreme Court responded: "The Government's motion seeking clarification of our order of Jun. 26, 2017, is denied. The District Court order modifying the preliminary injunction with respect to refugees covered by a formal assurance is stayed pending resolution of the Government's appeal to the Court of Appeals for the Ninth Circuit." Thus the government's appeal of Judge Watson's Jul. 13 enforcement order proceeded in the 9th Circuit, but while it was underway, the District Court's decision exempting a broader swathe of family members from the EO remained operative. The District Court's approach to refugee resettlement was stayed, but the matter remained open for the 9th Circuit to decide.

On Jul. 24, the Ninth Circuit agreed to hear the federal government's Jul. 13 appeal, and granted the parties' joint motion for an expedited briefing schedule; briefing concluded on Aug. 9. The court heard oral argument on Aug. 28 in Seattle.

Back in the Supreme Court, the federal government on Jul. 26 requested permission to file a consolidated petitioners' brief on the merits of this case and also IRAP v. Trump. On Aug. 10, the government submitted a consolidated merits brief to the Supreme Court. In it, the government put forth five main arguments: (1) challenges to the order are not justiciable and the plaintiffs cannot establish any violation of their own constitutional rights; (2) section 2(c) did not become moot on June 14; (3) the EO does not violate the INA; (4) the EO does not violate the Establishment clause; and (5) the global injunctions are not impermissibly overbroad.

Back in the Ninth Circuit, the court on Sep. 7 issued a per curium opinion affirming, in its entirety, the district court's Jul. 13 modification of its preliminary injunction. The Ninth Circuit found that the district court "carefully and correctly balanced the hardships and the equitable considerations as directed by the Supreme Court in IRAP v. Trump" in enjoining the federal government from enforcing the EO against 1) grandparents, grandchildren, siblings-in-law, aunts, uncles, nieces, nephews, and cousins of persons in the US; and 2) refugees who have formal assurances from resettlement agencies or are in USRAP through the Lautenberg Amendment. Further, the Ninth Circuit noted that "[b]ecause this case is governed by equitable principles, and because many refugees without the benefit of the injunction are gravely imperiled," the court's mandate will issue five days after filing the opinion.

On Sep. 11, the federal government moved to stay the Ninth Circuit's order, arguing that the Ninth Circuit's decision rendered the SCOTUS June 26 stay "functionally inoperative" in that it would "disrupt the status quo and frustrate orderly implementation of the [Executive Order's] refugee provisions that [SCOTUS] made clear months ago could take effect." That same day, the Supreme Court issued the following order: "It is ordered that the mandate of the United States Court of Appeals for the Ninth Circuit, case No. 17-16426, is hereby stayed with respect to refugees covered by a formal assurance, pending receipt of a response, due on or before Tuesday, September 12, 2017, by 12p.m., and further order of the undersigned or of the Court."

On Sep. 12, Hawaii responded, arguing that the Ninth Circuit had faithfully applied both of the Supreme Court's prior directives: 1) by determining what constituted a "bona fide" relationship with a U.S. entity; and 2) by clarifying whether the injunction applied to refugees who have received a formal assurance from a refugee resettlement agency (when the Supreme Court declined to do so on July 19). As such, Hawaii requested that SCOTUS deny the federal government's motion and allow the lower courts' decisions to remain unchanged until the Supreme Court hears this case on the merits. The federal government replied that same day, and shortly thereafter, the Supreme Court upheld its earlier stay of the Ninth Circuit's mandate with respect to refugees covered by a formal assurance.

The Supreme Court was set to hear this case on the merits on October 10. However, the travel ban imposed by the second EO expired on Sept. 24. That same day, the Trump Administration signed a proclamation indefinitely restricting travel from the following eight countries: Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen.

The Supreme Court cancelled the Oct. 10 hearing and asked the parties to file new briefs in light of the government's new order, addressing specifically whether the 9/24 proclamation and the ninety-day ban's expiration rendered the instant case moot.

On Oct. 4, the Government filed its brief arguing that the case was moot given that the Mar. 6 order had expired. Plaintiffs replied arguing that the case is not moot despite the new proclamation (or, as plaintiffs referred to it, EO 3.0). Instead, plaintiffs argued, "the issues presented remain 'live' because EO-2 continues to bar refugees from entering the country under Section 6(a)." Plaintiffs requested that the Supreme Court reschedule the case for oral arguments.

On Oct. 10, the Supreme Court issued the following order: "We granted certiorari in this case to resolve a challenge to the temporary suspension of entry of aliens abroad under Section 2(c) of Executive Order No. 13,780. Because that provision of the Order expired by its own terms on September 24, 2017, the appeal no longer presents a live case or controversy. Following our established practice in such cases, the judgment is therefore vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit with instructions to dismiss as moot the challenge to Executive Order. No. 13,780. We express no view on the merits. Justice Sotomayor dissents from the order vacating the judgment below and would dismiss the writ of certiorari as improvidently granted."

Plaintiffs then resumed litigation in the District Court, filing a motion to lift the stay of litigation there, and explaining that they intended to filed an amended complaint and TRO motion. The District Court set an expedited briefing schedule and noted its intent to rule on the plaintiffs' motion without a hearing.

Hawaii duly filed its third amended complaint and moved for a temporary restraining order. The pleading added three additional plaintiffs: John Doe 1 (a Muslim citizen of Yemeni descent whose daughter is married to a Yemeni national with a pending spousal green card visa), John Doe 2 (an Iranian legal permanent resident and professor at the University of Hawaii, whose mother lives in Iran and has a tourist visa pending to the United States), and the Muslim Association of Hawaii (the only formal Muslim organization in Hawaii, representing approximately 5K members, and which owns and operates a Honolulu mosque of which plaintiff Dr. Elshikh is the Imam).

The Third Amended Complaint argued that EO-3 continues to target Muslim-majority countries and will continue to negatively affect the University's ability to recruit and hire new faculty members and students; will continue to harm Hawaii's economy, will continue to hinder Hawaii's efforts to resettle and assist refugees, will continue to prevent Hawaii from fulfilling its commitment to nondiscrimination and diversity embedded in Hawaii's State Constitution; will continue to prohibit plaintiffs Elshikh, Doe 1, and Doe 2 from reuniting with relatives (encouraging Doe 2 to ultimately permanently leave the United States); and will reduce the membership of the Muslim Association of Hawaii, interfere with the religious exercise of its members, and inflict financial harm upon it. Hawaii further moved for a TRO and for permission for allow its two new plaintiffs to

proceed pseudonymously.

That same day, the court ordered the federal government to provide a copy of the Sept. 15 Report submitted by the Secretary of Homeland Security, referenced in Section 1(h) of EO-3, along with its response to Hawaii's filings. On Oct. 13, the federal government filed a notice objecting to the district court's request of the Secretary's report. Nevertheless, the federal government lodged an in camera, ex parte filing of the report to the court without serving it on opposing counsel or making it public.

On Oct. 14, the federal government filed its opposition to Hawaii's TRO motion. The federal government argued that the plaintiffs' claims are not renewable or justiciable, that any statutory challenges are foreclosed by the general rule that courts may not second-guess the political branches' decisions to exclude aliens abroad where Congress has not authorized review, and that EO-3 is constitutional. On Oct. 15, the plaintiffs replied.

On Oct. 17, Judge Derrick K. Watson granted Hawaii's TRO motion and fully enjoined the federal government from enforcing or implementing Sections 2(a), (b), (c), (e), (g), and (h) of EO-3 across the nation. Judge Watson held that EO-3's aspirational policy goals of combatting terrorism and fostering cooperativeness in other countries are not tantamount to a finding by the President that the entry of any aliens into the US would be detrimental to US interests, as required by the INA: "[M]any of EO-3's structural provisions are unsupported by verifiable evidence, undermining any claim that its findings 'support the conclusion' to categorically ban the entry of millions."

On Oct. 20, the parties submitted a joint stipulation that the TRO shall be converted to a PI, though the DOJ noted that it had requested that the Supreme Court vacate as moot the Ninth Circuit's prior decision, upon which the District Court relied as precedent. The District Court converted the TRO into a PI on the same day.

On Oct. 24, the DOJ appealed the district court's preliminary injunction to the Ninth Circuit (Docket # 17-17168) and requested that the Ninth Circuit stay the district court's PI pending final disposition of the appeal on the merits. The DOJ also filed an emergency motion requesting expedited briefing on the stay. On Oct. 25, the Ninth Circuit granted the emergency motion, setting the following expedited briefing schedule: the plaintiffs' opposition to the emergency stay motion was due Oct. 31; the DOJ's reply and opening brief were due Nov. 2; the answering brief Nov. 18; and the optional reply brief Nov. 29.

On Oct. 30, the plaintiffs of Washington v. Trump - the states of Washington, California, Maryland, Massachusetts, New York, and Oregon - filed an emergency motion to intervene in this case. The Washington plaintiffs noted that their own TRO motion was stayed based on the Hawaii district court's nationwide injunction, and that they and their 83 million residents therefore have an overwhelming interest in the outcome of the Hawaii case.

On Oct. 31, Plaintiffs responded to the DOJ's emergency stay motion. The DOJ replied on Nov. 2.

On Nov. 1, 15 states and the District of Columbia entered as amici in support of the Plaintiffs. On Nov. 2, 12 states entered as amici in support of the DOJ. Various amici continued to enter throughout November.

On Nov. 2, the DOJ filed its opening brief. On Nov. 7, the DOJ filed a response in opposition to the Washington plaintiffs' motion to intervene in the case, arguing that Washington's intervention at the appellate stage would cause prejudice to the defendants and that Washington's interests are adequately represented as amici in the case.

On Nov. 13, the 9th Circuit granted in part and denied in part the government's motion for an emergency stay of the district court's preliminary injunction pending hearing. The court of appeals stayed the injunction in its entirety except as to foreign nationals who have a credible claim of a bona fide relationship with a person or an entity in the United States. Citing the earlier Ninth Circuit decision, 871 F.3d 646, the court noted that persons with a "bona fide relationship" include grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and cousins. Regarding relationships with U.S. entities, the court noted that such relationships must be "formal, documented, and formed in the ordinary course, rather than for the purpose of evading [EO-3]."

On Nov. 18, Hawaii submitted its answering brief.

On Nov. 20, the court denied the Washington v. Trump plaintiffs' emergency motion to intervene. These states may still proceed as amici in the case.

On Nov. 21, the DOJ asked the Supreme Court to stay the injunction. The Supreme Court did so on Dec. 4, issuing the following order: "The application for a stay presented to Justice Kennedy and by him referred to the Court is granted, and the District Court's October 20, 2017 order granting a preliminary injunction is stayed pending disposition of the Government's appeal in the United States Court of Appeals for the Ninth Circuit and disposition of the Government's petition for a writ of certiorari, if such a writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment. In light of its decision to consider the case on an expedited basis, we expect that the Court of Appeals will render its decision with appropriate dispatch. Justice Ginsburg and Justice Sotomayor would deny the application."

On Dec. 6, the parties held oral argument before the Ninth Circuit on the DOJ's emergency stay motion. On Dec. 22, the Ninth Circuit issued a per curium opinion affirming the district court's order enjoining EO3's sections 2(a), (b), (c), (e), (g), and (h), but limiting the scope of the preliminary injunction to foreign nationals who have a bona fide relationship with a person or entity in the United States.

2018 DEVELOPMENTS --

On Jan. 5, the DOJ filed for cert in the Supreme Court, No. 17-965. The Supreme Court granted cert on Jan. 19. In late February, the Parties began filing briefs. The government submitted its opening brief on Feb. 21. The government began by challenging the justiciability of the plaintiffs' claim, again arguing that the courts cannot review a political branch's decision to exclude certain non-citizens. The government went on to argue that the EO was nonetheless a valid exercise of the President's power to broadly enact and enforce laws barring non-citizens' entry to the United States. The government concluded its brief by addressing the Establishment Clause, arguing that the EO did not violate the Establishment Clause because it rests on a "facially legitimate and bona fide reason," namely national security.

In late February, organizations began filing amici briefs to the Supreme Court in support of the government. Around that time, plaintiffs also filed a letter to the Supreme Court asking for the opportunity to respond to the government's merits brief should the Supreme Court grant certiorari in IRAP v. Trump.

Plaintiffs submitted their merits brief on Mar. 23. In it, they made the following arguments: first, they argued that their claims are are reviewable by the Court. Plaintiffs argued that although precedent bars the Court from "second-guessing" Congress's policy or Executive discretion on matters of immigration, the Court can still determine whether or not the President is acting within the scope of his statutory authority. Second, the plaintiffs again argued that EO-3 violated the Establishment Clause, pointing to President Trump's campaign remarks vowing to ban all Muslims to support the claim. Finally, the plaintiffs argued for a narrow reading of 8 U.S.C. §§ 1182(f), which allows the President to "temporarily" halt the entry of a "class" non-citizens when their entry would be harmful to the interests of the United States. Plaintiffs interpreted 8 U.S.C. §§ 1182(f) to mean that the President must identify a a group of people who share some "related attributes" that would make their entry harmful. Yet, plaintiffs noted that EO-3 reaches well beyond that limited power to suspend, purporting to indefinitely exclude over 150 million people solely because they do not cooperate with the United States.

On April 18, the government filed its reply brief. In the brief, the government reiterated many of its earlier arguments including that the plaintiffs' claim were not justiciable, that the EO was a valid exercise of Presidential power, and finally, that the EO did not violate the Establishment Clause.

The Supreme Court heard oral arguments on April 25. A full recording of the arguments can be found here.

On Jun. 26, the Supreme Court reversed the Ninth Circuit judgment, rejecting plaintiffs' constitutional challenges to EO-3. Writing for the majority, Chief Justice Roberts endorsed a broad view of presidential power, holding that under the INA the President has "broad discretion to suspend the entry of aliens into the United States" and that here the President "lawfully exercised that discretion." The majority dismissed the plaintiffs'

claims that the President must explain his findings, calling the argument “questionable” and writing that “the 12-page Proclamation—which thoroughly describes the process, agency evaluations, and recommendations underlying the President’s chosen restrictions—is more detailed than any prior order a President has issued under §1182(f).” As for plaintiff’s Establishment Clause argument, the Court first noted that EO-3 is facially neutral towards religion, which forced the Court to "probe the sincerity of the stated justifications for the policy by reference to extrinsic statements—many of which were made before the President took the oath of office.” Applying a rational basis test, the Court found that “the Proclamation is expressly premised on legitimate purposes: preventing entry of nationals who cannot be adequately vetted and inducing other nations to improve their practices. The text says nothing about religion.” Notably, the Court did however use the opinion to formally overrule Korematsu writing that the decision was "was gravely wrong the day it was decided.”

In her powerful dissent, Justice Sotomayor wrote: "Ultimately, what began as a policy explicitly ‘calling for a total and complete shutdown of Muslims entering the United States’ has since morphed into a ‘Proclamation’ putatively based on national-security concerns. . . But this new window dressing cannot conceal an unassailable fact: the words of the President and his advisers create the strong perception that the Proclamation is contaminated by impermissible discriminatory animus against Islam and its followers.”

This case is ongoing.