

NO. 17-1351

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**United States Court of Appeals**  
*for the*  
**Fourth Circuit**

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INTERNATIONAL REFUGEE ASSISTANCE PROJECT, a project of the Urban Justice Center, Inc., on behalf of itself; HIAS, INC., on behalf of itself and its clients; MIDDLE EAST STUDIES ASSOCIATION OF NORTH AMERICA, INC., on behalf of itself and its members; MUHAMMED METEAB; PAUL HARRISON; IBRAHIM AHMED MOHOMED; JOHN DOES #1 & 3; JANE DOE #2,

*Plaintiffs-Appellees,*

– v. –

DONALD J. TRUMP, in his official capacity as President of the United States; DEPARTMENT OF HOMELAND SECURITY; DEPARTMENT OF STATE; OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE; JOHN F. KELLY, in his official capacity as Secretary of Homeland Security; REX W. TILLERSON, in his official capacity as Secretary of State; DANIEL R. COATS, in his official capacity as Director of National Intelligence,

*Defendants-Appellants.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND AT GREENBELT IN CASE NO. TDC-17-0361  
THE HONORABLE THEODORE D. CHUANG, U. S. DISTRICT COURT JUDGE

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**UNOPPOSED MOTION TO FILE A BRIEF FOR *AMICUS*  
*CURIAE* AMERICAN BAR ASSOCIATION IN SUPPORT OF  
PLAINTIFFS-APPELLEES AND AFFIRMANCE**

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Date: April 19, 2017

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## **DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1, *amicus curiae* American Bar Association (“ABA”) discloses that it is an Illinois nonprofit corporation, has no parent corporation, and does not issue shares of stock. ABA is a national voluntary organization whose members include attorneys, law students, and related professionals.

**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE***  
**OF AMERICAN BAR ASSOCIATION**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, the American Bar Association (ABA), by and through undersigned counsel, respectfully moves for leave to file a brief as *amicus curiae* in support of Plaintiffs-Appellees and affirmance. The parties have given their consent to this motion for leave to file a brief *amicus curiae*.

**INTEREST OF *AMICUS CURIAE* AND REASONS WHY THE MOTION**  
**SHOULD BE GRANTED**

The ABA is a not-for-profit corporation, and one of the world's largest voluntary professional organizations, with more than 400,000 members. Membership is open to lawyers, law students, and others interested in the law and the legal profession. Since 1878, the ABA has been committed, among other things, to “[i]ncreas[ing] public understanding of a respect for the rule of law, the legal process, and the role of the legal profession at home and throughout the world,” “[a]ssur[ing] meaningful access to justice for all persons,” and “eliminat[ing] bias in the . . . justice system.”<sup>1</sup> To help further those goals, the ABA files *amicus curiae* briefs in certain cases involving issues of significant concern to the ABA and its members.

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<sup>1</sup> See ABA Mission and Association Goals, *available at* [http://www.americanbar.org/about\\_the\\_aba/aba-mission-goals.html](http://www.americanbar.org/about_the_aba/aba-mission-goals.html) (last visited Feb. 13, 2017).

As the voice of the legal profession, the ABA has a special interest and responsibility in safeguarding the integrity of our legal system, ensuring the sanctity of the rule of law, and protecting the rights guaranteed by the United States Constitution. Preserving and promoting robust judicial review of executive action goes hand-in-hand with these responsibilities, particularly where the executive action at issue may threaten fundamental liberties and protections for individuals under the United States Constitution or laws enacted by Congress.

The attached proposed brief demonstrates that the President lacks the authority to issue the Executive Order which is the subject of this appeal because it violates a statutory prohibition on national origin discrimination. The Government has argued that, pursuant to a provision of the Immigration and Nationality Act of 1952 (the “1952 Act”), Congress delegated to the Executive broad authority to “suspend” entry to the United States of “any class of aliens,” including on the basis of national origin, notwithstanding a specific and more recent statutory provision of the Immigration and Nationality Act of 1965 (the “1965 Act”) prohibiting national origin discrimination in the issuance of visas.

The ABA’s proposed amicus brief is desirable and relevant because it would assist the Court in addressing and resolving the questions of whether the 1965 Act’s prohibition on national origin is a limitation on the broad authority claimed by the President under the earlier 1952 Act and whether, in fact, the

Executive Order, which discriminates on its face on the basis of national origin, is a violation of the 1965 Act. These questions directly affect the scope of the power the President claims as the basis for the Executive Order that is the subject of this appeal. The ABA's proposed amicus brief provides background and history to the relevant statutory provisions which we believe supplement the briefs of the parties and which will contribute to a more informed understanding and proper resolution of these issues of statutory interpretation.

The ABA has a strong interest in seeing that such issues raised by the Executive Order at issue in this case are subjected to searching judicial review and resolved in a manner that honors the fundamental protections for individuals under the United States Constitution and the laws enacted by Congress.

**CONCLUSION**

For the foregoing reasons, the ABA respectfully requests that it be granted leave to file the attached *amicus curiae* brief.

Dated: April 19, 2017

Respectfully submitted,

/s/ Sidney Rosdeitcher

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
Effective 12/01/2016

No. 17-1351      Caption: IRAP et al. v. Trump et al.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT**  
Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

**Type-Volume Limit for Briefs:** Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

**Type-Volume Limit for Other Documents if Produced Using a Computer:** Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

**Typeface and Type Style Requirements:** A proportionally spaced typeface (such as Times New Roman) must include serifs and must be 14-point or larger. A monospaced typeface (such as Courier New) must be 12-point or larger (at least 10½ characters per inch). Fed. R. App. P. 32(a)(5), 32(a)(6).

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(s) Sidney Rosdeitcher

Party Name Amicus American Bar Association

Dated: 4/19/2017

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing brief with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit through the CM/ECF system on April 19, 2017, which will automatically serve all parties.

Dated: April 19, 2017

*/s/ Sidney Rosdeitcher*