

No. 17-35105

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF WASHINGTON, et al.,

Plaintiffs-Appellees,

v.

DONALD TRUMP, President of the United States, et al.,

Defendant-Appellants.

On Appeal from an Order of the United States District Court
for the Western District of Washington

**AMENDED MOTION FOR LEAVE TO FILE 20-PAGE
BRIEF BY *AMICI CURIAE* STATES IN SUPPORT OF
PLAINTIFFS-APPELLEES**

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Dated: February 7, 2017

Amici curiae States submit this amended motion to account for the addition of two states to our brief. The amendments to this motion and the attached brief include changes only to the cover and signature pages, as well as internal lists of the signatory states. Neither the substance of this motion, nor the substance of the attached brief, have been changed.

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure and Circuit Rule 29(a)(5), *amici curiae* States¹, by and through undersigned counsel, respectfully move for leave to file a 20-page, or 5,600 word, memorandum of law in support of Appellees' Opposition to Appellants' Emergency Motion for Stay Pending Appeal. The *Amici* state as follows:

1. *Amici* are many States within the United States which are harmed by the Executive Order issued on January 27, 2017, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" (the "Executive Order").

2. The Executive Order inflicts significant harm on States across the Country, including upon the *Amici*. It harms, among other things, state colleges and universities, state medical institutions, and state tax revenues from students, tourists and business visitors.

¹ The full list of *amici* is: California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia, and the District of Columbia.

3. The proposed *amicus* response explains that States have standing to challenge the Executive Order in light of the harm it inflicts on them and that Appellants' Emergency Motion for Stay should be denied because granting it would not preserve the status quo and would cause further chaos.

4. Though no such consent is required for States under Fed. R. App. P. 29(a)(2), counsel for Appellants and Appellees both have consented to the filing of an *amicus* response.

5. Because of the number of different States involved in this response and the desire of each to detail specific harm to it caused by the Executive Order as well as to fully brief the issues therein, the *Amici* have required additional space.

6. Fed. R. App. P. 29(a)(5) states that, "[e]xcept by the Court's permission, an *amicus* brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief." Fed. R. App. P. 27 and Circuit Rule 27-1(1)(d) do not speak in terms of "briefs," instead stating that, except with the Court's permission, "a motion or response to a motion may not exceed 20 pages," or 5,600 words pursuant to Circuit Rule 32-3(2). If the Rule 29 language applies to a response to a motion, an *amicus* would be limited to 10 pages, or 2,800 words.

7. Out of an abundance of caution, the *Amici* file this motion to request the Court's leave to file a 20-page (or 5,600-word) memorandum of law under the provisions of Rule 27, Circuit Rule 27-1, and Circuit Rule 32-3(2)

8. *Amici* believe that a 20-page memorandum is necessary to detail the specific harm caused by the Executive Order to a number of different States and is warranted in light of the importance and novelty of the issues presented.

9. Accordingly, *Amici* respectfully request that the Court grant this motion and permit the *Amici* leave to file a 20-page memorandum of law.

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CERTIFICATE OF SERVICE

I, Genevieve C. Nadeau, hereby certify that a true copy of the above document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on this date.

Dated: February 7, 2017

/s/ Genevieve C. Nadeau

Genevieve C. Nadeau