

No. 17-35105

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF WASHINGTON; STATE OF MINNESOTA,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; REX W. TILLERSON, Secretary of State; JOHN F. KELLY, Secretary of the Department of Homeland Security; UNITED STATES OF AMERICA,

Defendants-Appellees.

On Appeal from the Issuance of a Temporary Restraining Order by the U.S. District Court for the Western District of Washington, No. 2:17-cv-00141-JLR

**MOTION FOR LEAVE TO FILE OVERSIZE BRIEF AS *AMICI CURIAE*
FOR THE FOUNDATION FOR THE CHILDREN OF IRAN AND IRANIAN
ALLIANCES ACROSS BORDERS**

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Dated: February 16, 2017

Pursuant to Federal Rule of Appellate Procedure 29(a)(5)(d) and Circuit Rule 29-2, The Foundation for the Children of Iran and Iranian Alliances Across Borders respectfully seek leave to file the attached oversize brief containing 6,622 words as *amici curiae* in support of Plaintiffs-Appellees and in Opposition to *en banc* Reconsideration. *Amici curiae* have obtained the consent of the parties to this action to file a brief.

While Federal Rule of Appellate Procedure (“FRAP”) 29(a)(5)(d) limits the length of amicus briefs to one-half the maximum length authorized for a party’s principal brief, Circuit Rule 29-2(c)(2) limits the length of an amicus brief submitted in this circumstance to 15 pages or 4,200 words. On February 10, 2017, the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit issued a Supplemental Briefing Order ordering that the parties’ supplemental briefs shall consist of no more than 14,000 words, which exceeds the length limitations prescribed by 9th Circuit Rule 40-1(a). FRAP 29(a)(5)(d) makes clear that length extensions granted to parties do not adjust the maximum word length for an amicus curiae brief. However, FRAP 29(a)(5)(d) does permit an enlargement of the word limits for an amicus brief with the court’s permission. Given the allowable length of the briefs to be submitted by the parties and the important issues presented in this case, *amici* respectfully state that they have addressed the issues in as few words as possible. The *amici* present unique perspectives that are important to the

Court’s consideration. *Amici* have a strong interest in seeing the district court’s order upheld. *Amici* have included in this brief not only legal arguments, but also personal stories of Iranians concerning the extensive screening procedures to which they already were subjected before entering the United States, and the harm that these individuals suffered and will continue to suffer under the Executive Order if it survives.

CONCLUSION

For these reasons, the Court should grant this Motion, and permit The Foundation for the Children of Iran and Iranian Alliances Across Borders to file their concurrently submitted Brief *Amici Curiae* which contains 6,622 words.

Dated: February 16, 2017 Respectfully submitted,

s/ Kevin P. Martin

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CIRCUIT RULE 32-2(A) DECLARATION

Pursuant to Circuit Rule 32-2(a), I Kevin P. Martin, declare:

1. I am a partner with law firm Goodwin Procter LLP and counsel for *amici curiae* The Foundation for the Children of Iran and Iranian Alliances Across Borders (“*amici*”).
2. I make this declaration in support of the foregoing Motion for Leave to File Oversize Brief as *Amici Curiae* for The Foundation for the Children of Iran and Iranian Alliances Across Borders (the “Motion”).
3. Given the allowable length of the briefs to be submitted by the parties and the importance and challenges presented in this case, *amici* respectfully state that they have addressed the issues in as few words as possible. The *amici* present unique perspectives that are important to the Court’s consideration. *Amici* have a strong interest in seeing the district court’s order providing preliminary relief upheld, and are well-positioned to explain why that result is the correct one. To that end, *amici* have included in this brief not only legal arguments, but also personal stories of Iranians concerning the extensive screening procedures to which they already were subjected before entering the United States, and the harm that these individuals suffered and will continue to suffer under the Executive Order if it survives.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of February, 2017 at Boston, Massachusetts.

s/ Kevin P. Martin
Kevin P. Martin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for Leave to File Oversize Brief as *Amici Curiae* for The Foundation for the Children of Iran and Iranian Alliances Across Borders and was filed with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit via the appellate CM/ECF system on February 16, 2017. All parties in this case or their counsel of record who are registered CM/ECF users will be served by operation of the ECF system; the following unregistered participants were served by U.S. Mail:

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