

No. 17-35105

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

STATE OF WASHINGTON, et al.,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, President of the United States, et al.,
Defendants-Appellants.

From the United States District Court, Western District of Washington
The Honorable James L. Robart, Case No. C17-0141JLR

**MOTION FOR LEAVE TO FILE BRIEF OF CONSTITUTIONAL
SCHOLARS AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

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**MOTION FOR LEAVE TO FILE BRIEF OF CONSTITUTIONAL
SCHOLARS AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

Kristin Collins, Judith Resnik, Stephen I. Vladeck, and Burt Neuborne (collectively, “*Amici*”) respectfully move for leave to file an *amicus curiae* brief in support of Appellees’ Response to the Government’s Emergency Motion for Stay Pending Appeal. Counsel for all parties have consented to the filing of an *amicus* brief; however, out of an abundance of caution, *Amici* file this motion to request the Court’s leave to file an *amicus* brief by 11:00 a.m. on February 6, 2007. *Amici* state as follows:

1. *Amici* are professors of law who are in the course of preparing a brief in a related matter on behalf of a larger group of scholars of federal constitutional law, federal court jurisdiction, immigration and citizenship. *Amici* are concerned about the constitutional implications of the Executive Order issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States.” *Amici* are particularly concerned with the Government’s disturbing claim that the Executive Order is effectively beyond the reach of the Constitution and the courts.

2. The proposed *amicus* brief, attached to this motion as Exhibit A, explains how the President’s authority to restrict admission to the United States is not unfettered—it is limited by the Constitution.

3. Although it is our understanding that all parties consented to the filing of an *amicus* brief, *amici* file this motion out of an abundance of caution because the filing of an *amicus* brief in connection with a motion for a stay is not clearly authorized under the Federal Rules of Appellate Procedure or this Court's Rules, even when the parties have consented to this filing.

4. Moreover, with respect to *amicus* briefs filed in connection with initial consideration of a case on the merits, Rule 29(a)(6) of the Federal Rules of Appellate Procedure requires that *amicus* briefs be filed no later than 7 days after the principal brief of the party being supported is filed. In light of the expedited briefing schedule on the Government's emergency motion, it is unclear when all *amicus* briefs are due. The Court ordered that Appellees file their opposition by 1:00 a.m. on February 6, 2017, and Appellants file their reply by 3:00 p.m. on February 6, 2017. Out of an abundance of caution, *amici* request leave to file their *amicus* brief within 10 hours after Appellees' brief was filed, by 11:00 a.m. on February 6, 2017.

CONCLUSION

Amici respectfully request that this Court grant them leave to file the *amicus* brief attached hereto as Exhibit A.

Dated: February 6, 2017

Respectfully submitted,

JONES DAY

/s/ Meir Feder

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