

No. 17-35105

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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STATE OF WASHINGTON, et al.,  
*Plaintiffs-Appellees,*

v.

DONALD J. TRUMP, et al.,  
*Defendants-Appellants.*

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

United States District Judge James L. Robart  
Case No. 2:17-CV-00141-JLR

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**MOTION FOR LEAVE TO FILE BRIEF OF  
THE JEWISH FEDERATION OF GREATER SEATTLE  
AS *AMICUS CURIAE* IN SUPPORT OF APPELLEES**

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**MOTION FOR LEAVE TO FILE BRIEF OF  
THE JEWISH FEDERATION OF GREATER SEATTLE  
AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure and Circuit Rule 29-3, The Jewish Federation of Greater Seattle respectfully moves for leave to file a 10-page *amicus curiae* brief in support of Appellees' Opposition to Appellants' Emergency Motion for Stay Pending Appeal. *Amicus* states as follows:

1. The Jewish Federation of Greater Seattle was founded in 1928 to serve the Jewish community, locally and around the world. Over its nearly nine decades of service, helping immigrants and refugees fleeing overseas persecution has been a central component of the Federation's mission. In the 1940s, the Federation worked to rescue and resettle Holocaust survivors; in the 1970s and 1980s, the community welcomed Russian emigres fleeing Soviet persecution and in the 1990s and 2000s supported Ethiopian immigrants escaping starvation and civil war on the Horn of Africa.

2. The Federation's work is affected by the Executive Order issued on January 27, 2017, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" (the "Order").

3. The Order represents a significant departure from the principles of compassion, fairness, equity and religious neutrality that have governed the United States immigration policy for more than fifty years and inflicts significant harm on

the Seattle Jewish Community as a result. The Order makes it more difficult for innocent victims of overseas oppression to seek refuge in the United States, discriminates against asylum seekers who do not subscribe to the Christian faith, and is not rationally related to the governmental objective of protecting Americans from terror.

4. The proposed *amicus* brief, attached to this motion as Exhibit A, explains how the Order will undermine the mission and goals of the Seattle Jewish Federation and is contrary to law.

5. Counsel for the State of Washington has consented to the filing of an *amicus* brief.

6. Out of an abundance of caution, *amici* file this motion to request the Court's leave to file a 10-page brief.

7. Neither the Federal Rules of Appellate Procedure nor this Court's Rules clearly authorize the filing of an *amicus curiae* brief in connection with a motion for a stay, even when the parties have consented to its filing.

8. In addition, Fed. R. App. P. 29(a)(5) states that, except with 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. Circuit Rule 27-1(1)(d) does 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.

Because it is unclear whether Circuit Rule 27-1 limits *amici* to 10 pages, and because *amici* believe that a 10-page brief is warranted in light of the importance and novelty of the issues presented, *amici* request the Court's leave to file a 10-page brief.

### CONCLUSION

The Jewish Federation of Greater Seattle respectfully requests that the Court grant its motion for leave to file a 10-page *amicus curiae* brief and accept for filing the *amicus curiae* brief attached as Exhibit A.

Dated: February 6, 2017

Respectfully submitted,

/s/ Matthew P. Bergman

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## CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), the undersigned counsel certifies that this motion:

(i) complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 2007 and is set in Times New Roman font in a size equivalent to 14 points or larger and,

(ii) complies with the length requirement of Rule 27(d)(2) because it is 506 words.

Dated: February 6, 2017

Respectfully submitted,

*/s/ Matthew P. Bergman*  
Matthew P. Bergman, WSBA #20894  
BERGMAN DRAPER LADENBURG

## CERTIFICATE OF SERVICE AND FILING

I hereby certify that on the 6<sup>th</sup> day of February 2017, I electronically filed Motion for Leave to File Brief of The Jewish Federation of Greater Seattle as *Amicus Curiae* In Support of Appellees with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: February 6, 2017

Respectfully submitted,

/s/ Matthew P. Bergman  
Matthew P. Bergman, WSBA #20894  
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# Exhibit A