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* Motions for admission *pro hac*
vice pending.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAI'I, *et al.*,

Plaintiffs,

v.

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

Defendants.

Civil Action
No. 1:17-cv-00050-DKW-KJM

**MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE AMERICANS
UNITED FOR SEPARATION OF CHURCH AND STATE AND THE
SOUTHERN POVERTY LAW CENTER IN SUPPORT OF PLAINTIFFS'
MOTION FOR A TEMPORARY RESTRAINING ORDER**

INTRODUCTION

Currently before the Court is Plaintiffs' motion for a temporary restraining order to halt enforcement of President Trump's latest Executive Order banning immigrants and refugees from predominantly Muslim countries from entering the United States. *See Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).* Americans United for Separation of Church and State and the Southern Poverty Law Center respectfully request leave to file the accompanying proposed *amicus* brief in support of Plaintiffs.

IDENTITY AND INTEREST OF *AMICI CURIAE*

a. Americans United for Separation of Church and State is a national, nonsectarian public-interest organization. Its mission is to advance the free-exercise rights of individuals and religious communities to worship as they see fit and to preserve the separation of church and state as a vital component of democratic government. Americans United represents more than 125,000 members and supporters across the country. Americans United has long defended the fundamental rights of religious minorities in the United States by bringing and participating in legal challenges to governmental action that singles out particular religions for favor or disfavor. *See, e.g., Ziglar v. Abbasi, 2016 WL 7473962 (U.S. 2016)* (supporting Muslim petitioners who overstayed

their visas and were detained and tortured after the terror attacks of September 11, 2001, before being released as innocent of any connection to terrorism); *Hassan v. City of New York*, 2014 WL 3572027 (3d Cir. 2015) (supporting challenge to New York City Police Department's surveillance of Muslim communities); *Awad v. Ziriax*, 2011 WL 2118216 (10th Cir. 2012) (supporting challenge to Oklahoma law that singled out Islam for official disfavor).

b. The Southern Poverty Law Center has provided *pro bono* civil-rights representation to low-income persons in the Southeast since 1971, with particular focus on seeking justice for the most vulnerable people in society. SPLC has litigated numerous cases to enforce the civil rights of immigrants and refugees to ensure that they are treated with dignity and fairness. SPLC monitors and exposes extremists who attack or malign groups of people based on their immutable characteristics. SPLC is dedicated to reducing prejudice and improving intergroup relations. SPLC has a strong interest in opposing governmental action premised on unlawful discrimination that undermines the promise of civil rights for all.

REASONS WHY THE MOTION SHOULD BE GRANTED

1. The issues in this case have important ramifications for persons living across the United States and around the world. If implementation

of the challenged Executive Order is not restrained, family members who currently find themselves living in different countries will be estranged. Universities and employers throughout the United States will be barred from recruiting top talent and competing in the global marketplace. And people fleeing violence in war-torn countries will be trapped in life-threatening circumstances. And religion (albeit couched in the language of national origin) will determine whether potentially hundreds of thousands of people have access to the opportunities of life and travel within the United States.

2. What is more, the Muslims targeted by the Executive Order will not be the only people affected by the order's implementation. The seismic shift in this Nation's treatment of a religious minority will be felt by families, neighborhoods, houses of worship, local businesses, and other institutions. All will suffer the loss of valued employees, customers, relatives, and members of the community.

3. The hardships in this country and around the world that will be caused by official discrimination against a disfavored religious group highlight the importance of correctly analyzing and deciding questions of religious-freedom rights—legal issues that *amici* are uniquely positioned to assist this Court in assessing. The proposed *amicus* brief explains why

the Establishment Clause of the First Amendment to the United States Constitution bars enforcement of the challenged Executive Order, and hence why Plaintiffs are likely to succeed on the merits and why a temporary restraining order should issue. As the proposed brief explains, the government is forbidden to discriminate against Muslims. It is forbidden to endorse or disfavor one religion as compared with others. And it is forbidden to impose or apply religious tests in making official determinations and taking official actions. Yet the Executive Order does all of this and more.

4. *Amici* also filed briefs addressing these Establishment Clause issues in the challenges to the precursor Executive Order on immigration brought in the Western District of Washington (Brief of *Amicus Curiae* Americans United for Separation of Church and State, *Washington v. Trump*, No. 2:17-cv-141, 2017 WL 462040 (W.D. Wash. Feb. 3, 2017)) and appealed to the Ninth Circuit (Brief of *Amici Curiae* Americans United for Separation of Church and State and Southern Poverty Law Center, *Washington v. Trump*, No. 17-35105, 2017 WL 526497 (9th Cir. Feb. 9, 2017)); in the challenge brought in the Eastern District of Virginia (Brief of *Amici Curiae* Americans United for Separation of Church and State and Southern Poverty Law Center, *Aziz v. Trump*, No. 1:17-cv-116, 2017

WL 580855 (E.D. Va. Feb. 13, 2017)); and in the challenge brought in the U.S. District Court for the District of Columbia (Brief of *Amici Curiae* Americans United for Separation of Church and State and Southern Poverty Law Center, *Pars Equality Ctr. v. Trump*, No. 1:17-cv-255 (D.D.C. Mar. 1, 2017)).

5. Plaintiffs have consented to this motion and the filing of the accompanying *amicus* brief. Defendants have stated that they take no position on this motion and the filing of the brief.

6. *Amici* waive hearing and oral argument on this motion.

CONCLUSION

The Court should grant the request to file the proposed *amicus* brief and order the Clerk to accept the accompanying brief for filing.

Respectfully submitted,

/s/ Steven D. Strauss

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Counsel for Amici Curiae

Date: March 10, 2017

CERTIFICATE OF SERVICE

I certify that on March 10, 2017, the foregoing brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

*/s/ Steven D. Strauss
Counsel for Amici Curiae*