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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

STATE OF HAWAI'I and ISMAIL)
ELSHIKH,)
Plaintiffs,)
v.)
DONALD J. TRUMP, in his official)
capacity as President of the United)
States; U.S. DEPARTMENT OF)
HOMELAND SECURITY; JOHN F.)
KELLY, in his official capacity as)
Secretary of Homeland Security; U.S)
DEPARTMENT OF STATE; REX)
TILLERSON, in his official capacity as)
Secretary of State; and the UNITED)
STATES OF AMERICA,)
Defendants.)

CIVIL NO. 1:17-cv-0050-DKW-KSC

**MOTION BY IMMIGRATION
REFORM LAW INSTITUTE FOR
LEAVE TO FILE BRIEF AS
AMICUS CURIAE IN SUPPORT OF
DEFENDANTS; PROPOSED
AMICUS BRIEF; CERTIFICATE
OF SERVICE**

Hearing Date/Time:
Date: 3/15/2017
Time: 9:30 am
Judge: Derrick K. Watson

MOTION BY IMMIGRATION REFORM LAW INSTITUTE FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS

Amicus curiae the Immigration Reform Law Institute (IRLI) is a non-profit 501(c) (3) public interest law firm dedicated to litigating immigration-related cases on behalf of, and in the interests of, United States citizens and legal permanent residents, and also to assisting courts in understanding and accurately applying federal immigration law. IRLI has litigated or filed *amicus curiae* briefs in a wide variety of cases, including *Wash. All. of Tech. Workers v. U.S. Dep't of Homeland Sec.*, 74 F. Supp. 3d 247 (D.D.C. 2014); *Save Jobs USA V. U.S. Dep't of Homeland Sec.*, No. 16-5287 (D.C. Cir. filed Sept. 28, 2016); *Keller v. City of Fremont*, 719 F.3d 931 (8th Cir. 2013); and *Texas v. United States*, 787 F.3d 733 (5th Cir. 2015). IRLI is considered an expert in immigration law by the Board of Immigration Appeals who has solicited *amicus* briefs drafted by IRLI staff from its parent organization the Federation for American Immigration Reform (FAIR) for more than twenty years. *See, e.g.*, *Matter of Silva-Trevino*, 26 I. & N. Dec. 99 (B.I.A. 2016); *Matter of C-T-L-*, 25 I. & N. Dec. 341 (B.I.A. 2010); and *In re Q- T- -- M-T-*, 21 I. & N. Dec. 639 (B.I.A. 1996).

After speaking with the Clerk of the Court, IRLI communicated with counsel for Plaintiffs and Defendants via email seeking consent of the Parties to file an *Amicus Curiae Brief* in the above-captioned case. Neither party objected to

IRLI's request and communicated the same. Accordingly, on Friday, March 10, 2017, IRLI filed its *Amicus Curiae Brief* in support of Defendants (Dkt. No. 80).

After the Brief was filed, several *amici* filed Motions with this Honorable Court for Leave to File their respective briefs (Dkt. Nos. 93, 98, 103, 114, 116, 118, 119, 122 and 123). No Federal Rules of Civil Procedure or local rule addresses this issue. Nonetheless, in an abundance of caution, IRLI is also seeking leave from the Court. IRLI is filing a Notice of Withdrawal of its brief filed in Docket No. 80 and instead proposes that the Proposed *Amicus Curiae Brief* be considered in its stead should this Court so approve.

This Court has discretion over who may submit briefs in a matter before it. “An *amicus brief* should normally be allowed . . . when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Community Ass’n for the Restoration of the Env’t v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999).

IRLI proposes to submit its *amicus curiae* brief to assist this Court in understanding the comprehensive statutory scheme that undergirds the President's instant exercise of authority. IRLI has often provided similar assistance in understanding this same statutory scheme to the Board of Immigration Appeals, upon request by that body, because of IRLI's unusual expertise in immigration law. *See, e.g., Matter of Silva-Trevino*, 26 I. & N. Dec. 99 (B.I.A. 2016); *Matter of*

C-T-L-, 25 I. & N. Dec. 341 (B.I.A. 2010); and *In re Q- T- -- M- T-*, 21 I. & N. Dec. 639 (B.I.A. 1996). Accordingly, IRLI is an appropriate *amicus curiae* in this matter.

IRLI respectfully requests that this Court grant the instant Motion.

Respectfully submitted.

DATED: Honolulu, Hawaii, March 12, 2017.

\s\ Denise M. Hevicon
DENISE M. HEVICON

\s\ Christopher J. Hajec
CHRISTOPHER J. HAJEC

Attorneys for Amicus Curiae