

DOUGLAS S. CHIN (Bar No. 6465)  
 Attorney General of the State of Hawai‘i  
 DEPARTMENT OF THE ATTORNEY  
 GENERAL, STATE OF HAWAI‘I  
 425 Queen Street  
 Honolulu, HI 96813  
 Telephone: (808) 586-1500  
 Fax: (808) 586-1239

*Attorneys for Plaintiff, State of Hawai‘i*

NEAL K. KATYAL\*  
 HOGAN LOVELLS US LLP  
 555 Thirteenth Street NW  
 Washington, DC 20004  
 Telephone: (202) 637-5600  
 Fax: (202) 637-5910

*\*Admitted Pro Hac Vice*

*Attorneys for Plaintiffs, State of  
 Hawai‘i and Ismail Elshikh*

(See Next Page For Additional Counsel)

**IN THE 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 Action No. 1:17-cv-00050-  
 DKW-KSC

**PLAINTIFFS’ MOTION TO  
 CONVERT TEMPORARY  
 RESTRAINING ORDER TO  
 A PRELIMINARY  
 INJUNCTION;  
 MEMORANDUM IN  
 SUPPORT OF PLAINTIFFS’  
 MOTION TO CONVERT  
 TEMPORARY  
 RESTRAINING ORDER TO  
 A PRELIMINARY  
 INJUNCTION; PROPOSED  
 ORDER; CERTIFICATE OF  
 SERVICE**

**ADDITIONAL COUNSEL**

CLYDE J. WADSWORTH (Bar No. 8495)  
Solicitor General of the State of Hawai‘i  
DEIRDRE MARIE-IHA (Bar No. 7923)  
DONNA H. KALAMA (Bar No. 6051)  
KIMBERLY T. GUIDRY (Bar No. 7813)  
ROBERT T. NAKATSUJI (Bar No. 6743)  
Deputy Attorneys General  
DEPARTMENT OF THE ATTORNEY  
GENERAL, STATE OF HAWAI‘I  
425 Queen Street  
Honolulu, HI 96813  
Telephone: (808) 586-1500  
Fax: (808) 586-1239  
Email: deirdre.marie-iha@hawaii.gov

*Attorneys for Plaintiff, State of Hawai‘i*

COLLEEN ROH SINZDAK\*  
MITCHELL P. REICH\*  
ELIZABETH HAGERTY\*  
HOGAN LOVELLS US LLP  
555 Thirteenth Street NW  
Washington, DC 20004  
Telephone: (202) 637-5600  
Fax: (202) 637-5910  
Email:  
neal.katyal@hoganlovells.com

THOMAS P. SCHMIDT\*  
HOGAN LOVELLS US LLP  
875 Third Avenue  
New York, NY 10022  
Telephone: (212) 918-3000  
Fax: (212) 918-3100

SARA SOLOW\*  
ALEXANDER B. BOWERMAN\*  
HOGAN LOVELLS US LLP  
1835 Market St., 29th Floor  
Philadelphia, PA 19103  
Telephone: (267) 675-4600  
Fax: (267) 675-4601

*\*Admitted Pro Hac Vice*

*Attorneys for Plaintiffs, State of  
Hawai‘i and Ismail Elshikh*

**PLAINTIFFS' MOTION TO CONVERT TEMPORARY RESTRAINING  
ORDER TO A PRELIMINARY INJUNCTION**

Pursuant to Rules 7 and 65 of the Federal Rules of Civil Procedure and Local Rule 7.2 for the U.S. District Court for the District of Hawaii, Plaintiffs, the State of Hawai'i and Ismail Elshikh, by and through counsel, hereby move this Honorable Court to convert its Temporary Restraining Order of March 15, 2017 to a Preliminary Injunction, prohibiting Defendants from enforcing and implementing Sections 2 and 6 of the March 6, 2017 Executive Order issued by Defendant Donald J. Trump (the "Executive Order"). Those provisions of the Executive Order, *inter alia*, impose a nationwide ban on the "entry" of foreign nationals from six Muslim-majority countries for 90 days, and suspend the United States Refugee Admissions Program for a period of 120 days.

Plaintiffs previously moved for a temporary restraining order prohibiting the enforcement of Sections 2 and 6 of the Executive Order nationwide (Dkt. No. 65), and this Court entered a Temporary Restraining Order ("TRO") providing such relief on March 15, 2017. Dkt. No. 219. For the same reasons that this Court entered a TRO, it should convert the TRO to a preliminary injunction. This Court found that Plaintiffs were likely to succeed on the merits of their claim that Sections 2 and 6 of the Executive Order inflict state-sanctioned discrimination towards Muslims in violation of the Establishment Clause of the First Amendment of the United States Constitution. *Id.* at 28-40. Additionally, Sections 2 and 6 of

the Executive Order violate the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, by discriminating on the basis of national origin and by contravening the INA’s finely reticulated system of immigration controls, and violate individuals’ Due Process Clause rights under the Fifth Amendment of the U.S. Constitution.

These discriminatory and unlawful provisions of the Executive Order have no place in the State of Hawai‘i, where Defendants’ actions have caused, and continue to cause, irreparable injury to Plaintiffs. As an immediate remedy, and to maintain the status quo while more permanent solutions may be considered, Plaintiffs ask that the Court convert the Temporary Restraining Order entered on March 15, 2017, to a preliminary injunction, thereby enjoining Defendants from enforcing or implementing Sections 2 and 6 of the Executive Order nationwide.

This motion is supported by the attached Memorandum in Support of Plaintiffs’ Motion to Convert Temporary Restraining Order to a Preliminary Injunction, an accompanying declaration and exhibits, and the records and files in this action, as well as any additional submissions and oral argument that may be considered by the Court.

DATED: Washington, D.C., March 21, 2017.

Respectfully submitted,

/s/ Neal K. Katyal

DOUGLAS S. CHIN (Bar No. 6465)  
Attorney General of the State of Hawai‘i  
CLYDE J. WADSWORTH (Bar No. 8495)  
Solicitor General of the State of Hawai‘i  
DEIRDRE MARIE-IHA (Bar No. 7923)  
DONNA H. KALAMA (Bar No. 6051)  
KIMBERLY T. GUIDRY (Bar No. 7813)  
ROBERT T. NAKATSUJI (Bar No. 6743)  
Deputy Attorneys General  
DEPARTMENT OF THE ATTORNEY  
GENERAL, STATE OF HAWAI‘I

*Attorneys for Plaintiff, State of Hawai‘i*

NEAL K. KATYAL\*  
COLLEEN ROH SINZDAK\*  
MITCHELL P. REICH\*  
ELIZABETH HAGERTY\*  
THOMAS P. SCHMIDT\*  
SARA SOLOW\*  
ALEXANDER B. BOWERMAN\*  
HOGAN LOVELLS US LLP

*\*Admitted Pro Hac Vice*

*Attorneys for Plaintiffs, State of  
Hawai‘i and Ismail Elshikh*