

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII 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-KJM

**[PROPOSED] TEMPORARY RESTRAINING ORDER**

This matter came before the Court on Plaintiffs' Motion for Temporary Restraining Order (the "Motion"). The Court has considered the Motion and documents filed therewith, including declarations, Plaintiffs' Second Amended Complaint for Declaratory and Injunctive Relief, and the arguments of counsel provided at an emergency hearing held March 15, 2017 at 9:30 a.m. Hawaii Standard Time. Having considered the foregoing, the Court hereby finds and concludes as follows.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Plaintiffs face an immediate and irreparable injury as a result of the issuance and implementation of the Executive Order issued by Defendant Donald J. Trump on March 6, 2017 (the “Executive Order”). The Executive Order affects the employment, education, business, and travel of Hawai‘i residents, and harms the State of Hawai‘i itself through negative impacts upon its economy, revenues, students, and sovereignty. Moreover, the Executive Order subjects a portion of Hawaii’s population, including Dr. Elshikh, his family, and members of his Mosque, to discrimination and second-class treatment, and disrupts the ability of Dr. Elshikh and others to associate with family members and members of their religious community.

The foregoing harms are ongoing and significant.

A temporary restraining order against Defendants, in the manner set forth below, is necessary until a determination of the merits of Plaintiffs’ claims may be held.

Plaintiffs took the following reasonable steps to provide sufficient notice to Defendants as to its intention to file the instant motion:

- a. Counsel for Plaintiffs conferred with counsel for Defendants on March 6 and 7, 2017 in advance of Plaintiffs’ Motion for a Temporary Restraining Order;

- b. Plaintiffs served a copy of their Motion to Lift Stay and File a Second Amended Complaint, and their [Proposed] Second Amended Complaint, via CM/ECF on March 7, 2017; and
- c. Plaintiffs served a copy of their Motion papers through CM/ECF on March 8, 2017.

The Court has jurisdiction over Defendants and the subject matter of this case.

Plaintiff's efforts to contact Defendants reasonably and substantially complied with the requirements of Federal Rule of Civil Procedure 65(b).

No security bond is required under Federal Rule of Civil Procedure 65(c).

To obtain a temporary restraining order, Plaintiffs must establish: (1) a likelihood of success on the merits; (2) that irreparable harm is likely in the absence of preliminary relief; (3) that the balance of the equities tips in Plaintiff's favor; and (4) that an injunction is in the public interest. *Winter v. Nat'l Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Based on the foregoing, there is a strong likelihood that Plaintiffs will succeed on the merits of their claims, and irreparable injury is likely if the requested relief is not issued.

The balance of the equities favors Plaintiffs, and the public interest favors entering temporary relief.

## TEMPORARY RESTRAINING ORDER

Now, therefore, it is hereby ADJUDGED, ORDERED, and DECREED that:

1. Defendants and all their respective officers, agents, servants, employees, and attorneys, and persons in active concert or participation with them who receive actual notice of this Order, hereby are enjoined fully from enforcing or implementing Sections 2 and 6 of the Executive Order across the Nation.

Enforcement of these provisions at all United States borders, ports of entry, and in the issuance of visas is prohibited, pending further orders from this Court; and

2. Pursuant to Federal Rule of Civil Procedure 65(b)(2), the Court sets an expedited hearing for \_\_\_\_\_ to determine whether this Temporary Restraining Order should be extended.

DATED: Honolulu, Hawai‘i, \_\_\_\_\_.

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Derrick K. Watson  
U.S. District Judge