



September 29, 2017

Via ECF

The Honorable Theodore D. Chuang  
United States District Court  
District of Maryland  
6500 Cherrywood Lane  
Greenbelt, MD 20770

Re: International Refugee Assistance Project, et al. v. Trump, Case No. 8:17-cv-00361-TDC

Dear Judge Chuang:

We represent the plaintiffs in the above-referenced matter. Pursuant to § II.A of the Case Management Order, Plaintiffs respectfully request a Pre-Motion Conference regarding Plaintiffs' desire to file both (1) a motion for leave to amend the operative complaint in this case to address President Trump's recent presidential proclamation, "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats" ("EO-3") (attached) and (2) a motion for a preliminary injunction (or other relief) suspending the implementation of the visa and entry restrictions set forth in the proclamation.

President Trump issued EO-3 on September 24, 2017, the day that Section 2(c) of EO-2 (as amended by a June 14, 2017 Presidential Memorandum) expired. EO-3 likewise bans immigrants, and many or all nonimmigrants, from Iran, Libya, Somalia, Syria, and Yemen; it also bans many or all nationals of Chad and North Korea, and certain government officials from Venezuela. By its terms, EO-3 goes into full effect on October 18. *See* EO-3 § 7(b). Like Section 2(c) before it, the EO-3 ban violates the Immigration and Nationality Act and the Constitution.

Leave to amend would further the interests of justice and is warranted under the liberal standard of Rule 15(a)(2). *See* Fed. R. Civ. P. 15(a)(2) (stating that "[t]he court should freely give leave [to amend] when justice so requires"). Granting leave to amend, moreover, is well within this Court's jurisdiction, notwithstanding the pendency of the Defendants' appeal of this Court's March 16, 2017 preliminary injunction. It is well established that an interlocutory appeal

only divests a district court of jurisdiction “over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); *Ex parte Nat’l Enameling & Stamping Co.*, 201 U.S. 156 (1906) (“The case, except for the hearing on the appeal from the interlocutory order, is to proceed in the lower court as though no such appeal had been taken, unless otherwise specially ordered.”); Wright & Miller, Fed. Prac. & Proc. § 3921.2 (3d ed. 2015). Plaintiffs therefore respectfully seek leave to amend their First Amended Complaint in order to add claims and allegations addressing EO-3 and to add further plaintiffs who are also directly affected by EO-3.

Before filing this request for a Pre-Motion Conference, Plaintiffs’ counsel met and conferred with counsel for Defendants, and can convey the following: Defendants oppose Plaintiffs’ request for a preliminary injunction. Defendants do not oppose the motion for leave to amend the complaint. However, Defendants request that their obligation to file a response to the forthcoming Second Amended Complaint be stayed until the Plaintiffs’ preliminary injunction motion is resolved, and Plaintiffs do not oppose that request.

Respectfully submitted,

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