

THE HONORABLE JAMES L. ROBERT

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, and  
STATE OF MINNESOTA,

Plaintiffs,

v.

DONALD 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 the Department of  
Homeland Security; REX W.  
TILLERSON, in his official capacity  
as Secretary of State; and the  
UNITED STATES OF AMERICA,

Defendants.

STATE OF OREGON,

Intervenor-Plaintiff,

v.

DONALD TRUMP, et al.,

Intervenor-Defendants.

Civil Action No. 2:17-cv-00141-JLR

**MOTION FOR LEAVE TO FILE  
SECOND AMENDED COMPLAINT**

Motion Noted: March 31, 2017

1                   **I.       INTRODUCTION AND PROCEDURAL HISTORY**

2                   On March 6, 2017, President Trump signed Executive Order 13780 (Second Executive  
3 Order) “revoking” and “replacing” Executive Order No. 13769 (First Executive Order), the  
4 subject of the First Amended Complaint. Second Executive Order § 1(i), ECF No. 108-1. At  
5 least two provisions of the Second Executive Order violate the law, like their enjoined  
6 predecessors in the First Executive Order: (1) a 90-day ban on entry of persons from several  
7 Muslim-majority countries, and (2) a 120-day suspension of the U.S. Refugee Admissions  
8 Program. *See* First Executive Order §§ 3(c), 5(a) (imposing these bans), *and* ECF No. 52, at 5  
9 (enjoining §§ 3(c), 5(a)), *and* Second Executive Order §§ 2(c), 6(a) (reinstating these bans).

10                  The State of Washington (Washington) requests leave to amend its complaint to  
11 (1) allege that the Second Executive Order suffers from many of the same constitutional and  
12 statutory deficiencies as the First Executive Order,<sup>1</sup> (2) add the States of California, Maryland,  
13 Massachusetts, New York, and Oregon<sup>2</sup> (collectively, the States), as plaintiffs, and (3) reassert  
14 that the Executive Orders injure the States’ proprietary interests, sovereign interests, and  
15 residents.<sup>3</sup> Washington respectfully requests that the Court grant leave to file the  
16 accompanying proposed Second Amended Complaint.

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21                  <sup>1</sup> In light of changes in the Second Executive Order, the proposed Second Amended Complaint drops  
22 what were the Fifth Cause of Action (for violation of the Immigration and Nationality Act based on Denial of  
Asylum and Withholding of Removal) and Sixth Cause of Action (for violation of the Foreign Affairs Reform and  
Restructuring Act based on Denial of Convention Against Torture Relief).

23                  <sup>2</sup> On March 9, 2017, the Court granted Oregon’s motion to intervene as a plaintiff as of right. ECF No.  
24 112. However, to streamline this action procedurally, Oregon and the existing plaintiffs have agreed to join  
Oregon as a plaintiff rather than having Oregon proceed separately as a plaintiff-intervenor. Therefore, if this  
Motion is granted, Oregon will withdraw its Complaint-in-Intervention.

25                  <sup>3</sup> Washington, California, Maryland, Massachusetts, New York, and Oregon are the Plaintiffs in the  
26 proposed Second Amended Complaint. Minnesota joins Washington’s motion in accordance with Federal Rules  
of Civil Procedure 15 and 21 to reflect that it is not a party to the proposed Second Amended Complaint.

1 **II. ARGUMENT**

2 **A. Leave to Amend is Proper**

3 The Federal Rules of Civil Procedure allow parties to seek leave to amend their  
4 pleadings before trial, and “[t]he Court should freely give leave when justice so requires.” Fed.  
5 R. Civ. P. 15(a)(2). Indeed, “[f]ederal policy favors freely allowing amendment so that cases  
6 may be decided on their merits.” *Wizards of the Coast LLC v. Cryptozoic Entm’t LLC*, 309  
7 F.R.D. 645, 649 (W.D. Wash. 2015) (citing *Martinez v. Newport Beach City*, 125 F.3d 777,  
8 785 (9th Cir. 1997)). “This policy is ‘to be applied with extreme liberality.’” *Eminence*  
9 *Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (quoting *Owens v. Kaiser*  
10 *Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (additional citation omitted)).  
11 “This liberality in granting leave to amend is not dependent on whether the amendment will  
12 add causes of action or parties.” *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir.  
13 1987).

14 When leave to amend is sought before the defendants have filed a responsive pleading,  
15 as here, the presumption in favor of granting leave is at its highest. “Under Rule 15(a), leave to  
16 amend should be granted freely until the defendant files a responsive pleading.”<sup>4</sup> *Martinez v.*  
17 *Newport Beach City*, 125 F.3d 777, 785 (9th Cir. 1997); *see also Johnson v. Mammoth*  
18 *Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992) (“Under Rule 15(a), leave to amend  
19 should be granted as a matter of course, at least until the defendant files a responsive  
20 pleading.”); *Eminence Capital, LLC*, 316 F.3d at 1052 (holding that, in circumstances like  
21 these, “there exists a *presumption* under Rule 15(a) in favor of granting leave to amend”)  
22 (emphasis in original)). The party opposing amendment bears the “burden of showing that  
23 amendment is not warranted.” *Wizards of the Coast*, 309 F.R.D. at 649 (citing *DCD Programs*,  
24 833 F.2d at 187).

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25 <sup>4</sup> “After that point, leave to amend should be granted unless amendment would cause prejudice to the  
26 opposing party, is sought in bad faith, is futile, or creates undue delay.” *Martinez*, 125 F.3d at 785 (citing *Ascon*  
*Props., Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989)); *Johnson*, 975 F.2d at 607 (same).

1 Here, Washington has promptly sought leave to amend within seven days of the  
2 President's issuance of the Second Executive Order, which shares constitutional and statutory  
3 infirmities of its predecessor and continues to harm Washingtonians. The States of California,  
4 Maryland, Massachusetts, New York, and Oregon have suffered, and continue to suffer,  
5 similar harms. Defendants have not yet filed a responsive pleading and will not be prejudiced.  
6 For these reasons, the Court should grant the request for leave to file the accompanying Second  
7 Amended Complaint.

8 **B. The States Should Be Granted Leave to Seek Redress for Their Ongoing Harms**

9 Defendants' continuing course of conduct harms the States. Like the First Executive  
10 Order, the Second Executive Order harms the States' families, educational institutions,  
11 economies, businesses, health care systems, religious organizations, and sovereign interests.

12 **1. Residents**

13 When President Trump issued the First Executive Order, it immediately tore families  
14 apart, causing significant stress and financial hardships. Many families will suffer a similar fate  
15 under the Second Executive Order. They will be unable to reunite with relatives, receive visits,  
16 and plan for the future.

17 As a direct result of the Second Executive Order, many of the States' residents will be  
18 kept separated from immediate family members. One Washington resident, a U.S. citizen, is  
19 separated from his new wife and elderly parents who live in Iran and are awaiting green cards.  
20 Decl. of A. Shayegan ¶¶ 2-10. His plans to start a life together with his wife in Seattle were  
21 suddenly halted, and both he and his wife are suffering greatly as they do not know when they  
22 will be together. *Id.* at ¶¶ 8-12. Similarly, a New York resident, also a U.S. citizen, is separated  
23 from her new husband, a Yemeni national. Decl. of R. Althaibani ¶¶ 1, 3-6. Their separation  
24 has caused a great deal of anxiety, and all of their plans have been put on hold. *Id.* at ¶¶ 4, 14.

25 For many residents, the separation is particularly agonizing because their family  
26 members are in vulnerable situations. Another New York resident, a U.S. citizen, is separated

1 from his wife and four children who are stranded in Yemen, a country in the midst of war.  
2 Decl. of A. Elfgeeh ¶¶ 1, 4-9. He is terrified for their safety. *Id.* at ¶ 9. Another Washington  
3 resident, a dual U.S./Iranian citizen, is separated from her elderly parents who live in Iran and  
4 need her care. Decl. of S. Parsian ¶¶ 4-6, 8-11. She is heartbroken that she is unable to care for  
5 her parents in their time of need. *Id.* at ¶ 11. Similarly, another resident has elderly parents who  
6 live in Iran and are very sick. Decl. of B. Callaghan ¶ 3. She planned for them to come to the  
7 United States so that she could care for her father, but those plans are now on hold. *Id.* at ¶ 4. A  
8 third Washington resident has a 2-year-old niece who has a rare and deadly disease. Decl. of S.  
9 Dadgari ¶¶ 2-4. Her niece is in California for a clinical trial, but her niece's visa is set to expire  
10 before the clinical trial is complete. *Id.* at ¶¶ 5-6. If her niece does not get a visa extension, she  
11 will have to return to Iran and likely be unable to return for treatment. *Id.*

12         These are just a handful of the many heartbreaking stories. There are countless other  
13 individuals who are desperately hoping that family members will be able to join them in the  
14 United States, or are unable to travel to visit relatives because they are in the United States on  
15 single-entry visas. *See e.g.* Decl. of Z. Rasouli ¶¶ 2, 7-8 (Washington resident waiting for  
16 sister); Decl. of N. Fallah ¶ 11 (Washington resident hoping mother can visit); Decl. of H.  
17 Ghasemzadeh Ex. A (students at Washington State University on single-entry visas and  
18 separated from families); Decl. of S. Amin ¶¶ 2, 4 (PhD Student at Cornell University on  
19 single-entry visa and separated from family); Decl. of S. Mubarez ¶¶ 2, 12 (New York resident  
20 waiting for husband); Decl. of J. Sime ¶ 9 (New York families separated because they received  
21 refugee status at different times); Decl. of E. Hassett ¶ 12 (New York families may face  
22 reunification delay of several years).

## 23           **2. Educational Institutions**

24         The Second Executive Order will harm the States' educational institutions in several  
25 ways. They have hundreds of students and faculty members from the six countries affected by  
26 the Second Executive Order. *See* 4th Decl. of A. Chaudhry ¶¶ 5, 7 (Washington State

1 University); Decl. of J. Riedinger ¶ 5, 3d Decl. J. Riedinger ¶ 2 (University of Washington);  
2 Decl. of J. Boesenberg ¶¶ 4, 6 (Washington State community and technical colleges); Decl. of  
3 D. Galvan ¶ 7 (University of Oregon); Decl. of R. Adams ¶ 8 (Oregon State University); Decl.  
4 of M. Everett ¶ 7 (Portland State University); Decl. of D. Heatwole ¶¶ 4-6 (University of  
5 Massachusetts); Decl. of R. Lewin ¶¶ 3-4 (University of Maryland College Park); Decl. of N.  
6 Zimpher ¶ 9 (State University of New York); Decl. of V. Rabinowitz ¶ 6 (The City University  
7 of New York); 2d Amend. Compl. ¶ 55 (University of California, California State University  
8 System, and University of Southern California).

9 For students and faculty without multiple-entry visas, foreign travel for personal or  
10 academic reasons risks an inability to return. Decl. of V. Shah ¶¶ 5-6; Decl. of R. Lewin ¶¶ 4-  
11 6; Decl. of S. Amin ¶¶ 2, 4; 2d Decl. of R. Branon ¶ 11. As a result, some are forced to decline  
12 important academic opportunities. *See, e.g.*, Decl. of A. Mehrizi-Sani ¶ 3 (Iranian Ph.D.  
13 student planning on turning down 8,500 Euro research scholarship due to uncertainty about his  
14 visa). Students and faculty members will also be unable to receive visitors from the affected  
15 countries, creating significant emotional hardships and impacting their studies. *See* Decl. of V.  
16 Shah ¶ 6; Decl. of R. Lewin ¶ 5; Decl. of S. Amin ¶¶ 5-7; Decl. of S. Hemmati ¶ 7.

17 In addition, by banning travelers from certain countries, the Second Executive Order  
18 prevents the States' educational institutions from considering attractive student candidates or  
19 faculty from the affected countries. As a result, these institutions will lose out on exceptional  
20 student candidates, will be unable to employ faculty members with specialized expertise, and  
21 will be unable to host visiting scholars from the affected countries, which they have done in the  
22 past. *See, e.g.*, 2d Decl. of A. Chaudhry ¶ 7; 2d Decl. of J. Riedinger ¶¶ 9-10; Decl. of M.  
23 Everett ¶ 13. This deprives the institutions of the diverse perspectives that such students and  
24 scholars bring and harms the universities' educational missions as a whole.

25 The ban on travel also harms research projects and academic programs. University  
26 faculty members regularly conduct research in the affected countries and collaborate with

1 foreign scholars from those countries. *See, e.g.*, Decl. of J. Riedinger ¶ 8 (University of  
2 Washington); 2d Decl. of J. Wasserheit ¶ 7 (University of Washington Department of Global  
3 Health); Decl. of D. Galvan ¶ 10 (University of Oregon); Decl. of V. Rabinowitz ¶¶ 14-18  
4 (City University of New York). This research will be impaired if scholars are unable to travel  
5 or return here, harming the universities’ funding and reputation. *See, e.g.*, Decl. of D. Galvan  
6 ¶¶ 10, 12 (decrease in international collaboration will likely reduce international grants,  
7 contracts, and donations); Decl. of R. Lewin ¶ 13 (decrease in collaborative research or  
8 international students and faculty will likely affect University of Maryland College Park’s  
9 global university rankings).

10 The universities will also have difficulty attracting and retaining faculty members and  
11 scholars. *See* Decl. of D. Galvan ¶ 11-12 (students outside the affected countries are “already  
12 signaling interest in non-US alternatives” and the University of Oregon’s admissions  
13 department has reported a 15% decrease in international applications); Decl. of R. Lewin ¶ 8  
14 (researcher with “singular expertise” accepted offer to join team at the University of Maryland  
15 College Park but backed out because of the First Executive Order). Valued faculty who are  
16 here may not be able to stay. Some faculty members have family members in the banned  
17 countries and may have to leave their jobs in the United States if their family members can no  
18 longer visit. *See* Decl. of J. Riedinger ¶ 4 (University of Washington faculty member may find  
19 it necessary to leave the University, which would be a “very significant loss”). Other faculty  
20 members and scholars may face difficulties maintaining work authorization or renewing their  
21 visas. Decl. of M. Williams ¶ 6; Decl. of V. Rabinowitz ¶ 10. This harms the universities’  
22 ability to effectively compete with other institutions around the world.

23 Finally, the States’ educational institutions will suffer financial harm, as they did with  
24 the First Executive Order. *See* Decl. of D. Eaton ¶ 5 (refunds on application fees); Decl. of J.  
25 Wood ¶ 8 (visa costs related to cancelled internship). Many have received applications or  
26 extended offers of admission to prospective students from these countries. *E.g.* 3d Decl. of A.

1 Chaudhry ¶ 4 (Washington State University); Decl. of R. Branon ¶¶ 5-6, 2d Decl. of R. Branon  
2 ¶¶ 6-10 (University of Washington’s Continuum College); Decl. of D. Eaton ¶ 3 (The Graduate  
3 School of the University of Washington); Decl. of D. Galvan ¶ 11 (University of Oregon);  
4 Decl. of R. Adams ¶ 15 (Oregon State University); Decl. of M. Everett ¶¶ 15-16 (Portland  
5 State University); Decl. of M. Williams ¶ 9 (University of Massachusetts); Decl. of R. Lewin ¶  
6 10 (University of Maryland College Park). If these students are unable to enroll, the  
7 universities will lose application fees, program fees, and tuition revenue. *See, e.g.*, 2d Decl. of  
8 R. Branon ¶¶ 9-10 (Continuum College will lose program fees if accepted students cannot  
9 obtain visas in time).

### 10 **3. Economy and Businesses**

11 The States’ economies will also be harmed by the Second Executive Order. Barring  
12 visitors from the six countries will cost the States a substantial amount of lost tax revenue from  
13 travelers who would otherwise visit the States. *See* Decl. of D. Soike ¶ 11 (in 2016, more than  
14 6,000 passengers traveled between Washington and the six banned countries); Decl. of K.  
15 Oline ¶¶ 3-7 (in 2015, travelers from the Middle East spent \$96 million in Washington,  
16 including more than \$9 million in state and local tax revenue); 2d Am. Compl. ¶ 126 (Oregon  
17 received 670,000 international travelers in 2016); 2d Amend. Compl. ¶ 63 (in 2015, California  
18 received 286,000 visitors from the Middle East, who spent approximately \$681 million  
19 generating \$49,372,500 in tax revenue); *see also* Decl. of A. Lavine ¶ 17 (would-be foreign  
20 tourists have canceled plans to attend events in New York because of executive orders).  
21 Tourism is particularly critical to the economy of California, supporting more than 500,000  
22 jobs in Los Angeles alone. 2d Amend. Compl. ¶ 66. In addition, the States will lose income tax  
23 revenue from lost jobs, as several organizations will be forced to terminate employees who  
24 work with refugees. *See* Decl. of R. Birkel ¶ 8; Decl. of L. Po Cha ¶ 7; Decl. of H. Kenyon ¶¶  
25 7-8; Decl. of E. Hassett ¶ 21. The States may also lose tax revenue as a result of decreasing  
26 hospital revenues caused by physician shortages. Decl. of R. Fullerton ¶ 22.

1           Additionally, the States’ businesses will be harmed by the Second Executive Order. For  
2 example, many companies are dependent on foreign workers to operate and grow their  
3 businesses. *See, e.g.*, Decl. of A. Blackwell-Hawkins ¶¶ 3-4 (Amazon); Decl. of R. Dzielak ¶¶  
4 4, 7 (Expedia); Decl. of J. Simeone ¶¶ 5, 7 (Etsy); Decl. of J. Truppman ¶¶ 2-4 (Casper Sleep  
5 Inc.). The Second Executive Order affects their ability to retain employees from the six  
6 affected countries as well as from other Muslim-majority nations, which affects their ability to  
7 compete in the global marketplace. *See e.g.*, Decl. of M. Rosenn ¶¶ 2-4, 8 (Kickstarter, a New  
8 York company, anticipates that the Second Executive Order will negatively impact its ability to  
9 recruit and retain employees from Muslim-majority nations); Decl. of D. Pashman ¶¶ 4, 6-8  
10 (Meetup, New York based company, expressing similar concerns); Decl. of J. Simeone ¶¶ 5, 7  
11 (Etsy, New York corporation, same). The uncertainty created by the Second Executive Order  
12 also impacts business operations. *E.g.* Decl. of S. Buell ¶ 8 (uncertainty about employees’  
13 ability to travel harms the ability of MongoDB, a New York company, to serve its customers);  
14 *see also* Decl. of J. Truppman ¶¶ 5-6 (uncertainty about immigration policy imposes financial  
15 and administrative burdens on Casper Sleep Inc.).

16           Other businesses that will be harmed include those in real estate. Real estate companies  
17 have already lost customers over concerns about immigration policy and President Trump’s  
18 Executive Orders. Decl. of M. Saunders ¶¶ 7-15 (Washington based real estate brokerage  
19 company Redfin has lost at least five potential customers who decided not to purchase homes);  
20 *See also* Decl. of P. Johnson ¶¶ 3-7 (Washington mortgage consultant lost two clients due to  
21 First Executive Order). These businesses lose potential revenue each time a customer ends his  
22 or her home buying search before buying a home, and they will continue to incur business  
23 costs assisting and advising customers who may be affected by the Second Executive Order.  
24 *See* Decl. of M. Saunders ¶¶ 7, 13.

25           Local travel companies will also be devastated by the Second Executive Order. The  
26 uncertainty and anxiety created by the First Executive Order forced travel companies to cancel

1 many trips, which significantly impaired their business and operations. Decl. of R. Zawaideh  
2 ¶¶ 3-6 (Washington travel company forced to cancel more than 20 tours, company has lost  
3 “almost all of its revenue,” and business “has completely evaporated”); Decl. of S. Topiwala ¶¶  
4 6-9 (by forcing travel company to cancel pilgrimage to Iraq, the First Executive Order had a  
5 “significant negative financial impact” on travel company); *see also* Decl. of R. Dzielak ¶¶ 12-  
6 14 (uncertainty surrounding First Executive Order created “significant difficulties for the  
7 operation of Expedia’s business”). These harms will continue as a result of the Second  
8 Executive Order.

#### 9 **4. Health Care**

10 The Second Executive Order will harm the States’ health care systems. For one, it  
11 impedes the States’ efforts to ensure that residents in rural and underserved areas receive health  
12 care. Recruitment of foreign-born physicians is critical to the States’ efforts to address Health  
13 Professional Shortage Areas and their need for primary care, dental health, and mental health  
14 physicians. Decl. of R. Fullerton ¶¶ 5-7, 14-19; Decl. of M. Akhtari ¶¶ 13, 16-17; Decl. of M.  
15 Overbeck ¶¶ 3-5; 2d Amend. Compl. ¶¶ 60-61. The Second Executive Order, like the first, will  
16 significantly harm recruitment efforts. *See* Decl. of M. Overbeck ¶¶ 4-7; Decl. of R. Fullerton  
17 ¶¶ 17-19. This, in turn, will harm patients in underserved areas. When there is a shortage of  
18 physicians, patients may have to delay treatment, travel long distances for care, or go without  
19 care altogether. Decl. of R. Fullerton ¶¶ 18-19.

20 The Second Executive Order will also harm the States’ best-known health care  
21 institutions. Hundreds of physicians from the banned countries work in the States. Decl. of M.  
22 de Leon ¶¶ 6-8; Decl. of M. Akhtari ¶¶ 5-9, 14; Decl. of E. Scherzer ¶¶ 6, 12; Decl. of T.  
23 Johnson ¶ 13. The States’ health care institutions will have trouble retaining these physicians  
24 and recruiting other qualified physicians. The States’ health care employers have already lost  
25 highly qualified physicians due to the uncertainty created by the First Executive Order. *E.g.*  
26 Decl. of R. Fullerton ¶¶ 17, 19 (multiple Washington healthcare employers lost physician

1 candidates from the affected countries). These losses will undoubtedly continue. *See* Decl. of  
2 S. Hemmati ¶¶ 1, 4, 7-8 (postdoctoral research fellow at Cancer Research Center at Albert  
3 Einstein College of Medicine in New York may not be able to renew visa and will likely leave  
4 United States); Decl. of R. Eskandari ¶ 6 (postdoctoral scientist at Memorial Sloan Kettering  
5 Cancer Center unsure whether she will be able to renew visa and continue cancer research);  
6 Decl. of E. Scherzer ¶¶ 10 (medical students will likely elect to do residency abroad). As a  
7 result, these institutions will also suffer a reduction in revenue, as physicians are the central  
8 revenue generators for hospitals. Decl. of R. Fullerton ¶ 22.

9 The Second Executive Order will also harm the States' medical schools, particularly  
10 those that participate in the National Resident Matching Program, which includes schools in  
11 the States. *E.g.* Decl. of M. Collins, MD ¶¶ 6-9 (Massachusetts); Decl. of E. Scherzer ¶¶ 15-17  
12 (New York); 2d Amend. Compl. ¶ 59 (California). After the First Executive Order, these  
13 institutions had significant concerns about extending residency offers to medical students from  
14 the banned countries. *See* Decl. of M. Collins, MD ¶¶ 6-9. These concerns are still present, as  
15 the Second Executive Order will ban travel for nationals from six of the seven countries.

## 16 5. Religious Organizations

17 The Second Executive Order will harm members of the States' diverse faith  
18 communities and religious organizations. Many of the States' residents perform refugee  
19 resettlement or ministry as part of an organizational or religious mission. Decl. of D. Duea ¶¶  
20 2, 8 (Lutheran Community Services Northwest); Decl. of Rabbi W. Berkovitz ¶¶ 1-5, 10, 12  
21 (Jewish Family Service of Seattle); Decl. of R. Birkel ¶ 3 (Catholic Charities of Oregon). The  
22 Second Executive Order will prevent these organizations from administering services to  
23 hundreds of refugees. Decl. of D. Duea ¶¶ 7-8 (Lutheran Community Services Northwest will  
24 be unable to provide assistance to between 100 and 200 refugees); *see also* Decl. of Rabbi W.  
25 Berkovitz ¶ 13 (Jewish Family Services of Seattle expects to resettle 65 additional refugees in  
26 fiscal year 2017). By preventing these individuals and organizations from providing services to

1 refugees, the Second Executive Order prevents them from exercising their beliefs and fulfilling  
2 their missions. *See, e.g.*, Decl. of D. Duea ¶ 8 (work with refugees “is a religious calling” and  
3 one way in which [Christians] serve [their] faith”); Decl. of Rabbi W. Berkovitz ¶¶ 10 (refugee  
4 resettlement services “is a critical way that Jewish individuals and families in the Puget Sound  
5 region are able to fulfill their religious, cultural, and historical obligations”).

6 In addition, the Second Executive Order will have a financial impact on religious  
7 organizations that provide refugee services. If refugees are not permitted to enter the United  
8 States, these organizations will lose revenue. Decl. of R. Birkel ¶¶ 5-7 (Catholic Charities of  
9 Oregon will lose \$310,000 of government funding during the 120 day period); Decl. of H.  
10 Kenyon ¶ 8 (Ecumenical Ministries of Oregon would lose \$75,000 per year in government  
11 funding). The refugee ban will also result in staffing reductions and will threaten the  
12 organizations’ continued ability to operate. Decl. of D. Duea ¶ 9 (Lutheran Community  
13 Services Northwest will be forced to terminate half of its refugee assistance staff); Decl. of H.  
14 Kenyon ¶¶ 7-8 (Ecumenical Ministries of Oregon will have to terminate entire refugee  
15 resettlement staff and may have to reduce staffing in other areas); Decl. of R. Birkel ¶ 8  
16 (Catholic Charities may terminate 7 full time employees); Decl. of L. Warren ¶¶ 17-18  
17 (Catholic Family Center of Rochester, New York, may have to terminate employees). Reduced  
18 staffing, in turn, may also directly impact previously resettled refugee clients. Decl. of R.  
19 Birkel ¶ 10; *see also* J. Sime ¶ 12 (reduction in resources jeopardizes continued services for  
20 refugees in United States).

## 21 **6. Sovereign interests**

22 Finally, the Second Executive Order will violate the States’ sovereign interests in  
23 preventing the federal government from establishing a favored or disfavored religion and in  
24 creating and enforcing anti-discrimination laws. Through their state statutory schemes, the  
25 States all prohibit discrimination on the basis of religion and national origin. *See generally*  
26 Rev. Code Wash. § 49.60.030(1); Cal. Gov. Code § 12900 *et. seq.*; Cal. Civ. Code §51; Md.

1 Code Ann., State Gov't § 20-101 to 1203; Md. Code Ann., State Fin. & Proc. § 19-101; Mass.  
2 Gen. Laws, ch. 151B; N.Y. Exec. Law, art. 15; Or. Rev. Stat. § 659A.006. In addition to  
3 enforcing these laws, the States are bound by them in their capacities as employers, educators,  
4 and providers of public services. The breadth and generality of the ban on admission of  
5 individuals from six countries effectively nullifies provisions of state anti-discrimination law  
6 applicable to state-regulated entities and the States themselves. This displacement of state law  
7 injures the core sovereignty of the States.

### 8 III. CONCLUSION

9 For the foregoing reasons, Washington respectfully requests that the Court grant leave  
10 to file the Second Amended Complaint submitted concurrently herewith.

11  
12 RESPECTFULLY SUBMITTED this 13th day of March 2017.

13  
14 ROBERT W. FERGUSON  
15 Washington Attorney General

16 *s/ Robert W. Ferguson*  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

March 13, 2017

*s/ Noah G. Purcell*  
NOAH G. PURCELL, WSBA 43492

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