

DECLARATION OF DEIRDRE HEATWOLE

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

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

CIVIL ACTION NO. 2:17-cv-00141-JLR

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 Acting Secretary of State; and the
UNITED STATES OF AMERICA,

Defendants.

I, Deirdre Heatwole, hereby declare as follows:

1. I am General Counsel for the University of Massachusetts (“UMass” or “University”). UMass is public land grant university with five campuses located in Amherst, Boston, Dartmouth, Lowell and Worcester, Massachusetts, with administrative offices in Shrewsbury and Boston. I have been employed at the University in this capacity since 2009, and have been employed as an attorney in the University’s legal office for a total of 27 years.

1 My current duties include oversight of all the University’s legal work, and supervising the
2 attorneys in my office who provide legal advice and assistance to the offices that serve and
3 support students and employees, and the offices which support and promote the University’s
4 many international associations and opportunities for both students and faculty.

5 2. I have either personal knowledge of the matters set forth below or, with respect
6 to those matters for which I do not have personal knowledge, I have reviewed information
7 gathered from University records by others within the organization, including the numbers of
8 students and employees and their various home countries.

9 3. The March 6, 2017 Executive Order entitled “Protecting the Nation from Foreign
10 Terrorist Entry into the United States” (“Revised Executive Order”) will negatively affect the
11 ability of the University to continue to offer excellent public education in undergraduate,
12 graduate, and professional programs at affordable rates. This in turn will affect UMass’ ability
13 to provide a well-educated workforce for the Commonwealth, reducing the significant amount
14 of business and tax revenue these UMass-educated workers provide to the Commonwealth.
15 UMass is the only public land-grant university in the Commonwealth, and the only public
16 university authorized to award doctoral degrees. Additionally, the UMass Medical School at
17 Worcester is the only public medical school in the Commonwealth, and UMass School of Law
18 at the Dartmouth campus is the only public law school in the Commonwealth.

19 4. The University currently employs approximately 130 people who are from the six
20 countries referenced in the Revised Executive Order (Syria, Iran, Somalia, Sudan, Libya, and
21 Yemen, or the “affected countries”), and who are neither U.S. citizens nor lawful permanent
22 residents and are therefore not exempted from the Revised Executive Order (hereinafter, “visa
23 holders”).

24 5. Specifically, these approximately 130 visa-holder employees from the affected
25 countries are employed in positions including, but not limited to, Visiting Faculty, Associate
26 Lecturer, Researcher, Post-Doc, Graduate Teaching Assistant, Research Assistant, and

1 Graduate Medical Education Resident. These employees are located on all of our campuses
2 and in a wide variety of academic departments.

3 6. The University currently has approximately 155 enrolled students who are from the
4 six affected countries and who are neither U.S. citizens nor lawful permanent residents.
5 Approximately 100 of these students are also among the University's employees, including, for
6 example, as graduate teaching and research assistants.

7 7. For at least the period of the 90-day entry ban, all of the University's single-entry
8 visa holders from the six affected countries whose visa date stamps expire before the end of the 90-
9 day period will be unable, absent a discretionary waiver (the obtaining of which is deeply uncertain),
10 to return to the United State and to their schooling or work at the University if they travel abroad—
11 whether for personal, academic or professional reasons, or to renew their visas. Of course, the delay
12 in their ability to return may be considerably longer, given the need to obtain a visa following
13 expiration of the 90-day period.

14 8. Like the Executive Order 13769 issued on January 27, 2017, the Revised Executive
15 Order will have a significant negative impact on the ability to UMass to operate its core business:
16 education and research. The impact will be financial as well as reputational. UMass is a top-ranked
17 research institution and must hire highly qualified research faculty from around the world to
18 continue our significant research enterprise. UMass spent over 650 million dollars last year in its
19 research enterprise.

20 9. UMass needs to fill dozens of tenure track positions each academic year. The time
21 required to identify, evaluate, and negotiate with potential new faculty and researchers takes many
22 months, and the Revised Executive Order will interfere with that process for the 2017-2018
23 academic year. The month of March is part of the peak time (spanning from January through
24 March) for interviews of candidates, typically three to six candidates per position. Such interviews
25 can extend into May. Typically, new teaching faculty will start in the fall semester, such that offers
26 will need to be made and finalized in the spring. Offers are typically given February through May—

1 a period largely overlapping with the Revised Executive Order’s 90-day entry ban. Prospects who
2 accept offers will also need to move family and secure housing by summer and thus will need to
3 obtain visas by that time.

4 10. Given the Revised Executive Order’s 90-day entry ban, in conjunction with the
5 decision by USCIS to suspend premium processing on H-1B work status, departments within the
6 University are considering delaying their candidate selection and interview processes, aiming for a
7 spring 2018 rather than fall 2017 start date. Such delays would mitigate the Revised Executive
8 Order’s impact on the selection of the strongest candidates for each position, but they would leave
9 empty positions that will need to be filled for the fall 2017 semester. The entry ban and the
10 continuing level of uncertainty because of the Revised Executive Order will thus delay and may
11 prevent the University from actively recruiting international faculty and related personnel. This
12 will translate into thousands of additional dollars spent by each campus, delays in research efforts,
13 and potential delays or loss of federal funding for new research.

14 11. UMass operates in a very competitive research environment but does not have the
15 financial resources of many of our sister institutions in the Commonwealth. We have limited
16 financial resources to provide affected faculty incentives to come to Massachusetts or to offer other
17 support or resources that might mitigate the impact of the Revised Executive Order on them or their
18 families. As a result, the Revised Executive Order’s negative effects on recruitment of top
19 international candidates may fall more heavily on UMass as an institution than on institutions with
20 greater resources.

21 12. The Revised Executive Order provisions allowing for potential discretionary
22 “waivers” of the entry ban for particular applicants from the affected countries does not
23 meaningfully diminish the uncertainty around hiring that was created by Executive Order 13769
24 and continued by the Revised Executive Order. For example: a student wishing to visit an ailing
25 family member back in his home country, a faculty member wishing to attend a conference abroad
26 that is important to obtaining tenure, or prospective students or faculty members all will not be able

1 to count on the existence of a discretionary waiver of the ban on entering the United States. The
2 Revised Executive Order thus curtails travel opportunities outside the United States for holders of
3 single-entry or expired visas from the affected countries. Although such visa-holders always need
4 to apply for a visa to re-enter the United States if they travel outside the country, the Revised
5 Executive Order greatly diminishes or eliminates the possibility of getting such a visa. It thus
6 effectively precludes from international travel visa-holders who wish to remain in school or remain
7 employed in the United States.

8 13. The Revised Executive Order will negatively affect the University's ability to
9 continue to attract and enroll students from the six affected countries. The University's
10 admissions processes for graduate and undergraduate programs vary across the University's five
11 campuses. Most campuses are still admitting students for fall 2017 enrollment. Following
12 admission, students are sent a Form I-20 to use in applying for the F-1 international student visa
13 stamp. The University begins sending admitted students Form I-20s in the late winter and early
14 spring. Most Form I-20s are sent in April, May, and June, for fall enrollment. Therefore, the
15 impact of the Revised Executive Order's 90-day suspension will occur during "high season" for
16 international student visa processing for the 2017-2018 academic year.

17 14. Although, as described, the admissions season is still in process, and the
18 University is just beginning sending Form I-20s to admitted international students, UMass has
19 already extended at least 40 offers of admission for the 2017-2018 academic year to prospective
20 undergraduate and graduate students who are nationals of these countries. We expect to extend
21 additional offers in the coming weeks.

22 15. Higher education is very much international in nature. Students, faculty,
23 researchers, and staff regularly travel all over the world to participate in conferences, exchange
24 programs, seminars, and symposia with fellow students abroad. The manner in which Executive
25 Order 13769 was issued and implemented: as an abrupt travel ban, with no advance notice and
26 with no guidance, and without notice of implicit visa revocations, has made all travelers who are

1 not United States citizens concerned about whether they can continue to move about the world.
2 The Revised Executive Order perpetuates that uncertainty, barring entry of travelers from six
3 countries for 90 days, absent a discretionary waiver. Prospective students and faculty have many
4 options and they can certainly elect to attend or work at schools in the UK, Africa, or the EU,
5 rather than risk travel to the United States.

6 16. It has required a considerable outlay of scarce resources to mitigate the effects of
7 federal action that has been so immediate and is constantly changing. Efforts to identify affected
8 UMass individuals outside the United States started within hours of notice of Executive Order
9 13769. In the weeks thereafter, UMass was continually gathering data on the impact from a variety
10 of sources: official federal statements, news reports, internal immigration updates prepared and
11 sent to senior administrators, outreach to the international campus community in the form of legal
12 resources, and discussions with retained immigration counsel. Additionally, UMass has had to
13 create an internal crisis communication structure for alerting senior leadership and management of
14 immigration changes with campus level task forces closely monitoring executive actions, initiating
15 outreach to impacted members of the campus community, and identifying needs and resources.
16 Retained outside counsel has repeatedly been engaged to assist in these campus community support
17 efforts. Following conflicting statements from the federal government about whether Executive
18 Order 13769 would be rescinded, UMass was forced to continue preparing to respond to and
19 mitigate its effects while awaiting further action. Upon issuance of the Revised Executive Order,
20 the University was once again forced to devote additional resources to analyze the Revised
21 Executive Order's impact on our faculty and other employees, students, medical residents, and
22 graduate and undergraduate admissions processes; to consult with retained immigration counsel
23 regarding the same; to craft guidance for our campuses on how to respond and advise administrators
24 on ongoing business operations; and once again offer support to very concerned campus
25 communities—all to account for the additional 90-day entry ban.

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1 17. For academic institutions, the timing of the Revised Executive Order is particularly
2 challenging with respect to both faculty hiring, as discussed above, and student admissions. UMass
3 campuses have been issuing offers of admission for some weeks and will continue to do so for the
4 next several months. Students have a short time to review offers and make decisions. Generally,
5 students will be required to confirm their acceptance by paying a fee to secure their space, and some
6 may be hesitant to do so in light of concerns about the two executive orders. In turn, the University's
7 calculation of whom to admit is now jeopardized by having to take into account whether a student
8 from an affected country might be willing to accept, or instead, will decide not to attend UMass.
9 Campuses are attempting to adjust to the current environment, but they are limited in what they can
10 do as long as the actual terms and effects of the Revised Executive Order remain unclear.

11 18. These concerns all speak to potential long term financial and reputational damage
12 to UMass – the quality of its students, researchers, faculty and staff will decline, UMass's reputation
13 as a top research institution will decline, federal funding for research will decline, and enrollment
14 will decline. A decrease in applications or enrollment at UMass will reduce revenue to the
15 Commonwealth.


16 19. UMass, an institution with over 150 years of service to the Commonwealth, years
17 of continued growth, and a strong commitment to its mission, is very seriously concerned about the
18 long-term impact of the executive orders on its future. The Revised Executive Order significantly
19 impairs the University's ability to recruit and retain a diverse faculty and staff, and to teach and
20 support a diverse student body, enriched by a culture of inclusiveness and a high quality of
21 international research participants. It will take years for UMass to recover from the financial and
22 reputational damage due to the loss of personnel, students, programs, grants.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 10th day of March, 2017


Deirdre Heatwole