

DECLARATION OF JONATHAN TRUPPMAN

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

STATE OF WASHINGTON, et al.,

Plaintiff,

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; TOM SHANNON, in his official capacity as Acting Secretary of State; and the UNITED STATES OF AMERICA,

CASE NO. C17-00141 (JLR)
DECLARATION OF JONATHAN
TRUPPMAN, ESQ.

Declaration of Jonathan Truppmann, Esq.

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am over the age of 18 and competent to testify.
2. I am General Counsel of Casper Sleep Inc. ("Casper"). I am responsible for Casper's day-to-day legal operations, including commercial and corporate transactions, litigation, and regulatory compliance. On an as-needed basis, I help Casper employees and their families obtain immigrant and non-immigrant visas, and ensure Casper's compliance with applicable immigration laws. I have been employed by Casper with these general responsibilities since 2015.
3. Casper is a technology-driven e-commerce company that has upended the mattress industry with our obsessively engineered mattress and other sleep-related products. Casper's success is, in large part, a function of our relentless focus on finding and hiring the best employees. Casper employs

approximately 274 people in our offices and retail stores in New York, California, the United Kingdom and Germany. We hire without regard to race, gender, age, sexual orientation, national origin, politics or faith, and are committed to building a diverse workforce. Our employees come to Casper from all over the United States and the world. Together, we are building a global business.

4. On January 27, 2017, President Trump signed an Executive Order, "Protecting the Nation from Foreign Terrorist Entry into the United States" (the "First Executive Order"). On March 6, 2017, President Trump signed a new Executive Order (the "Second Executive Order" and collectively, the "Executive Orders") that, in the words of his senior advisers, adopts "the same basic policy" as the first. In particular, the policy purports to reinstate two provisions of the First Executive Order: (1) a 90-day ban on entry of persons from several Muslim-majority countries, and (2) a 120-day suspension of the U.S. Refugee Admissions Program. *See* First Executive Order §§ 3(c), 5(a) (imposing these bans), and ECF No. 52, at 5 (enjoining §§ 3(c), 5(a)), and Second Executive Order §§ 2(c), 6(a) (reinstating these bans). Collectively, the Executive Orders immediately – and negatively – impacted Casper's ability to hire the best candidates and grow our business.

5. First, the Executive Orders have induced anxiety in current employees who are non-US citizens, all of whom have proper work authorization and are essential to our operations. Casper employs at least a dozen non-US citizens in its three US offices, and many more in our offices abroad. Although none of these individuals is from one of the Muslim-majority countries included in the Executive Orders, they are nonetheless reasonably worried about their immigration status and ability to travel to and from the United States. The Executive Orders themselves promise to ban individuals from additional countries if those nations do not provide information the Secretary of State deems necessary to approve visas. *See* First Executive Order § 3(e)-(f); Second Executive Order § 2. A few weeks ago, these employees could focus on their work and their families, secure in the knowledge that their green cards or work visas could not be suddenly and arbitrarily revoked. That confidence is now broken. Given the capricious nature of the Executive Orders, both in their substance and their implementation, I cannot assure our non-US citizen employees that, if they continue to abide by settled immigration laws, they will be able to live and

work in the United States.

6. Second, the Executive Orders are unclear. While there is no absolute right to the maintenance or continuation of a visa, Casper relies on predictability in the visa and green card system, and on U.S. immigration laws that are clear and enforced by immigration authorities who have constrained and reasonable discretion. The Executive Orders overturned settled immigration rules by imposing new and burdensome restrictions on entry into the United States. In addition, the Executive Orders give the Departments of Homeland Security and States the power to make "case-by-case" exceptions, but do not specify any criteria for issuing exceptions. Because individual immigration officers appear to have unconstrained discretion in issuing exceptions, it is unclear what exemptions will be given, or why—and whether that authority is being exercised fairly and without discrimination. Without clear immigration rules, I cannot advise Casper's hiring managers as to what rules apply to their current non-US citizen reports and non-US citizens they are interviewing for open positions. This uncertainty not only imposes additional financial and administrative burdens on Casper's business operations, it also hinders Casper's ability to invest in the growth necessary to create even more jobs in the future. The swift replacement of the First Executive Order with the Second Executive Order only compounds this uncertainty.


7. Third, the Executive Orders will make it more difficult for Casper to recruit. In light of the Executive Orders, Casper must re-evaluate its approach to hiring non-US citizens (even though, by law, Casper is not permitted to discriminate against non-US citizens who have proper work authorization). When deciding whether to hire a non-US citizen, we must weigh not only the cost of sponsoring or obtaining a visa for such a candidate, but also the risk that such a candidate will be unexpectedly turned back at the border. Given the shifting interpretations of the Executive Orders by the White House and Departments of Homeland Security and State, I cannot advise a candidate who does not appear to be included in the current interpretation of the Executive Orders that she will not be included in the next interpretation—or indeed the next Executive Order. As a result of this uncertainty, skilled individuals who are non-US citizens will be dissuaded from immigrating to the United States and working

for Casper, where they may be cut off without warning from their spouses, grandparents, relatives, and friends. The Executive Orders will make it more difficult and expensive for Casper to hire the world's best talent, and more risky for non-US citizens to join Casper—which in turn will impede us from competing in the global marketplace.

8. Finally, the Executive Orders have negatively impacted Casper's ability to expand internationally. By significantly limiting the ability of non-US citizens to travel to and from the United States, the Executive Orders inhibit Casper's ability to create an integrated global workforce. Non-US citizens employed in Casper's international offices need to travel back and forth from our offices in the United States, and the Executive Orders makes such travel more risky. More fundamentally, the Executive Orders inhibit Casper's global expansion because they decrease the value of American products and American companies competing in the global marketplace. An important element of Casper's success is that it is an American company committed to American values, selling distinctively designed-in-America products. The values that we are committed to include the belief that America is a country founded and built by immigrants, and that we are accepting of all faiths and creeds. The Executive Orders compromise those values, and as a result compromise American companies competing in the global marketplace.

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

Executed on this 11 day of March, 2017.



Jonathan Truppmann
General Counsel
Casper Sleep Inc.