

THE HONORABLE JAMES L. ROBERT

**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.

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

[PROPOSED] ORDER GRANTING  
TEMPORARY RESTRAINING ORDER

Motion Noted: March 15, 2017

STATE OF OREGON,

Intervenor-Plaintiff,

v.

DONALD TRUMP, et al.,

Intervenor-Defendants.

1 **INTRODUCTION**

2 This matter comes before the Court on the emergency motion for a Temporary  
3 Restraining Order by the states of Washington and Oregon (“Moving States”).<sup>1</sup> Having  
4 considered the motion, Defendants’ response, if any, and the argument of the parties, if any,  
5 the Court GRANTS the Moving States’ emergency motion for a 14-day Temporary  
6 Restraining Order effective at 12:01am on March 16, 2017. The Court enters the following  
7 findings of fact and conclusions of law.

8 **PROCEDURAL BACKGROUND**

9 On February 3, 2017, the Court granted the States’ Motion for a Temporary Restraining  
10 Order, enjoining portions of Executive Order 13769 entitled “Protecting the Nation from  
11 Foreign Terrorist Entry into the United States” (“First Executive Order”). ECF 52. The  
12 Temporary Restraining Order enjoined and restrained Defendants and their respective officers,  
13 agents, servants, employees, attorneys, and persons acting in concert or participation with  
14 them, from enforcing Sections 3(c) and 5(a) of the First Executive Order, among other  
15 provisions. *Id.* at IV(1)(a) and (b).

16 On February 4, 2017, Defendants appealed to the United States Court of Appeals for  
17 the Ninth Circuit and sought an emergency stay of the Temporary Restraining Order pending  
18 appeal. ECF 53; 9th Circuit ECF 14. In denying Defendants’ emergency motion for a stay, the  
19 Ninth Circuit construed the Temporary Restraining Order as a preliminary injunction. 9th  
20 Circuit ECF 68 at 7-8; ECF 78, at 4.

21 On March 6, 2017, the President signed Executive Order 13780, also entitled  
22 “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Second  
23 Executive Order”). The Second Executive Order is scheduled to take effect at 12:01am on  
24 March 16, 2017. The Second Executive Order contains two provisions – Sections 2(c) and  
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26 <sup>1</sup> The states of California, Maryland, Massachusetts, New York, and Oregon are parties to a proposed  
Second Amended Complaint and join the Moving States’ request for temporary injunctive relief.

1 Section 6(a) – which temporarily suspend the entry of nationals of Iran, Libya, Somalia, Sudan,  
2 Syria, and Yemen for 90 days as well as the entry of all refugees for 120 days.

3 **FINDINGS OF FACT & CONCLUSIONS OF LAW**

4 The Court finds it has jurisdiction over Defendants and the subject matter of this  
5 lawsuit. The States notified Defendants and substantially complied with the requirements of  
6 Federal Rule of Civil Procedure 65(b). The Court deems no security bond is required under  
7 Federal Rule of Civil Procedure 65(c).

8 To obtain a temporary restraining order, the Moving States must establish 1) a  
9 likelihood of success on the merits; 2) that irreparable harm is likely in the absence of  
10 preliminary relief; 3) that the balance of equities tips in the Plaintiff’s favor; and 4) that an  
11 injunction is in the public interest. *Winter v. Nat’l Res. Def. Council, Inc.*, 555 U.S. 7, 20  
12 (2008).

13 The Court finds that the Moving States have satisfied these standards and that the Court  
14 should issue a Temporary Restraining Order. The Moving States have shown that they are  
15 likely to succeed on the merits of the claims that would entitle them to relief. Specifically, the  
16 Moving States have shown it likely that Defendants violated the Immigration and Nationality  
17 Act’s prohibition against national origin discrimination and that Sections 2(c) and 6(a) of the  
18 Second Executive order likely violate the Establishment Clause and the constitutional  
19 guarantees of Equal Protection and Due Process.

20 The Moving States have also shown that they are likely to suffer irreparable harm in the  
21 absence of preliminary relief. Section 2(c) of the Second Executive Order directly impacts state  
22 public universities and other institutions of higher learning, the provision of health care, and  
23 state tax revenue. *See* ECF 95-104; 118-4 to 118-50. Sections 2(c) and 6(a) both impact state  
24 residents, including residents who seek to reunify with immigrant and refugee family members  
25 and state organizations that assist in resettling refugees. Sections 2(c) and 6(a) also harm the  
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1 Moving States' interest in being free from efforts by the federal government to express a  
2 religious preference. These harms are significant and ongoing.

3 The Court concludes the balance of the equities favor the Moving States; and a  
4 Temporary Restraining Order to preserve the status quo is in the public interest.

5 Accordingly, the Court concludes that a time-limited Temporary Restraining Order  
6 against Defendants is necessary until such time as the Court can hear and decide the States'  
7 request for a preliminary injunction.

### 8 **TEMPORARY RESTRAINING ORDER**

9 Accordingly, it is hereby ORDERED that Defendants and their officers, agents,  
10 servants, employees, attorneys, and all members and persons acting in concert or participation  
11 with them, from the date of this Order, are:

- 12 1. Enjoined and restrained from enforcing Section 2(c) of the Second Executive Order  
13 to suspend the entry of nationals from Iran, Syria, Sudan, Libya, Somalia and  
14 Yemen, based on their national origin.
- 15 2. Enjoined and restrained from enforcing Section 6(a) of the Second Executive Order  
16 to suspend the travel of refugees into the United States or the U.S. Refugee  
17 Admissions Program.

18 The Court hereby orders the following briefing schedule for the Moving States' motion  
19 for a preliminary injunction: Plaintiffs shall file their motion for a preliminary injunction no  
20 later than March 20, 2017 at 5:00pm PDT; Defendants shall file their opposition no later than  
21 March 24, 2017 at 5:00pm PDT; and Plaintiffs shall file their reply in support of their motion  
22 no later than March 27, 2017 at 5:00pm PDT. A hearing on Plaintiffs motion is set for March  
23 \_\_\_\_ at \_\_\_\_ am.

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IT IS SO ORDERED.

DATED this \_\_\_\_\_ day of March, 2017.

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UNITED STATES DISTRICT JUDGE

Presented by:

\_\_\_\_\_  
BOB FERGUSON, WSBA #26004  
Attorney General  
NOAH G. PURCELL, WSBA #43492  
Solicitor General  
COLLEEN M. MELODY, WSBA #42275  
Civil Rights Unit Chief  
ANNE E. EGELER, WSBA #20258  
Deputy Solicitor  
MARSHA CHIEN, WSBA #47020  
PATRICIO A. MARQUEZ, WSBA #47693  
Assistant Attorneys General  
Office of the Attorney General  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(206) 464-7744  
Noahp@atg.wa.gov