

SECOND  
DECLARATION OF  
DEIRDRE  
HEATWOLE

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

STATE OF WASHINGTON et al.,  
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.

**DECLARATION OF DEIRDRE HEATWOLE, ESQ.**

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.

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

10 3. The September 24, 2017 Presidential Proclamation entitled "Presidential  
11 Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into  
12 the United States by Terrorists or Other Public-Safety Threats" ("Proclamation") will negatively  
13 affect the ability of the University to continue to offer excellent public education in  
14 undergraduate, graduate, and professional programs at affordable rates. This, in turn, will affect  
15 UMass' ability to provide a well-educated workforce for the Commonwealth, reducing the  
16 significant amount of business and tax revenue these UMass-educated workers provide to the  
17 Commonwealth. UMass is the only public land-grant university in the Commonwealth, and the  
18 only public university authorized to award doctoral degrees. Additionally, the UMass Medical  
19 School at Worcester is the only public medical school in the Commonwealth, and UMass School  
20 of Law at the Dartmouth campus is the only public law school in the Commonwealth.

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23 4. The University currently employs approximately 25 individuals who are nationals  
24 of the eight countries referenced in the Proclamation (Chad, Iran, Libya, North Korea, Syria,  
25 Venezuela, Yemen and Somalia, or the "affected countries") and who are not lawful permanent  
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1 residents of the United States. These individuals are employed in positions including, but not  
2 limited to, Post-Doctoral Fellow, Researcher, Lecturer, and Medical Resident. These individuals  
3 work on all of the University's campuses and for a wide variety of academic departments.

4           5.       As a result of the Proclamation, it is currently unclear whether these employees will  
5 be able to travel abroad for personal or professional reasons with any confidence that they will be  
6 permitted to return to the United States. Certainly, their families and friends who are fellow  
7 nationals cannot travel to the United States to visit them.

8           6.       Each year, the University needs to fill dozens of academic and research positions.  
9 Each year, in order to fill those positions, the University hires approximately 12 employees from  
10 the affected countries in positions such as Assistant Professor, Lecturer, Postdoc Fellow, and  
11 Medical Resident. While some of these employees obtain work authorization while already in  
12 the United States, some do not. In recent years, the University has hired a number of nationals  
13 of the affected countries who were living abroad—most if not all Iranian nationals—and who  
14 came to the United States on an H-1B or O-1 visa issued at a consulate abroad.

15           7.       The Proclamation will severely interfere with the University's ability to hire such  
16 individuals in the future. For example, the University will no longer be able to hire Iranian  
17 nationals living abroad on H-1B or O-1 visas, absent a discretionary "waiver," which is unlikely  
18 to be granted for an individual without prior contacts in the United States.

19           8.       The Proclamation will also adversely affect the University's ability to hire and retain  
20 nationals of the affected countries because it will curtail travel opportunities outside the United  
21 States for new employees who are holders of single-entry or expired visas from the affected  
22 countries. Although such visa-holders always need to apply for a visa to re-enter the United States  
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1 if they travel outside the country, the Proclamation greatly diminishes or eliminates the possibility  
2 of getting such a visa. If such visa-holders wished to remain employed in the United States, they  
3 would therefore be effectively unable to travel internationally to visit family—for a wedding, or  
4 funeral, or any other occasion—or for professional reasons such as conferences or research.  
5 And, as with current employees, their families and friends from their home countries would be  
6 unable to visit them in the United States.  
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8         9. Each of UMass’s employees from the affected countries was at one time a national  
9 of an affected country applying at a consulate abroad for a visa for the first time. Many of these  
10 individuals would not be employed by or enrolled in the University today had the Proclamation  
11 been in effect at the time that they first sought entry to the United States. Given the indefinite nature  
12 of the Proclamation, it will adversely affect the University’s future hiring and student enrollment  
13 indefinitely into the future.  
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15         10. The University currently has approximately 180 students from the affected countries  
16 (including six students from Syria) who are not lawful permanent residents. These students include  
17 undergraduates as well as graduate students who serve as teaching assistants, research assistants,  
18 and in other roles. As with the University’s employees from the affected countries, the  
19 Proclamation imposes greater uncertainty as to whether these students will be able to return to the  
20 United States from trips to visit family or for academic or professional reasons. Their fellow-  
21 national families and friends, too, cannot visit them in the United States. And each of these  
22 students, too, was at one time a national of an affected country, applying at a consulate abroad for  
23 an F-1 or other visa for the first time. The Proclamation will severely interfere with the University’s  
24 ability to attract such students in the future.  
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1           11.     In the case of Syria, the University may never again be able to enroll a Syrian student  
2 living abroad on an F-1 visa, absent a discretionary “waiver,” which appears unlikely to be granted  
3 for an individual without prior contacts in the United States. In the case of Iran, it is unclear to what  
4 extent the undefined “enhanced screening and vetting requirements” referenced in the Proclamation  
5 will limit students’ ability to obtain visas.  
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7           12.     Like the two prior Executive Orders of January 27, 2017 and March 6, 2017, the  
8 Proclamation will likely have a negative impact on the ability of UMass to operate its core business:  
9 education and research. The impact will likely be financial as well as reputational. UMass is a top-  
10 ranked research institution and must hire highly qualified research faculty from around the world  
11 to continue our significant research enterprise. UMass spent over 650 million dollars last year in  
12 its research enterprise.  
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14           13.     The Proclamation purports to be an indefinite measure affecting UMass far into the  
15 future. It also arrives amidst continuing uncertainty engendered by constantly changing federal  
16 actions announced with limited or no notice and implemented with inadequate guidance.  
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18           14.     The Proclamation and associated uncertainty will likely delay and may prevent the  
19 University from actively recruiting international faculty, researchers, and related personnel. This  
20 may translate into thousands of additional dollars spent by each campus, delays in research efforts,  
21 and potential delays or loss of federal funding for new research.

22           15.     UMass operates in a very competitive research environment but does not have the  
23 financial resources of many of our sister institutions in the Commonwealth. We have limited  
24 financial resources to provide affected faculty incentives to come to Massachusetts or to offer other  
25 support or resources that might mitigate the impact of the Proclamation on them or their families.  
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1 As a result, the Proclamation’s negative effects on recruitment of top international candidates may  
2 fall more heavily on UMass as an institution than on institutions with greater resources.

3         16. The Proclamation’s provisions allowing for potential discretionary “waivers” of the  
4 entry ban for particular applicants from the affected countries does not meaningfully diminish the  
5 uncertainty around hiring and recruitment that was created by the prior Executive Orders.  
6 Prospective students or faculty members will not be able to count on the existence of a discretionary  
7 waiver of the ban on entering the United States.  
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9         17. Higher education is very much international in nature. Students, faculty,  
10 researchers, and staff regularly travel all over the world to participate in conferences, exchange  
11 programs, seminars, and symposia with fellow students abroad. The manner in which the  
12 Proclamation and the two prior Executive Orders were issued has made all travelers who are not  
13 United States citizens concerned about whether they can continue to move about the world. The  
14 Proclamation perpetuates that uncertainty, effectively barring substantial numbers of travelers  
15 from the affected countries, absent a discretionary waiver. Prospective students and faculty have  
16 many options and they can certainly elect to attend or work at schools in the UK, Africa, or the  
17 EU, rather than risk travel to the United States. In response to the Proclamation and the  
18 uncertainty surrounding its implementation, the University has advised nationals of the affected  
19 countries to exercise caution before engaging in nonessential international travel, and to consider  
20 not departing the United States at all.  
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23         18. It has required a considerable outlay of scarce resources to mitigate the effects of  
24 federal action that has been so immediate and is constantly changing. Efforts to identify affected  
25 UMass individuals outside the United States started within hours of notice of the first Executive  
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1 Order. In the weeks thereafter, UMass was continually gathering data on the impact from a variety  
2 of sources: official federal statements, news reports, internal immigration updates prepared and  
3 sent to senior administrators, outreach to the international campus community in the form of legal  
4 resources, and discussions with retained immigration counsel. Additionally, UMass has had to  
5 create an internal crisis communication structure for alerting senior leadership and management of  
6 immigration changes with campus level task forces closely monitoring executive actions, initiating  
7 outreach to impacted members of the campus community, and identifying needs and resources.  
8 Retained outside counsel has repeatedly been engaged to assist in these campus community support  
9 efforts. Upon issuance of the Proclamation, the University was once again forced to devote  
10 additional resources to analyze the Proclamation's impact on our faculty and other employees; to  
11 craft guidance for our campuses on how to respond and advise administrators on ongoing business  
12 operations; and once again to offer support to very concerned campus communities.  
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15 19. For academic institutions, the Proclamation is particularly challenging with respect  
16 to both academic hiring, as discussed above, and student admissions. UMass campuses typically  
17 begin issuing offers of admission in mid-December and continue on a rolling basis through mid-  
18 July. Students have a short time to review offers and make decisions. Generally, students will be  
19 required to confirm their acceptance by paying a fee to secure their space, and some may be hesitant  
20 to do so in light of concerns about the Proclamation. In turn, the University's calculation of whom  
21 to admit is now jeopardized by having to take into account whether a student from an affected  
22 country might be willing to accept, or instead, will decide not to attend UMass. UMass  
23 administrators have already been advised to plan for F-1 visa delays for the affected countries, and  
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1 to prepare to make admissions decisions for students from the affected countries on an expedited  
2 basis.


3           20.     These concerns all speak to potential long term financial and reputational damage  
4 to UMass – the quality of its students, researchers, faculty and staff will decline, UMass’s reputation  
5 as a top research institution will decline, federal funding for research will decline, and enrollment  
6 will decline. A decrease in applications or enrollment at UMass will reduce revenue to the  
7 Commonwealth.  
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9           21.     UMass, an institution with over 150 years of service to the Commonwealth, years  
10 of continued growth, and a strong commitment to its mission, is very seriously concerned about the  
11 long-term impact of this indefinite Proclamation on UMass’s future. The Proclamation will likely  
12 impair the University’s ability to recruit and retain a diverse faculty, researchers, medical residents  
13 and staff, and to teach and support a diverse student body, enriched by a culture of inclusiveness  
14 and a high quality of international research participants. It may take years for UMass to fully  
15 understand the potential financial and reputational damage due to the loss of personnel, students,  
16 programs, grants caused by the Proclamation and the two preceding Executive Orders.  
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11<sup>th</sup> day of October, 2017

  
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Deirdre Heatwole