

The Honorable James L. Robart

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

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States, *et al.*,

Defendants.

No. 2:17-cv-00141 (JLR)

**DEFENDANTS' NOTICE OF INTENT
TO OPPOSE PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER**

Noted For Consideration:
October 16, 2017

On October 11, 2017, Plaintiffs filed a Motion to Lift Stay of Proceedings, ECF No. 193; a Motion for Leave to File Third Amended Complaint, ECF No. 194; and a Motion for Temporary Restraining Order, ECF No. 195 ("TRO Motion"). Plaintiffs seek to lift the stay currently in effect in this case so that they can seek a temporary restraining order against enforcement of the Proclamation issued by the President on September 24, 2017. *See* Proclamation No. 9645, *Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public Safety Threats*, 82 Fed. Reg. 45,161 (Sept. 27, 2017).

Defendants do not believe their time to respond to Plaintiffs' TRO Motion begins to run unless and until the Court lifts the stay of proceedings that is currently in place.¹ In an

¹ Defendants have not opposed Plaintiffs' motion to lift the stay.

1 abundance of caution, however, Defendants are filing this notice, pursuant to Local Rule
2 65(b)(5), to indicate that Defendants do intend to oppose Plaintiffs' TRO Motion once the stay
3 is lifted.

4 Plaintiffs have proposed that Defendants' opposition to the TRO Motion should be due
5 by 12:00 noon Pacific Daylight Time (PDT) on Sunday, October 15, 2017. Plaintiffs have
6 further proposed that the Court schedule a hearing on the TRO Motion for 1:00 p.m. PDT on
7 October 16, 2017—before the Proclamation goes into effect on October 18. Defendants do not
8 believe this proposed schedule is reasonable.

9 It is not necessary or appropriate for the Court to decide Plaintiffs' TRO Motion before
10 October 18, because there will be no irreparable injury to Plaintiffs from a brief delay in entry
11 from the Proclamation while the issues in their motion are adjudicated on a reasonable briefing
12 schedule. Defendants believe a reasonable schedule would provide Defendants with 14 days
13 after the stay is lifted to file their opposition; and Plaintiffs could file a reply 7 days thereafter.
14 Any less time for Defendants would be prejudicial, as Plaintiffs have created any emergency by
15 using up more than 70% of the delay in the Proclamation's effective date before filing their
16 TRO Motion. Plaintiffs waited 17 days after the Proclamation was issued to file their motion,
17 despite knowing the Proclamation would take effect after 23 days. Defendants should not be
18 disadvantaged—nor the Court burdened—by Plaintiffs' delay.

19 If the Court is nevertheless inclined to rule on Plaintiffs' TRO Motion by October 18,
20 then Defendants respectfully request that they be given until 9:00 a.m. PDT on Monday,
21 October 16, 2017 to file their opposition. This deadline is less than two-and-a-half business
22 days after Plaintiffs filed their TRO Motion (and the voluminous exhibits attached to their
23 proposed third amended complaint). In addition, this deadline would not require Defendants to
24 file a brief on a Sunday (as Plaintiffs propose in their schedule). Defendants also note that a
25 preliminary injunction hearing in another challenge to the Proclamation is already scheduled
26 for the afternoon that Plaintiffs propose for a hearing in this case. Specifically, in *International*
27 *Refugee Assistance Project v. Trump*, No. 8:17-cv-00361-TDC (D. Md.), the plaintiffs moved
28 for a preliminary injunction on October 6, and the district court has scheduled a hearing for

1 2:00 p.m. Eastern Daylight Time on October 16, 2017. Therefore, if the Court decides to
2 schedule a hearing on Plaintiffs' TRO Motion, Defendants respectfully request that it not be
3 scheduled on October 16. The District Court for the District of Hawaii has indicated that it
4 intends to rule on the plaintiffs' TRO motion in that case without a hearing. *See Hawaii v.*
5 *Trump*, No. 17-cv-00050-DKW-KSC, ECF No. 366 (D. Haw. Oct. 6, 2017). And, in a fourth
6 case challenging the Proclamation, *Pars Equality Center v. Trump*, No. 17-cv-255 (D.D.C.), the
7 court has ordered Defendants to respond to the plaintiffs' preliminary injunction motion by
8 October 19, 2017, and has set a hearing for November 2, 2017. *See* ECF No. 105.

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10 DATED: October 12, 2017

Respectfully submitted,

11 CHAD A. READLER
12 Acting Assistant Attorney General

13 JENNIFER D. RICKETTS
14 Director, Federal Programs Branch

15 JOHN R. TYLER
16 Assistant Director, Federal Programs Branch

17 /s/ Michelle R. Bennett
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28 *Attorneys for Defendants*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on October 12, 2017, I electronically filed the foregoing Notice of
3 Intent to Oppose Plaintiffs' Motion for Temporary Restraining Order.
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5 /s/ Michelle R. Bennett
6 MICHELLE R. BENNETT
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