

THIRD
DECLARATION OF
ERIC SCHERZER

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

STATE OF WASHINGTON; STATE OF CALIFORNIA; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF NEW YORK; and STATE OF OREGON,

Plaintiffs,

v.

DONALD J. TRUMP, in his official Capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; ELAINE C. DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security; REX TILLERSON, in his official capacity as Secretary of State; and the UNITED STATES OF AMERICA,

Defendants.

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

DECLARATION OF ERIC SCHERZER

Pursuant to 28 U.S.C. § 1746(2), I, Eric Scherzer, hereby declare as follows:

- I am the Executive Director of the Committee of Interns and Residents/SEIU Healthcare (“CIR”), a national union representing interns, residents, and fellows in the medical field. CIR is headquartered in New York City and our California Regional office is located in Alameda, California. As the Executive Director, I am in communication with CIR members in order to understand the day-to-day problems and issues confronting members in their workplaces. I work with our work site organizers to address and resolve concerns that members bring to our attention, which range from issues that impact their work

1 environment to larger social and political advocacy items that impact the patients they care
2 for. I attend meetings with our members and have numerous one-on-one conversations with
3 our member leaders.

- 4 2. I have personal knowledge of the statements set forth below. The legal department of
5 SEIU's International office, headquartered in Washington, D.C., assisted in gathering
6 information related to these statements in conjunction with the CIR legal department and
7 CIR's former California Regional Director.
- 8 3. CIR is the oldest and largest housestaff union in the country, representing more than 15,000
9 interns, residents, and fellows in all specialties in public and private hospitals across the
10 country. CIR members include interns, residents, and fellows in California, New York,
11 New Jersey, New Mexico, Massachusetts, Florida, and Washington, D.C. and comprise
12 approximately 13% of all U.S. resident physicians.
- 13 4. CIR represents over 4,000 resident physicians in the State of California and is the major
14 union representing medical interns, residents, and fellows in the state. Many of these CIR
15 members work in safety-net and university hospitals in California. CIR represents members
16 in Los Angeles County Hospital-USC Medical Center, Los Angeles County – Harbor –
17 UCLA Medical Center, U.C. San Francisco Medical Center, U.C. Irvine Medical Center,
18 Alameda Health System - Highland Hospital and others in California. A breakdown of
19 resident physicians that CIR represents in each of the State of California hospitals and
20 clinics is attached as Exhibit A.
- 21 5. President Trump's September 24, 2017 Proclamation "Presidential Proclamation Enhancing
22 Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by
23 Terrorists or Other Public Safety Threats" ("Proclamation") causes serious harm to CIR
24 members. Although we do not collect visa information, I know from personal experience
25 that CIR members in many of the county and university hospitals are foreign physicians in
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1 the United States on temporary visas. CIR members are also citizens and nationals of many
2 of the countries listed in the Proclamation. The Proclamation affects nationals of Chad,
3 Iran, Libya, Somalia, Syria, Yemen, North Korea, and Venezuela seeking to travel to the
4 United States.

- 5 6. The Proclamation followed a March 6, 2017 Executive Order and an earlier January 27,
6 2017 Executive Order, both of which were halted by nationwide preliminary injunctions.
7 Shortly after the January 27, 2017 Executive Order went into effect, CIR issued a notice
8 advising all nationals of the affected countries not to travel outside of the United States. We
9 also warned foreign nationals from other countries not listed in the January 27, 2017
10 Executive Order to avoid international travel. We cautioned other members on visas to
11 travel outside of the United States only after consideration of the possible risks associated
12 with travel during this unpredictable time.
- 13
- 14 7. The Proclamation continues to harm CIR members and potential CIR members from the
15 listed countries. The Proclamation states that individuals from the eight countries may
16 apply for a waiver to enter the United States based on several factors including hardship, if
17 entry would not pose a national security risk and if entry would be in the national interest.
18 However, there is little guidance on how the waivers could be obtained. Moreover, the
19 waivers are discretionary, and there is no review of the denial of a waiver.
- 20
- 21 8. Also families of CIR members from many of the listed countries may be prohibited from
22 entering the United States. Some interns and residents obtain non-immigrant visas in
23 advance of their spouses and children in order to get settled and facilitate their families'
24 adjustment to life in the United States. Under the Proclamation, family members of many
25 physicians hoping to join their CIR spouse or parent in the United States would be
26 prevented from receiving a non-immigrant visa after October 18, 2017. CIR members are
27 harmed directly when their family members are prohibited from entering the United States.
28

1 In my conversations with CIR members, I have learned the importance of the emotional and
2 day-to-day support and assistance family members provide to interns and residents who
3 work on average 80 hours a week and sometimes more. The well-being of CIR members
4 will be adversely impacted if separated from family members due to the September 24,
5 2017 Proclamation.

- 6 9. In California, CIR held meetings with CIR members following the harrowing experience of
7 a Sudanese CIR member, a second-year resident in Internal Medicine at Interfaith Medical
8 Center in Brooklyn. This resident was denied entry back into the United States on his valid
9 H-1B visa after he attempted to return to the United States from a short trip to Sudan. He
10 was only able to return following an order issued by a district court judge in the Western
11 District of Washington that halted the implementation of the January 27, 2017 Executive
12 Order. The January 27, 2017 Executive Order and the denial of entry to this Sudanese CIR
13 member caused great concern to doctors, patients, and hospitals throughout California. In
14 response to these concerns, CIR staff organized meetings of CIR members to discuss the
15 negative impact of the Executive Order on the stability of patient care including what would
16 happen to CIR member' s patients if CIR members were unable to return to the United
17 States from trips abroad. CIR members also voiced concern about their patients'
18 expressions of fear following the issuance of the two Executive Orders and the
19 Proclamation. Patients were fearful of attending medical appointments or coming to the
20 hospital for any reason. In February 2017, Alameda Health System, a hospital where CIR
21 represents members, sent out information to patients welcoming them to the hospital to
22 encourage patients to come to the hospital if needed. The Alameda Health System notice is
23 attached as Exhibit B.

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27 **Harm to Residents of California**
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1 10. A significant number of doctors in California are citizens and nationals of the countries
2 listed in the Proclamation. These physicians are responsible for the lives of thousands of
3 Californians, and residents of California are reliant on the medical services that these
4 physicians provide. CIR members see patients in clinics and hospitals throughout the state
5 of California in areas of particular need such as Bakersfield. Although CIR does not
6 compile statistics regarding the religious preferences of our members, many of our
7 members originate from countries with Muslim majority populations. I believe that the
8 Proclamation will prevent many doctors from the listed nations from participating in
9 residency programs in the United States and serving the people of California.
10

11 11. I know that the experts in the field estimate a significant shortage of physicians in the next
12 seven years. As Californians age and more care is required for the Baby Boom generation,
13 this shortfall is projected to increase. The shortage of physicians will have negative
14 consequences for medically underserved communities in California in urban areas such as
15 Los Angeles, Oakland, and San Francisco where CIR members working in county hospitals
16 provide essential care as well as hospitals in the Central Valley of California such as
17 Bakersfield. CIR members are concerned that fewer patients will be able to obtain
18 preventative and non-emergency care, and more people will be forced into seeking higher
19 cost emergency room care.
20

21 12. The shortage of even one physician can have serious implications for the safety-net
22 hospitals in which many CIR members work. In meetings and one-on-one conversations
23 with CIR members, I've learned the difficulties of managing patient care when a physician
24 is ill or unable to work for any reason.
25

26 13. CIR immigrant physicians provide much needed culturally sensitive care. A multicultural
27 group of physicians provides Californians with a workforce capable of establishing trust
28 with patients of all nationalities and religions. Establishing trust with patients is one of the

1 cornerstones of effective patient care. Without a trusting relationship between patients and
2 physicians, information that is critical for diagnosis and treatment is difficult to obtain.
3 Culturally sensitive care that creates trusting patient-physician relationships is especially
4 important in California, a state whose population is one of the most diverse in the nation.

5 **Uncertainty in Non-immigrant Visa Issuance Limits Residency Programs and Exacerbates**
6 **Physician Shortages**

7 14. The vagaries in the process of extending and renewing H-1B visas, the impact of travel
8 outside the United States on visa renewal, the process of obtaining waivers of the Executive
9 Order restrictions, and other visa processing issues negatively affect CIR members and
10 potential members. These interns and residents have begun to consider seeking alternate
11 training and long-term work in other countries like Canada, the United Kingdom, or
12 Australia, rather than face the uncertainty caused by the Proclamation and the prior
13 Executive Orders.
14

15 15. The lack of certainty in obtaining non-immigrant visas also impacts the process of
16 recruiting medical school graduates to residency programs in California and throughout the
17 United States. This highly competitive process, known as the National Resident Matching
18 Program ("the Match"), which pairs medical school graduates with hospital residency
19 programs, will be compromised if medical graduates from the listed countries are matched
20 with residency programs and then not issued the non-immigrant visa required for entry into
21 the United States and participation in the residency programs. International medical school
22 graduates participating in the Match must spend years preparing for the requirements and
23 investing substantial funds. There are numerous examinations to prepare for and pass, as
24 well as travel to the United States to participate in in-person interviews at residency
25 programs. If the medical school graduate is successful in the Match process and is from one
26 of the listed countries, many will be required to obtain a waiver and non-immigrant visa.
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1 All residents must enter the United States prior to July 1 to begin their residency training.
2 Because the waiver application is completely discretionary, medical school graduates from
3 the listed countries may look to residency programs in Europe and Australia rather than
4 waste time, energy and resources in applying to residency programs in the United States.
5 Although residency programs in California are considered highly desirable, these
6 limitations in obtaining a non-immigrant visa will impact all residency programs in the
7 United States, even the highly sought-after programs in California. Currently hospitals are
8 beginning to interview medical school graduates for next year's residency class. Nationals
9 of Iran and Syria, who are prohibited from entering the United States on non-immigrant
10 visas under the Proclamation, may not be able to take the mandatory exams and participate
11 in in-person residency interviews. Even if they are granted a waiver for these purposes, they
12 are not guaranteed a visa if they are matched with a residency program and hospitals may
13 decide not to rank these medical school graduates regardless of their qualifications.

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16 16. I believe that the failure to train these highly qualified medical school students will
17 translate into a less qualified physician workforce over time. At a time when international
18 medical school graduates constitute nearly one quarter of all physicians in the United
19 States, the Proclamation erodes confidence in the possibility of participating in U.S.
20 residency programs and is detrimental to maintaining a sufficient number of top quality
21 physicians in the United States.

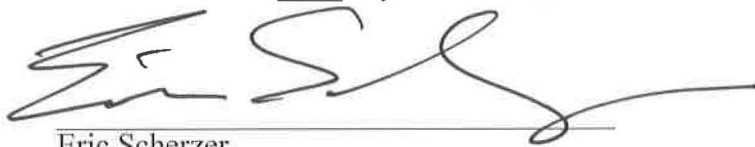
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23 17. The process of becoming a trained and competent physician is one that requires tremendous
24 sacrifices and challenges, including long hours, years of education and training,
25 responsibility for the lives and well-being of patients, and often hundreds of thousands of
26 dollars of debt. The Proclamation increases the hurdles that already exist for international
27 medical school graduates. CIR members from the listed countries confront insecurity about
28 their future as physicians in the United States. Even following completion of residency

1 programs, CIR members who wish to continue living in the United States will need to
2 obtain extensions of H-1B visas or in the case of physicians in the United States on J-1
3 visas, waivers of the foreign residency requirement. The process of extending visas or
4 obtaining waivers is now further complicated by the Proclamation. The stress and worries
5 that international physicians face affects not just those individuals, but their patients, their
6 colleagues, their hospitals, and the medical system as a whole. Patients may worry that their
7 doctors will not be able to continue caring for them. U.S. physicians are concerned that
8 there will be gaps in coverage if their colleagues are not available, and that their own
9 workload will increase. Hospitals must rethink "matching" the most qualified interns and
10 residents if international medical school graduates are not permitted to enter the United
11 States in a timely manner and commence training. The medical system as a whole must
12 compensate for the decreased quality of the physician workforce.

14 18. The Proclamation will likely continue to cause great injury to CIR members, the hospitals
15 where they train, and the communities that they serve.

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

20 Executed on this 17 day of October, 2017

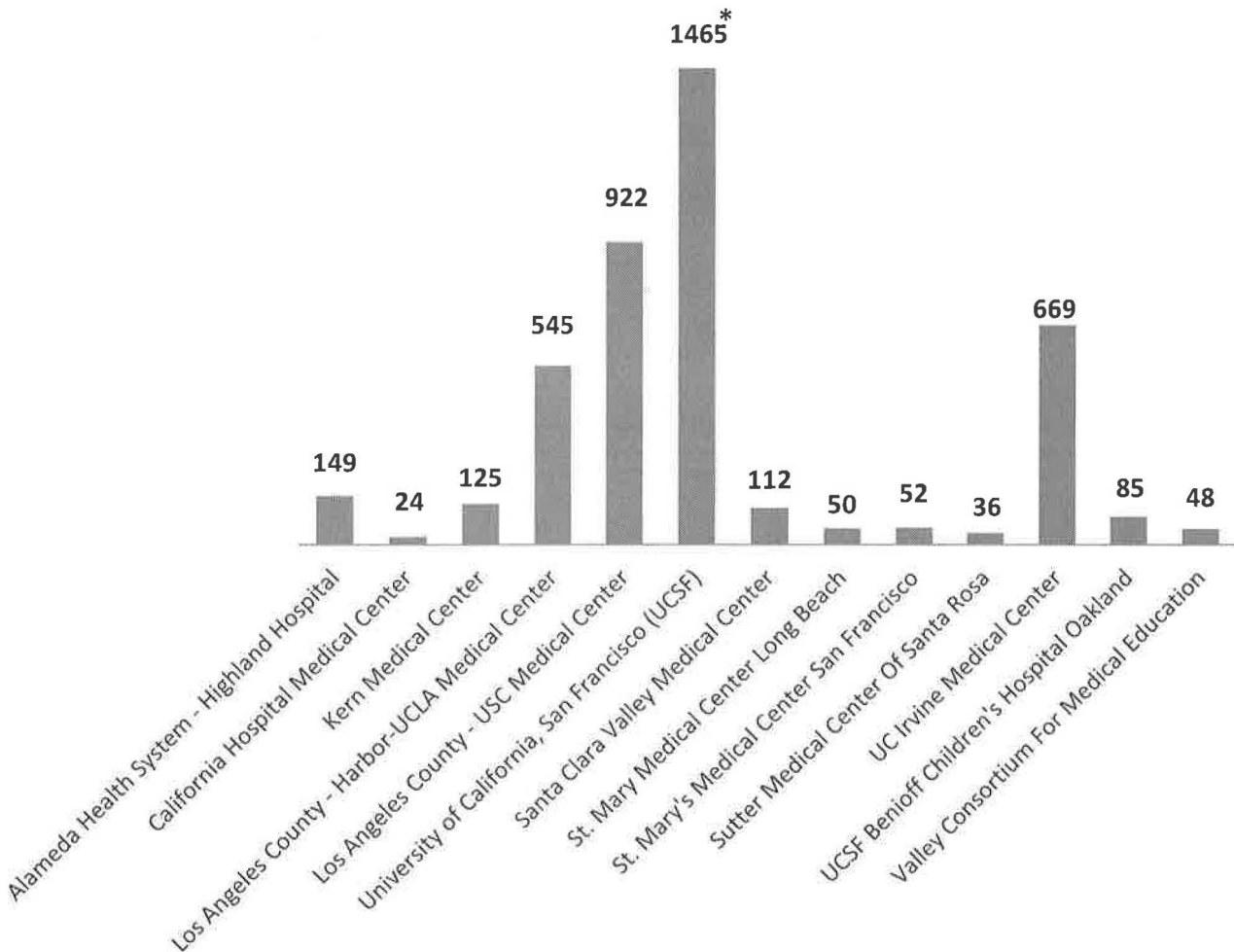
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22 Eric Scherzer
23 Executive Director
24 Committee of Interns and Residents/SEIU Healthcare

Exhibit A



California Residents Represented by CIR



* Residents at UCSF serve patients at both the Zuckerberg San Francisco General Hospital and the San Francisco VA Medical Center.

Exhibit B

- [News & Press](#)
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Alameda Health System Reaffirms Commitment to Serving All

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Alameda Health System Reaffirms Commitment to Serving All

AHS Board of Trustees Issues Resolution in Response to Recent Immigration Policy Changes

Oakland, Calif. (Feb. 21, 2017) – The Alameda Health System (AHS) Board of Trustees has adopted a resolution reaffirming the health system's commitment to providing healthcare services for all, including vulnerable populations and the uninsured, without regard to income, ethnicity, sexual orientation, gender identification or citizenship.

As an integrated public health care system, which is committed to improving the health and wellness of all people, particularly vulnerable populations and the uninsured, AHS wants to reassure all that they can seek care at all of our facilities without fear.

The AHS Immigration Resolution affirms that AHS and all its facilities, medical staff members, employees and contractors will treat all patients who require its services without regard to race, color, religion, national origin, citizenship or immigration status.

A copy of the resolution is available [here](#).

About Alameda Health System

Alameda Health System (AHS) is a leading public health care provider and medical training institution recognized for its world-class patient and family-centered system of care. Our mission, Caring, Healing, Teaching, Serving All, reflects our commitment to promoting wellness, eliminating disparities and optimizing the health of all communities in Alameda County. We currently provide more than 4,500 jobs and are home to more than 1,100 physicians across nine facilities, including five hospitals and a network of community-based wellness centers. For more information, visit AlamedaHealthSystem.org.

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