HONORABLE JAMES L. ROBART

Harry E. Ries
P.O. Box 1849
Moses Lake, WA 98837

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON, 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 UNITEDSTATES OF AMERICA, Defendants.	CIVIL ACTION NO. 2:17-CV-00141-jlr DECLARATION IN OPPOSITION TO POSITION TAKEN BY STATE OF WASHINGTON AND IN CONTINUED REPRESENTATION BY WASHINGTON ATTORNEY GENERAL

HARRY E. RIES hereby declares as follows:

I am a resident of the State of Washington, and have been since 1948. I reside in Grant County, Washington. I graduated from Moses Lake High School in 1966, served honorably in the United States Marine Corps from 1966 to 1968,

graduated from the University of Washington in 1977, and graduated with honors from Gonzaga School of Law in December, 1979. I was admitted to the Washington State Bar Association in the spring of 1980, and remain a member. I was engaged in the private practice of law for approximately 35 years until I accepted a judicial appointment as Commissioner of the Grant County Superior Court in 2015.

I write this Declaration to voice my opposition to the position asserted by the Attorney General of the State of Washington in his *COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF* (hereinafter referred to as "COMPLAINT") filed with this Court. Further, I write this Declaration to express my belief that the Attorney General of the State of Washington cannot ethically or legally pursue this action on behalf of the corporations and individuals that he purports to represent. I do not submit this declaration in any professional capacity. Instead, I submit it merely as a lifelong resident of the State of Washington.

I am one of over one million, two hundred thousand Washington residents who voted for and supported, and still support, the Honorable Donald Trump, President of the United States. In the COMPLAINT filed in this action, the Attorney General of the State of Washington states:

> "9. The State's interest in preventing and remedying injuries to the public's health, safety, and well-being extends to all of the State's residents, including individuals who suffer indirect injuries and members of the general public."

I am certainly a "resident", as are many others whose interests are not being represented by the Attorney General of the State of Washington in the present litigation.

According to the language of the COMPLAINT, the action taken by the Attorney General of the State of Washington arises as a reaction to Executive Order 13769, signed by President Trump on January 27, 2017. According to the plain language of that executive order, its purpose is to provide protection to the citizens and residents of the United States, including residents of the State of Washington. Executive Order 13769 is directly authorized by the United States Congress in its grant of exclusive authority to the President under 8 U.S.C. § 1182(f) to suspend the entry of any or all aliens for such period as he shall deem necessary, or impose any restrictions on entry that he deems appropriate.

The Attorney General of the State of Washington alleges that many immigrants who are residents of the State of Washington are employed by Microsoft, Amazon, Expedia and Starbucks, and states:

> "The market for highly skilled workers and leaders in the technology industry is extremely competitive.

> Changes to U.S. immigration policy that restrict the flow of people may inhibit these companies' ability to adequately staff their research and development efforts and recruit talent from overseas. If recruiting efforts are less successful, these companies' abilities to develop and deliver successful products and services may by adversely affected."

COMPLAINT, ¶ 13.

Apparently, at least 76 Microsoft employees might be affected by the executive order. Some Amazon employees may be affected. The executive order may cause Expedia to incur increased business costs. The executive order may impact 230 college students, 13 individuals, and "an unknown number of Washington residents from the affected countries".

The COMPLAINT goes on to allege that the executive order (1) violates the equal protection rights of these known and unknown persons; (2) violates the establishment clause because it prefers one religion over another; (3) violates the due process of these individuals; (4) discriminates in the issuance of visas; (5) denies certain individuals the right to apply for asylum; (6) forecloses the ability of some to apply for relief under the Convention Against Torture; (7) may prevent certain people from practicing their religion while in detention, or from taking religious holidays, and thereby violates the Religious Freedom Restoration Act; and (8) somehow violates the Administrative Procedures Act. All of these

"causes of action", so states the Attorney General of the State of Washington, "causes ongoing harm to Washington residents."

The COMPLAINT, while couched in terms of representing the State of Washington, is nothing more than a civil action on behalf of Microsoft and some of its employees, Amazon, Expedia, Starbucks, 230 college students, and some other unknown persons. It is not, however, an action that "extends to all of the State's residents".

The Attorney General of the State of Washington has stated on his official website:

> "State law *prohibits* the Attorney General, deputy attorneys general, and assistant attorney generals from engaging in the private practice of law.
>
> This means that they cannot represent private citizens in court either to bring an action on behalf of an individual, or to defend an individual.
>
> Any private citizen needing such representation should consult a private attorney."

Taken from the website of the Washington State Office of the Attorney General: atg.wa.gov – Roles of the Office.

I have previously expressed my concerns to the Attorney General of the State of Washington in a letter directed to Robert Ferguson dated February 8, 2017. I have attached a copy of that letter to this Declaration.

In that letter, I point out to the Attorney General that I believe he has a conflict of interest. The Attorney General is representing one small class of Washington residents (and non-residents) to the exclusion of the class of residents to which I belong. I would define that class as a class of Washington residents who believes that Executive Order 13769 as signed by the President of the United States on January 27, 2017, is a lawful executive order by the President designed to protect citizens and residents of the United States, including residents of the State of Washington, without regard to their political beliefs. Further, that class is made up of individuals who believe that additional measures to screen immigrants are legal and appropriate to ensure the safety of all members of the class, all residents of the State of Washington, and all other citizens and residents of the United States. Finally, that class believes that the plain language of the executive order does not implicate the religious beliefs or freedoms of those who might be affected by its enforcement.

While Microsoft and Starbucks are certainly entitled to equal protection of the law, so certainly am I and other similarly situated persons who are also residents of the State of Washington. But, what neither Microsoft, Starbucks nor I are entitled to is to have the Attorney General of the State of Washington bring a civil action to protect our private interests. This would hold true for the 76

Microsoft employees, 230 college students and other individuals referred to the COMPLAINT.

The Attorney General of the State of Washington also states in the COMPLAINT that the issues raised are matters of public concern. With that I agree. However, my public concern is quite different than the public concern espoused by the Attorney General. The Attorney General also states:

> "The State also has an interest in ensuring that its residents are not excluded from the benefits that flow from participation in the federal system, including the rights and privileges provided by the U.S. Constitution and federal law."

COMPLAINT, ¶ 8

I can only assume that what is meant by the above-quoted language is that being able to enjoy the benefits of the federal system, "including the rights and privileges provided by the U.S. Constitution and federal law" only applies to residents of the State of Washington who agree with the interpretation of the U.S. Constitution and federal law as pronounced by the Attorney General of the State of Washington. I do not agree with that interpretation. Nor, do I believe that the Attorney General of the State of Washington should be able to force his politically motivated interpretation upon me, in the name of protecting my interests as a resident of this State.

I, and other similarly situated persons, have been labeled as deplorable, bigot, racist, misogynist, narcissistic, fascist, Nazi, homophobic, uneducated, unintelligent, and poorly informed, as well as countless other disparaging terms (or non-disparaging depending upon your point of view) for voicing our support for the President of the United States. While I could take the time to deny each such label, that denial would be absolutely irrelevant and meaningless to those who have placed those labels upon me. Whether I am any of those things, all of those things, or none of those things, I am still entitled to the same representation as those whom the Attorney General of the State of Washington purports to represent in this litigation. My views, concerns and fears are no less important, and no less worthy. Yet, in this litigation they are treated as if nonexistent. While I am sure that we are all concerned with a better cup of coffee, is it really the role of the Attorney General of the State of Washington to protect the research and development capabilities of Starbucks, Microsoft, Expedia, and Amazon, to the exclusion of the rights of other residents of the State of Washington? I, for one, would hope not.

I am quite sure that the court is not interested in my views concerning the merits of the action filed on behalf of the residents of the State of Washington. This Declaration has nothing to do with the merits, if there are any. I simply

want to make sure that the court is aware that the interests of a large number of Washington residents are not being addressed by the Attorney General of the State of Washington, regardless of what he might say otherwise. In fact, quite to the contrary, they are being ignored.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 15 day of February, 2017 at Ephrata, Washington.

HARRY E. RIES
Resident of the State of Washington

February 8, 2017

Robert W. Ferguson
Attorney General of the State of Washington
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188

RE: State of *Washington v. Donald Trump, et al.*
United States District Court, Western District of Washington No. 17-35105

Mr. Ferguson:

I am a resident of Grant County, State of Washington. I have read and considered the *Complaint for Declaratory and Injunctive Relief* filed by you on behalf of a group of Washington residents, a small group of Washington businesses, and two public universities, in the United States District Court for the Western District of Washington. I have also read and considered Executive Order 13769, signed by President Donald Trump on January 27, 2017.

This letter is to formally advise you that I do not share the views that you allege in the *Complaint*. Nor do I share the legal conclusions you reach. I believe that Executive Order 13769 is a proper exercise of presidential authority as granted by the United States Constitution and the laws of the United States. I also firmly believe that the State of Washington lacks judicial standing to assert the claims it asserts, and lacks authority to prosecute this action on behalf of the individuals, companies and universities it purports to represent.

This letter will serve as my demand that, to the extent the State of Washington asserts any position in the above-entitled legal action, that it assert my position as well.

In *the Complaint* you allege:

> "7. The State's interest in protecting the health, safety, and well-being of its residents, including protecting its residents from harms to their physical or economic health, is a quasi-sovereign interest.
>
> . . .
>
> 9. The State's interest in preventing and remedying injuries to the public's health, safety, and well-being extends to all of the State's residents, including individuals who suffer indirect injuries and members of the general public."

It is my belief that Executive Order 13769 is designed solely to protect me and my fellow citizens. I see your "political grandstanding" as a direct threat to my health and safety, and a direct threat to the health and safety of millions of other residents of this State, whether they share my views or not. I expect you to prevent and remedy injuries to my health, safety, and well-being. You specifically acknowledge that to be the "interest" of this State.

Rule 1.7 of the Rules of Professional Conduct states as follows:

> "**(a)** Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
>
> (1) the representation of one client will be directly adverse to another client; or
>
> (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
>
> **(b)** Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
>
> (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
>
> (2) the representation is not prohibited by law;
>
> (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
>
> (4) each affected client gives informed consent, confirmed in writing (following authorization from the other client to make any required disclosures)."

Based upon what is asserted in the *Complaint*, I am of the opinion that you will be unable to "provide competent and diligent representation" to me. You have a conflict of interest. You do not have my consent to further the political agenda set forth in your *Complaint*. Nor do you have my consent to state, directly, indirectly or otherwise, that you represent the residents of the State of Washington.

Very truly yours,

HARRY E. RIES
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