The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

MOTION FOR CLASS CERTIFICATION

NOTING DATE: BY STIPULATION[1]

ORAL ARGUMENT REQUESTED

[1] The parties have stipulated, and the Court has ordered, that Defendants shall file a response to this motion within fourteen (14) days of the Ninth Circuit's ruling in *Hawai'i v. Trump*, and that Plaintiffs shall file a reply in support of class certification within seven (7) days after Defendants file their response. *See* Dkt. No. 18.

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I. INTRODUCTION

Plaintiffs move for class certification in their action challenging Executive Order 13780, titled "Protecting the Nation from Foreign Terrorist Entry into the United States," 82 Fed. Reg. 13209 (Mar. 9, 2017) ("EO-2"). EO-2 is in substance and design the same as President Trump's first Executive Order [Executive Order 13769, also titled "Protecting the Nation from Foreign Terrorist Entry into the United States," 82 Fed. Reg. 8977 (Feb. 1, 2017)] ("EO-1"). And it is part and parcel of President Donald Trump's unwarranted and unprecedented attempt to use his executive power to implement a Muslim ban by categorically banning nationals of six predominantly Muslim countries[2] ("Designated Countries") and refugees and their families from entering the United States in violation of the Constitution and federal law.

Caught in the crosshairs of Defendants' attempt to fulfill President Trump's campaign promises to "ban Muslims" sit (1) Jack Doe, Jason Doe, and Julia Doe, who are students or researchers from the Designated Countries who reside in the United States and fear they will not be allowed back into the United States if they visit family abroad or attend professional conferences; and (2) Joseph Doe and James Doe, who are refugees who fled torture and war but cannot reunite with their spouses and children, who have passed all clearances to join them but are now left in limbo due to EO-2. These Plaintiffs seek to protect themselves and others similarly situated to them.

Civil rights cases such as this one involving claims of "unlawful, class-based discrimination are prime examples [of Rule 23 class actions]." *Amchem Prod. Inc., v. Windsor*, 521 U.S. 591, 614 (1997). Specifically, "[Rule] 23(b)(2) was adopted in order to permit the

[2] The six countries singled out by EO-2 are Iran, Libya, Somalia, Sudan, Syria, and Yemen.

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prosecution of civil rights actions." *Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998) (citing the Advisory Committee Notes for Fed. R. Civ. P. 23). Further, challenges to a uniform policy on immigration such as EO-2 are the type of challenge that the Ninth Circuit has held to be properly certified under Rule 23(b)(2). *Id.* (affirming certification of Rule 23(b)(2) class challenging immigration procedures). Because this case presents the classic situation for class certification under Rule 23(b)(2) or (b)(1) and Plaintiffs will be able to meet all the requirements of Rule 23(a), their motion should be granted.

II. PROPOSED CLASS DEFINITIONS

Plaintiffs seek to certify two classes for declaratory and injunctive relief pursuant to Federal Rules of Civil Procedure 23(b)(2) or 23(b)(1) and request that Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe (collectively "Class Plaintiffs")[3] be appointed as class representatives as follows:

1. Non-Immigrant Class

Plaintiffs request that Jack Doe, Jason Doe, and Julia Doe be appointed as class representatives for a class consisting of: All Washington residents who are nationals of the Designated Countries who entered the United States on a non-immigrant visa and who do not have unexpired multiple-entry visas; and

2. Refugee Class

Plaintiffs request that Joseph Doe and James Doe be appointed as class representatives for a class consisting of: All refugees and asylees, including those who have since adjusted their status to Lawful Permanent Resident, who now reside in Washington, and who have filed I-730 petitions

[3] Plaintiffs Jane Doe, John Doe, the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington do not seek appointment as class representatives but, rather, bring their claims on their own behalves.

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for and await the arrival of their family members who have completed and cleared their final security screenings.

III. FACTUAL BACKGROUND

This Court is no stranger to EO-2 and its short but storied history. But a brief discussion of the Order and its predecessor is integral to evaluating classwide treatment of Plaintiffs' claims.

A. Executive Order 13769 (EO-1)

Donald Trump's campaign unequivocally called for "a total and complete shutdown of Muslims entering the United States," First Amended Complaint ("FAC") ¶ 153 (ECF Doc. No. 10) and he made the Muslim ban "a centerpiece of [his] campaign for months." *Aziz v. Trump*, No. 17-116, 2017 WL 580855, at *8 (E.D. Va. Feb. 13, 2017). On January 27, 2017, President Trump signed EO-1, officially establishing his promised Muslim ban. *See generally*, FAC, § IV.A.3. After reading the title of the Original Order when signing it, Defendant Trump said, "We all know what that means." FAC ¶ 159. The same day he signed EO-1, Defendant Trump gave an interview in which he decried how "unfair" it was that "[i]f you were a Muslim you could come in, but if you were a Christian, it was almost impossible." *Id.* at ¶ 160. The next day, a senior advisor to Trump confirmed that Defendant Trump sought out his advice on "the right way" to implement a Muslim ban. *Id.* at ¶ 164.

Days after EO-1 sent the nation's airports into chaos and upended thousands of lives, this Court enjoined the Order, thus recognizing the irreparable harm the policy had on those caught in its grasp. *See Washington v. Trump*, No. 2:17-cv-141, Dkt. 52 (W.D. Wash. Feb. 3, 2017). Defendant Trump filed a notice of appeal and emergency motion to stay this Court's order which

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was denied. *Washington v. Trump*, 847 F.3d 1151, 2017 (9th Cir. 2017), *reconsideration en banc denied*, 2017 WL 992527 (9th Cir. Mar. 15, 2017).

B. Executive Order 13780 (EO-2)

Despite public statements insisting on his authority to carry out the actions outlined in the Order and vowing to fight ("SEE YOU IN COURT, THE SECURITY OF OUR NATION IS AT STAKE!", FAC ¶ 235), Defendant Trump revoked EO-1 and issued a new Executive Order. Although EO-2-purported to remove all concerns of illegality, Defendant Trump's Senior Advisor admitted that the new order would still offer "the same basic policy outcome for the country" and "those policies are still going to be in effect." *Id.* at ¶ 170.

Despite the supposed urgent threat to the United States from the foreign nationals pouring into the country,[4] Defendant Trump postponed signing EO-2 until March 6, 2017, FAC ¶¶ 171-173, and then delayed the effective date by an additional 10 days to March 16, 2017. FAC ¶ 178. As cables from Defendant Tillerson to consular officials around the world made clear, a uniform set of instructions was also issued to all embassies to implement EO-2.[5] *See* Exhibits 2 and 3A-D to Declaration of Tana Lin ("Lin Decl.").

On March 15, 2017, a district court in Hawai'i granted a temporary restraining order ("TRO") preventing Sections 2 and 6 of EO-2 from taking effect, *Hawai'i v. Trump*, No. 17–50, 2017 WL 1167383 (D. Hi. Mar. 15, 2017), and a Maryland court granted a TRO enjoining section 6 of EO-2 the next day. *Int'l Refugee Assistance Project v. Trump*, No. 17-361, 2017 WL 1018235

[4] Defendant Trump proclaimed: "our country [is] in such peril… People pouring in. Bad!", "THE SECURITY OF OUR NATION IS AT STAKE!", -and "'77% of refugees allowed into U.S. since travel reprieve hail from seven suspect countries.' (WT) [sic] SO DANGEROUS!" FAC ¶ 235.

[5] Yeganeh Torbati, Mica Rosenberg, & Arshad Mohammed, Exclusive: *U.S. Embassies Ordered to Identify Population Groups for Tougher Visa Screening*, Reuters (Mar. 23, 2017), *available at* http://www.reuters.com/article/us-usa-immigration-visas-exclusive-idUSKBN16U12X (last accessed Apr. 6, 2017).

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(D. Md. Mar. 16, 2017). Two weeks later, the Hawai'i court granted a preliminary injunction against EO-2. *Hawai'i v. Trump*, No. 17–50, 2017 WL 1167383 (D. Hi. Mar. 29, 2017). Despite the alleged "peril' caused by the courts enjoining the executive orders,[6] Defendants have agreed to case schedules in the appeals of the Hawai'i and Maryland orders that will not be heard until early May 2017.[7]

The cosmetic changes to the second executive order provide no relief to Plaintiffs and class members. As Defendant Trump admitted while decrying the Hawai'i TRO at a rally the day after it was issued, EO-2 was just a "watered-down version" of his original order.[8] The intent behind EO-2 remains the same as EO-1: it is a ban on travel for nationals of six Muslim-majority countries: Iran, Libya, Somalia, Sudan, Syria, and Yemen. EO-2 also, like EO-1, completely blocks the entry of refugees for 120 days.

C. Proposed Class Representatives

1. Non-Immigrant Class: Plaintiffs' Factual Backgrounds

Plaintiffs Jason Doe, Jack Doe, and Julia Doe seek to represent the Non-Immigrant Class. Each of them is a citizen of one of the Designated Countries, and each came to the United States to pursue graduate education and related practical training. *See* Declaration of Jason Doe ("Jason Decl.") ¶¶ 2-5, 7; Declaration of Jack Doe ("Jack Decl.") ¶¶ 2-4; Declaration of Julia Doe ("Julia

[6] After the TRO entered by this Court with regard to EO-1, Defendant Trump tweeted, "Just cannot believe a judge would put our country in such peril. If something happens blame him and court system. People pouring in. Bad!" FAC ¶ 235.

[7] *Hawai'i v. Trump*, No. 17–50, Dkt. 278 (D. Hi. Apr. 3, 2017) and *Int'l Refugee Assistance Project v. Trump*, No. 17-361, Dkt. 169 (D. Md. Mar. 22, 2017).

[8] Matt Zapotosky, Kalani Takase, & Marla Sacchetti, *Federal Judge in Hawaii Freezes President Trump's New Entry Ban*, Washington Post (Mar. 16, 2017), *available at* https://www.washingtonpost.com/local/social-issues/lawyers-face-off-on-trump-travel-ban-in-md-court-wednesday-morning/2017/03/14/b2d24636-090c-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.8440582c7835&wpisrc=nl_buzz&wpmm=1 (last accessed Apr. 4, 2017).

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Decl.") ¶¶ 2-3, 6-7. After completing the rigorous visa application process, each of these Plaintiffs obtained and used a single-entry or now expired multiple-entry non-immigrant visa to enter the United States to begin his or her graduate training. Jason Decl. ¶ 6; Jack Decl. ¶ 5; Julia Decl. ¶ 4. The issuance of EO-2, however, leaves these Plaintiffs fearful that, if they leave the United States to attend professional conferences or visit family (as their visas allow), they will not be permitted to return to the United States, their studies or work in Washington State, and/or their family members here. Jason Decl. ¶¶ 7-9; Jack Decl. ¶ 8; Julia Decl. ¶ 6. These Plaintiffs' research and careers have suffered and will continue to suffer for as long as EO-2 is in place. Jason Decl. ¶ 7; Jack Decl. ¶¶ 9-10; Julia Decl. ¶ 7. In addition, each of these Plaintiffs brings this action under a pseudonym because s/he fears retaliation. Jason Decl. ¶ 18; Jack Decl. ¶ 19; Julia Decl. ¶ 16.

2. Refugee Class: Plaintiffs' Factual Claims

Plaintiffs Joseph Doe and James Doe seek to represent the Refugee Class. Plaintiffs Joseph Doe and James Doe and members of the Class are refugees or asylees, including those who have since adjusted their status to Lawful Permanent Resident, and who reside in Washington. *See* Declaration of Joseph Doe ("Joseph Decl.") ¶¶ 2-9; Declaration of James Doe ("James Decl.") ¶¶ 2-9. Each has filed I-730 "follow-to-join" relative petitions and now awaits the arrival of family members who have completed and cleared every required screening—including the extensive and thorough security screenings conducted by Defendants. Joseph Decl. ¶¶ 8, 10; and James Decl. ¶¶ 8, 10. Although their family members' applications have been approved and they are essentially only waiting for final travel arrangements to be made, Joseph Doe and James Doe are fearful that EO-2 will indefinitely delay their families' arrivals: even if their travel is scheduled after the 120-day delay, the refugee "cap" may be reached before their loved ones are admitted. Joseph Decl. ¶¶ 10-12; James Decl. ¶¶ 10-12. In addition, Joseph Doe and James Doe bring this action under

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pseudonyms because they fear retaliation against themselves and their family members. Joseph Decl. ¶ 21; James Decl. ¶ 21.

IV. ARGUMENT

A. Legal Standard

In determining whether to certify a class, the Court must determine whether each proposed class meets the four requirements of Rule 23(a): numerosity, commonality, typicality, and adequacy of representation. Fed. R. Civ. P. 23(a). In addition to meeting the requirements of Rule 23(a), the class must also satisfy at least one section of Rule 23(b). Class Plaintiffs seek to certify the classes under Rule 23(b)(2) or Rule 23(b)(1)(A). The central question in this case—whether EO-2, which calls for a uniform policy of exclusion that will be implemented against Class Plaintiffs and all others similarly situated, violates the Constitution and federal law—is the paradigmatic question appropriate for class certification. Indeed, EO-2 will be implemented on a nationwide (and worldwide) basis. *Walters*, 145 F.3d at 1032 (affirming certification of Rule 23(b)(2) class challenging immigration procedures as "precisely the sorts of claims that Rule 23(b)(2) was designed to facilitate").

Class Plaintiffs easily satisfy the requirements for certification under Rule 23.

B. Plaintiffs' Action Satisfies the Requirements of Rule 23(a).

1. The Proposed Classes Are So Numerous That Joinder Is Impracticable.

Rule 23(a)(1) requires that the proposed class be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). For purposes of the rule, "'impracticability' does not mean 'impossibility,' but only the difficulty or inconvenience of joining all members of the class." *Harris v. Palm Springs Alpine Est., Inc.*, 329 F.2d 909, 913–14 (9th Cir. 1964) (citation omitted). The rule does not set a minimum number of class members to meet Rule 23(a)(1). *See Perez-Funez*

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v. Dist. Director, Immigration & Naturalization Serv., 611 F. Supp. 990, 995 (C.D. Cal. 1984). However, classes of just a few dozen class members have been certified, *see, e.g.*, *McCluskey v. Trs. Of Red Dot Corp. Employee Stock Ownership Plan & Trust*, 268 F.R.D. 670, 674–76 (W.D. Wash. 2010) (class of 27 sufficient), and classes with over 40 members are presumptively considered sufficiently numerous. *See In re Cooper Co. Inc., Sec. Litig.*, 254 F.R.D. 628, 634 (C.D. Cal. 2009); *Jordan v. Cnty. of Los Angeles*, 669 F.2d 1311, 1319 (9th Cir. 1982), vacated on other grounds, 459 U.S. 810 (1982).

In evaluating numerosity, "a court may draw a reasonable inference of class size from the facts before it." *Lynch v. Rank*, 604 F. Supp. 30, 36 (N.D. Cal. 1984), *aff'd*, 747 F.2d 528 (9th Cir. 1984), *opinion amended on reh'g*, 763 F.2d 1098 (9th Cir. 1985), and a court need not know the exact size of the putative class, "so long as general knowledge and common sense indicate that it is large." *Perez-Funez*, 611 F. Supp. at 995. This Court has found the numerosity requirement satisfied where "general knowledge," and "common sense," show that a class is sufficiently large. *See Nw. Immigrant Rights Project v. United States Citizenship & Immigration Servs.*, No. C15-0813JLR, 2016 WL 5817078, at *18 (W.D. Wash. Oct. 5, 2016) (citing *Perez–Funez*, 611 F. Supp. at 995, and finding evidence of USCIS processing times and application totals sufficient to meet Rule 23(a)(1)).

In this case, publicly available data published by two of the defendants themselves, Defendants Department of State and Department of Homeland Security, as well as other governmental entities, demonstrate that the proposed classes satisfy the numerosity requirement.[9]

[9] This Court can take judicial notice of the data, compiled by Defendants and other government agencies, on publicly available websites. *See* Fed. R. Evid. 201 (judicial notice proper where facts are not subject to reasonable dispute due to their ability to be accurately and readily determined from sources beyond question); *see also Crawford v. Marion County Election Bd.*, 533 U.S. 181, 199 n.18 (2008) (taking judicial notice of facts from a

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First, with respect to the Non-Immigrant Class, the facts are sufficient for the Court to reasonably infer that the class is sufficiently numerous. According to the Annual Report of the Visa Office of the U.S. Department of State, in 2016, the United States issued over 53,440 non-immigrant visas to nationals from the Designated Countries.[10] The University of Washington alone currently has 157 students from the Designated Countries, many of whom are on single-entry visas and, therefore, are members of the Non-Immigrant Class. *See* Exhibit 4 to Lin Decl., Fourth Declaration of Asif Chaudhry in *Washington v. Trump*, No. 2:17-cv-141, Dkt. 118-18 (W.D. Wash. Mar. 13, 2017). And other private and public colleges in Washington have similarly situated students.

Plaintiffs' proposed Refugee Class is also sufficiently numerous. Washington is the eighth largest refugee-receiving state.[11] Between 2010 and 2016, the state of Washington welcomed 16,504 refugees from 46 countries.[12] In FY 2015 alone, 2,625 refugees arrived in Washington.[13] In addition, it is likely that hundreds or thousands of individuals who have been granted asylum

government website); *Michery v. Ford Motor Co.*, 650 F. App'x 338, 342 n.2 (9th Cir. 2016) (taking judicial notice of publicly available National Highway Traffic Safety Administration data); *Reyes v. Fircrest Sch.*, No. C11-0778JLR, 2012 WL 5878243, at *1 n.1 (W.D. Wash. Nov. 21, 2012).

[10] Report of the Visa Office 2016, *Table XVIII: Nonimmigrant Visas Issued by Nationality*, U.S. Dep't of State – Bureau of Consular Affairs (2015), *available at* *https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2016AnnualReport/FY16AnnualReport-TableXVIII.pdf* (last accessed Apr. 5, 2017).

[11] Office of Refugee and Immigrant Assistance Data, *Data on Immigrants and Refugees: Seattle Immigrant and Refugee Data Sheet*, Seattle Government (2017), *available at* https://www.seattle.gov/iandraffairs/data#snapshot (last accessed Apr. 4, 2017).

[12] Kara McDermott, *Where Seattle's Refugees Come From and Other Things You Should Know*, KUOW News (Sep. 10, 2016), *available at* http://kuow.org/post/where-seattles-refugees-come-and-other-things-you-should-know (last accessed Apr. 4, 2017).

[13] Office of Refugee Resettlement: *FY 2015 Served Populations by State and County of Origin*, U.S. Dep't of Health & Human Services (Apr. 22, 2016), *available at* https://www.acf.hhs.gov/orr/resource/fy-2015-refugees-by-state-and-country-of-origin-all-served-populations (last accessed Apr. 4, 2017).

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live in Washington, as the U.S. government grants asylum to roughly 25,000 people each year.[14] Plaintiffs' proposed Refugee Class is a subset of these Washington residents—refugees and asylees who have filed I-730 petitions and whose families have completed screening—but these data are sufficient for the Court to reasonably infer that the number of individuals in the proposed Refugee Class exceeds the general benchmark of 40 people and satisfies the numerosity requirement.

With likely thousands of non-immigrants hailing from the Designated Countries and as well as refugees and asylees now living in Washington, numerosity is not a close question here; but even were it so, the Court should nonetheless certify the proposed classes. *See Stewart v. Associates Consumer Discount Co.*, 183 F.R.D. 189, 194 (E.D. Pa. 1998) ("[W]here the numerosity question is a close one, the trial court should find that numerosity exists, since the court has the option to decertify the class later pursuant to Rule 23(c)(1).").

In addition, in determining numerosity, "courts also consider whether class members 'may be unwilling to sue [ ] individually out of fear of retaliation,'" *Rollins v. Traylor Bros.*, No. 14-1414, 2016 WL 258523, at *5 (W.D. Wash. Jan. 21, 2016) (citation omitted), because "joinder may be impracticable if potential class members fear retaliation for suing independently." *Tanedo v. E. Baton Rouge Par. Sch. Bd.*, No. 10-1172, 2011 WL 7095434, at *6 (C.D. Cal. Dec. 12, 2011) (citing *Mullen v. Treasure Chest Casino, L.L.C.*, 186 F.3d 620, 625 (5th Cir.1999)). Class Plaintiffs have explained that they are participating in this case under pseudonyms because they fear harassment and retaliation for participating in this lawsuit. *See* Jason Decl. ¶ 18; Jack Decl. ¶ 19;

[14] *Yearbook of Immigration Statistics: Table 16. Individuals Granted Asylum Affirmatively or Defensively: Fiscal Years 1990 To 2015.* Dep't of Homeland Security (Dec. 15, 2016), *available at* https://www.dhs.gov/immigration-statistics/yearbook/2015/table16 (last accessed Apr. 4, 2017).

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Julia Decl. ¶ 16; Joseph Decl. ¶ 21; James Decl. ¶ 21. *See also* Stipulation and Order to Allow Plaintiffs to Proceed Anonymously, ECF. No. 14.

The Plaintiffs' fear of retaliation is justified: there was widespread publicity concerning Defendant Trump's firing of Acting Attorney General Sally Yates for speaking out against EO-1,[15] and Defendant Trump has consistently engaged in anti-Muslim and anti-immigrant rhetoric, stirring up concerns that "the 'bad' would rush into our country…A lot of bad 'dudes' out there!"[16] After EO-1 was enjoined, Defendant Trump unleashed a torrent of tweets proclaiming that the "THE SECURITY OF OUR NATION IS AT STAKE!"[17] without the travel ban, "[b]ad people are very happy!"[18] and "dangerous people may be pouring into our country."[19] There have also been public reports that certain officers acting at the direction of Defendants have exerted undue pressure on those who were subject to EO-1—including pressuring individuals to waive their rights to reside in the United States and forcibly removing them before courts could rule on their challenges to EO-1.[20] Further, since the issuance of EO-1 and the publicity surrounding the litigation of the order, national news outlets reported on anti-Muslim harassment around the

[15] Michael Shear, Mark Landler, Matt Apuzzo, & Eric Lichtblau, *Trump Fires Acting Attorney General Who Defied Him*, N.Y. Times (Jan. 30, 2017), available at https://www.nytimes.com/2017/01/30/us/politics/trump-immigration-ban-memo.html (last accessed Apr. 4, 2017).

[16] Donald J. Trump (@realDonaldTrump, Twitter (Jan. 30, 2017 5:31 AM), https://twitter.com/realdonaldtrump/status/826060143825666051

[17] Donald J. Trump (@realDonaldTrump), Twitter (Feb. 9, 2017, 3:35 PM), https://twitter.com/realDonaldTrump/status/829836231802515457.

[18] Donald J. Trump (@realDonaldTrump), Twitter (Feb. 4, 2017, 4:48 PM), https://twitter.com/realDonaldTrump/status/828042506851934209.

[19] Donald J. Trump (@realDonaldTrump), Twitter (Feb. 4, 2017, 1:44 PM), https://twitter.com/realDonaldTrump/status/827996357252243456.

[20] Oliver Laughland & Joanna Walters, *Immigration officials coerced Yemenis to sign away green cards, suit claims*, The Guardian (Jan. 30, 2017), *available at* https://www.theguardian.com/us-news/2017/jan/30/trump-travel-ban-yemenis-coerced-relinquish-green-card (last accessed Apr. 5, 2017); Matt Zapotosky, *Federal judge orders U.S. to return Iranian who was deported under new order*, Washington Post, Jan. 29, 2017, *available at* https://www.washingtonpost.com/news/post-politics/wp/2017/01/29/banorder/?utm_term=.00ea8aee3144 (last accessed Apr. 5, 2017).

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country, including in Washington.[21] Given all these facts, it is objectively reasonable for class members whom Defendant Trump has demonized as "bad people"[22] to be afraid to come forward out of fear of retaliation or harassment by the government or others for participating in this lawsuit. Given Defendants' own statistics regarding the number of non-immigrants and refugees in the United States, other publicly available data regarding the number of class members likely in Washington, and the fact that many class members are likely too afraid to participate in the action out of fear of retaliation or harassment, Plaintiffs readily satisfy the numerosity requirement of Rule 23(a)(1).

2. Plaintiffs' Claims Present Common Questions of Law and Fact.

Rule 23(a)(2) requires that a class action raise "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2).[23] It is not necessary that members of the proposed class "share every fact in common or completely identical legal issues." *Rodriguez v. Hayes*, 591 F.3d 1105, 1122 (9th Cir. 2010). Rather, the "existence of shared legal issues with divergent factual predicates is sufficient, as is a common core of salient facts coupled with disparate legal remedies within the

[21] *See e.g.*, Eric Levenson, *911 Calls Reveal the Kansas Suspect Thought He'd Shot 'Two Iranians'*, CNN (Feb. 28, 2017), available at http://www.cnn.com/2017/02/27/us/kansas-olathe-bar-shooting-indian-court (last accessed Apr. 6, 2017); Sandi Doughton, *FBI Aids in Investigation into Shooting of Sihk Man in Kent*, Seattle Times (Mar. 5, 2017), *available at* http://www.seattletimes.com/seattle-news/crime/fbi-aids-in-investigation-into-shooting-of-sikh-man-in-kent/ (last accessed Apr. 6, 2017).

[22] Defendant Trump proclaimed: "The judge opens up our country to potential terrorists and others that do not have our best interests at heart. Bad people are very happy!" FAC ¶ 235.

[23] That Plaintiffs must present common questions is not to say that the Court must agree with their presumed answer. Plaintiffs need not show at the class certification stage that they will prevail on the merits. *See, e.g.*, *Amgen Inc. v. Connecticut Ret. Plans & Trust Funds*, 133 S.Ct. 1184, 1194–95 (2013) ("Although we have cautioned that a court's class-certification analysis must be 'rigorous' and may 'entail some overlap with the merits of the plaintiff's underlying claim,' Rule 23 grants courts no license to engage in free-ranging merits inquiries at the certification stage.") (quoting *Dukes*, 131 S.Ct. at 2551); *Parsons v. Ryan*, 754 F.3d 657, 676 n.19 (9th Cir. 2014); *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 983 n.8 (9th Cir. 2011) (emphasizing that "whether class members could actually prevail on the merits of their claims" is not a proper inquiry in determining "whether common questions exist.").

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class." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir.1998). Because Plaintiffs' claims present common contentions whose truth or falsity can be determined in one stroke, they have satisfied Rule 23's commonality requirement. *See Dukes*, 131 S.Ct. at 2551.

Moreover, the rule does not require that "every question in the case, or even a preponderance of questions, is capable of class wide resolution." *Wang v. Chinese Daily News, Inc.*, 737 F.3d 538, 544 (9th Cir. 2013) (citation omitted). To satisfy Rule 23(a)(2) commonality, "'even a single [common] question' will do." *Torres v. Mercer Canyons Inc.*, 835 F.3d 1125, 1133 (9th Cir. 2016) (quoting *Dukes*, 564 U.S. at 359); *see also Mazza v. Am. Honda Motor Co., Inc.*, 666 F.3d 581, 589 (9th Cir. 2012) (stating that "commonality only requires a single significant question of law or fact"); *Parsons v. Ryan*, 754 F.3d 657, 675 (9th Cir. 2014) (reiterating rule). Thus, "[w]here the circumstances of each particular class member vary but retain a common core of factual or legal issues with the rest of the class, commonality exists." *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012) (quotation marks and citation omitted).

"To assess whether the putative class members share a common question, the answer to which 'will resolve an issue that is central to the validity of each one of the [class members'] claims,' we must identify the elements of the class members's [sic] case-in-chief." *Stockwell v. City & Cnty. of San Francisco*, 749 F.3d 1107, 1114 (9th Cir. 2014) (quoting *Dukes*, 131 S.Ct. at 2551); *see also Parsons*, 754 F.3d at 676. In the instant case, the proposed class members allege common harms: the unlawful and discriminatory suspension of entry of members of the Non-Immigrant Class, and the unlawful and discriminatory suspension of the entry of refugees and families of refugees and asylees with approved "follow-to-join" petitions. For many class members, these harms are compounded by an interference with their liberty interests in marriage, family life, and child-rearing. *See*, e.g., *Bustamante v. Mukasey*, 531 F.3d 1059, 1062 (9th Cir.

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2008) ("Freedom of personal choice in matters of marriage and family life is, of course, one of the liberties protected by the Due Process Clause"); *see also Washington*, 847 F.3d at 1165 ("The procedural protections provided by the Fifth Amendment's Due Process Clause are not limited to citizens" and "'apply to all 'persons' within the United States, including aliens.'") (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). For others, these harms are also accompanied by an interference with their employment prospects and future livelihood.

"[C]lass suits for injunctive or declaratory relief," like this case, "by their very nature often present common questions satisfying Rule 23(a)(2)." 7A WRIGHT, MILLER & KANE, FEDERAL PRACTICE & PROCEDURE § 1763 at 226. Class Plaintiffs here present a number of common questions of law and fact going to the heart of their claims, such as the following:

- For both the Non-Immigrant and Refugee Classes: Whether EO-2 violates their associational, religious exercise, and due process rights under the First and Fifth Amendments; the Religious Freedom Restoration Act; and the Administrative Procedure Act as well as whether EO-2 violates the establishment clause of the First Amendment;
- For both the Non-Immigrant and Refugee Classes: Whether EO-2 has the effect of imposing a special disability on the basis of religious views or religious status, by closing important immigration procedures principally to Muslims on account of their religion in violation of the Religious Freedom Restoration Act;
- For both the Non-Immigrant and Refugee Classes: Whether Defendants other than Defendant Trump fulfilled the procedural and substantive requirements of the Administrative Procedure Act before taking action affecting the substantive rights of the Plaintiffs;

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- For the Non-Immigrant Class: Whether EO-2 is being or will be enforced so as to bar them from traveling abroad or impose additional burdens upon them such as requiring them to seek a waiver if they seek to travel abroad, in violation of the Fifth Amendment;
- For the Non-Immigrant Class: Whether Defendants have exceeded the scope of their delegated authority because their actions are contrary to INA § 212(a)(3)(C)(iii), which prohibits ideological exclusions like those embodied in Defendants' Order;
- For the Refugee Class: Whether EO-2 is being or will be enforced so as to deprive them of their property interests in their already approved I-730 petitions in violation of the procedural due process guaranteed by the Fifth Amendment; and
- For the Refugee Class: Whether EO-2 is being or will be enforced so as to deprive them of their liberty interest in their marriage and family lives in violation of the substantive due process guaranteed by the Fifth Amendment.

See FAC § VI. Because the answers to each of these questions will be common to one or both of the classes and will wholly resolve the claims of each class, Plaintiffs satisfy Rule 23(a)(2). *See Parsons v. Ryan*, 754 F.3d 657, 674–75 (9th Cir. 2014) ("What matters to class certification ... is not the raising of common 'questions'—even in droves—but, rather the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation.") (citing *Dukes*, 131 S. Ct. at 2551).

As the Ninth Circuit has observed, "commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all of the putative class members." *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499, 504–05 (2005). "In such circumstance, individual factual differences among the individual litigants or groups of litigants will not preclude a finding of commonality."

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Id.[24] Thus, the common questions of law and fact raised by Plaintiffs' claims will be answered by common evidence regarding Defendants' common conduct, even if each class member may experience the harm resulting from that conduct differently. As to the Non-Immigrant Class, Plaintiffs do not challenge Defendants' individual treatment of any particular visa holder or applicant, but the policy itself. And similarly for the Refugee Class, what is at issue is the policy addressed to all refugees, not conduct aimed at any specific refugee.

Because Defendants' unconstitutional Order serves as the "glue" that holds together the putative class members, whereby EO-2 is unlawful as to every class member or is not, the Court need not determine the effect of the Order upon any individual Plaintiff (or class members) or undertake any other kind of individualized determination. *Parsons*, 754 F.3d at 678. Accordingly, the questions presented by their claims are common.

3. The Claims of the Class Plaintiffs Are Typical of the Claims of the Members of the Proposed Classes.

Rule 23(a)(3) requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). Typicality under Rule 23(a)(3) is directed to ensuring that plaintiffs are proper parties to proceed with the suit. As the Supreme Court recognized in *Dukes*, Rule 23(a)'s commonality and typicality requirements occasionally merge: "Both serve as guideposts for determining whether under the particular circumstances maintenance

[24] *See Parsons*, 754 F.3d at 676 (certifying class of prisoners alleging Eighth Amendment violations where "Complaint does not allege that the care provided on any particular occasion to any particular inmate (or group of inmates) was insufficient … but rather that ADC policies and practices of statewide and systemic application expose all inmates in ADC custody to a substantial risk of serious harm.") (internal citation omitted); *see also Hickey v. City of Seattle*, 236 F.R.D. 659, 665 (W.D. Wash. 2006) (certifying class alleging Fourth Amendment violations after mass arrests without probable cause, noting that Plaintiffs will have to show that the Seattle police acted pursuant to a policy or that a decision maker ratified the actions of the arresting police officers in order to demonstrate Seattle's liability, and that "common factual allegations surrounding each Plaintiff's arrest, as well as these common legal issues justify a finding on the part of this Court that Plaintiffs have satisfied the commonality inquiry.").

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of a class action is economical and whether the named plaintiff's claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence." 131 S.Ct. at 2551 n.5. And as with commonality, the typicality requirement "is permissive, such that 'representative claims are 'typical' if they are reasonably coextensive with those of absent class members; they need not be substantially identical.'" *Just Film, Inc. v. Buono*, 847 F.3d 1108, 1116 (9th Cir. 2017) (quoting *Parsons,* 754 F.3d at 685).

The typicality requirement looks to whether "the claims of the class representatives are typical of those of the class, and is satisfied when each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Rodriguez,* 591 F.3d at 112 (internal quotation marks and citation omitted). Typicality "focuses on the class representative's claim—but not the specific facts from which the claim arose—and ensures that the interest of the class representative 'aligns with the interests of the class.'" *Just Film, Inc.*, 847 F.3d at 1116 (quoting *Hanon*, 976 F.2d at 508).

Here, the Class Plaintiffs as well as all of the proposed class members suffer the same deprivation of their rights due to EO-2. Class Plaintiffs each challenge the legality of EO-2 under constitutional and federal law. Any potential differences in the particular concerns of each Non-Immigrant Class member who wishes to travel, or the length of delay in family reunification for Refugee Class members, are irrelevant for Rule 23(a)(3) purposes. *See Krzesniak v. Cendant Corp.*, No. C 05-05156 MEJ, 2007 WL 1795703, at *8 (N.D. Cal. June 20, 2007) (citing *Hanon*, 976 F.2d at 508) (typicality inquiry goes to "the nature of the claim ... of the class representative, and not to the specific facts from which it arose"). In cases such as the one at bar, where the legality of a uniform policy or practice is at issue, factual differences among class members will not defeat typicality where "the unnamed class members have injuries similar to those of the named plaintiffs

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and that the injuries result from the same, injurious course of conduct." *Armstrong v. Davis*, 275 F.3d 849, 869 (9th Cir. 2001); *see also LaDuke v. Nelson*, 762 F.2d 1318, 1332 (9th Cir. 1985), amended, 796 F.2d 309 (9th Cir. 1986) ("The minor differences in the manner in which the representative's Fourth Amendment rights were violated does not render their claims atypical of those of the class."); *Smith v. Univ. of Wash. Law Sch.*, 2 F. Supp. 2d 1324, 1342 (W.D. Wash. 1998) ("When it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented, the typicality requirement is usually satisfied, irrespective of varying fact patterns which underlie individual claims.") (citation omitted).

Because Class Plaintiffs and proposed class members have common legal claims and are united in their interest and injury, the element of typicality is met.

4. The Class Plaintiffs Will Adequately Protect the Interests of the Proposed Class Members, and Counsel Are Qualified to Litigate this Action.

Rule 23(a)(4) requires that class representatives "fairly and adequately protect the interests of the class" they seek to represent. Fed. R. Civ. P. 23(a)(4). In evaluating the adequacy of representation, "courts must consider two questions: '(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?'" *Evon*, 688 F.3d at 1031 (quoting *Hanlon*, 150 F.3d at 1020).

a. Class Plaintiffs

Class Plaintiffs will fairly and adequately represent the interests of all members of their respective proposed classes. As set forth above, Class Plaintiffs seek relief on behalf of each of their respective classes as a whole, share a common interest in ensuring the protection of their

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constitutional rights, and have no interests antagonistic to other members of the classes. The goal of each Class Plaintiff as well as members of their respective classes is to have the Court declare that Sections 2, 3, and 6 of EO-2 are unconstitutional and violate federal law as well as to enjoin Defendants from implementing those same sections. Accordingly, Plaintiffs satisfy the adequacy of representation requirement of Rule 23(a)(4).

b. Class Counsel

Class Plaintiffs will also be able to prosecute this matter vigorously as they have selected experienced civil rights attorneys to represent them and their respective classes. Adequacy of counsel can be shown by establishing that counsel is qualified, experienced, and able to conduct litigation. *Jordan*, 669 F.3d at 1323. Courts have specifically recognized the adequacy of "qualified and experienced counsel from such organizations as ... the American Civil Liberties Union." *Perez-Funez*, 611 F. Supp. at 997. Plaintiffs here are represented by counsel at the ACLU of Washington Foundation and Keller Rohrback L.L.P., who collectively have extensive expertise in class action litigation. *See* Declaration of Emily Chiang ("Chiang Decl.") and Lin Decl.

The ACLU of Washington ("ACLU-WA") is the state affiliate of the American Civil Liberties Union Foundation, a national civil rights and civil liberties organization. Chiang Decl. at ¶2. ACLU-WA has significant experience with complex civil litigation, including class actions in federal and state courts. *Id*. ACLU-WA has obtained injunctive relief for class clients in a wide variety of matters, including a number of cases involving constitutional claims. *Id*.

Keller Rohrback L.L.P. ("KR") is a national law firm with a substantial and longstanding footprint in Washington. *See* Exhibit 1 to Lin Decl. KR's nationally recognized Complex Litigation Group includes former United States Department of Justice lawyers (three of whom are litigating this case), Lin Decl. ¶ 2, and has more than 25 years of experience successfully

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representing, *inter alia*, consumers and employees nationwide in many of the most complex, cutting-edge class action cases. *Id.* ¶¶ 3-4. KR also has litigated issues of first impression such as *Erickson v. Bartell Drug Co.*, 141 F. Supp. 2d 1266 (W.D. Wash. 2001), which established that an employer violated Title VII of the Civil Rights Act when its otherwise-comprehensive insurance coverage plan failed to cover certain prescriptions vital to women. KR currently represents the Republic of the Marshall Islands in a first of its kind lawsuit against former President Barack Obama and the United States of America for breach of the Treaty on the Non-Proliferation of Nuclear Weapons. *Rep. of the Marshall Islands v. U.S.*, Case No. 15-15636 (9th Cir). Lin Decl. ¶ 5. Furthermore, KR was awarded the Legal Foundation of Washington's 2013 President's Award recognizing exemplary dedication to legal aid. *Id.* ¶ 3.

Class Plaintiffs will adequately protect the interests of the absent class members, and their attorneys should be appointed as Class Counsel.

C. Plaintiffs' Action Satisfies the Requirements of Rule 23(b)(2).

Pursuant to Rule 23(b), the Court must determine whether "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). Class certification under Rule 23(b)(2) "requires 'that the primary relief sought is declaratory or injunctive.'" *Rodriguez*, 591 F.3d at 1125. "The rule does not require [the court] to examine the viability or bases of class members' claims for declaratory and injunctive relief, but only to look at whether class members seek uniform relief from a practice applicable to all of them." *Id.*

Through EO-2, Defendants have acted—and made it clear they will act—on grounds generally applicable to all members of each proposed class. "Rule 23(b)(2) permits class actions

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for declaratory or injunctive relief where 'the party opposing the class has acted or refused to act on grounds generally applicable to the class.' Civil rights cases against parties charged with unlawful, class-based discrimination are prime examples." *Amchem Products, Inc.*, 521 U.S. at 614.

In addition, Class Plaintiffs seek a uniform declaration that EO-2 violates their rights and a permanent injunction enjoining enforcement of Sections 2, 3, and 6 of the Order, precisely the type of "uniform injunctive or declaratory relief from policies or practices that are generally applicable to the class as a whole." *Parsons*, 754 F.3d at 688 (citing *Rodriguez*, 591 F.3d at 1125). Plaintiffs do not ask this Court to adjudicate their individual visa applications or I-730 petitions. Nor do they seek money damages. Rather, Class Plaintiffs' prayer for relief is simple: they ask for a declaration that EO-2 and the manner of its implementation violate the rights of each Class Plaintiff and all members of the Non-Immigrant and Refugee Classes and an injunction barring enforcement of this unlawful executive order against Plaintiffs or any absent class members. Injunctive relief does not leave some class members out in the cold; to the contrary, "the indivisible nature of the injunctive or declaratory remedy warranted" shows that the conduct can be enjoined "only as to all of the class members or as to none of them." *Dukes*, 564 U.S. at 360. Such relief conforms to Rule 23(b)(2) for each proposed class, in that "a single injunction or declaratory judgment would provide relief to each member of the class." *Id.*

"[T]he primary role of [Rule 23(b)(2)] has always been the certification of civil rights class actions." *Parsons*, 754 F.3d at 686; *see also Walters*, 145 F.3d at 1047 ("Rule 23(b)(2) was adopted in order to permit the prosecution of civil rights actions."); *Baby Neal for & by Kanter v. Casey*, 43 F.3d 48, 63 (3d Cir. 1994) ("The writers of Rule 23 intended that subsection (b)(2) foster institutional reform by facilitating suits that challenge widespread rights violations of people who

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are individually unable to vindicate their own rights."); Wright & Miller, 7AA *Fed. Prac. & Proc. Civ.* § 1776 (3d ed.) ("[S]ubdivision (b)(2) was added to Rule 23 in 1966 in part to make it clear that civil-rights suits for injunctive or declaratory relief can be brought as class actions ... Of course, we do not interpret Rule 23(b)(2) in a manner that would prevent certification of the kinds of civil rights class action suits that it was intended to authorize.").

Both the Ninth Circuit and this Court routinely order the certification of class actions based on claims challenging the adequacy of procedural protections under the immigration laws. *See, e.g.*, *Rodriguez*, 591 F.3d 1105 (reversing district court order denying class certification for class of immigration detainees subject to prolonged detention); *Khoury v. Asher*, 3 F. Supp. 3d 877 (W.D. Wash. 2014) (certifying class and ordering declaratory relief for immigration detainees). That courts routinely certify civil rights classes under Rule 23(b)(2) is unsurprising. Apart from the original intentions of the rule, described above, such cases often involve claims on behalf of class members who would not have the ability to present their claims absent class treatment. That rationale applies with particular force to civil rights suits like this one where the core issues involve questions of law, rather than disparate questions of fact, and therefore are well suited for resolution on a classwide basis. *See, e.g.*, *Unthaksinkun v. Porter*, No. C11-588JLR, 2011 WL4502050, at *9 (W.D. Wash. Sept. 28, 2011) (finding that, because all class members were subject to the same process, the court's ruling as to the legal sufficiency of the process would apply to all).

Defendants' actions in barring entry and re-entry of proposed class members based on their nationality and suspending the entry of refugees and their approved follow-to-join family members demonstrate that Defendants are acting "on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the

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class as a whole." Further, Class Plaintiffs seek uniform declaratory and injunctive relief from a government policy that is generally applicable to both classes as a whole. Hence, the requirements of Rule 23(b)(2) are met.

D. Plaintiffs' Action Satisfies the Requirements of Rule 23(b)(1).

A class action may be maintained under Rule 23(b)(1) if "prosecuting separate actions by … individual class members would create a risk of [ ] inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class." Fed. R. Civ. P. 23(b)(1)(A). "A class is appropriately certified under Rule 23(b)(1)(A) 'where the party is obliged by law to treat the members of the class alike (a utility acting toward customers; a government imposing a tax), or where the party must treat all alike as a matter of practical necessity.'" *A.D. v. T-Mobile USA, Inc.*, No. 2:15-180, 2016 WL 3882919, at *3 (W.D. Wash. July 18, 2016) (quoting *Amchem Prod., Inc.*, 521 U.S. at 614).

In the case at hand, if the putative class members pursued separate, individual actions challenging the legality of EO-2 in multiple courts in Washington, disparate rulings from those courts would result in Defendants simultaneously pursuing different courses of conduct as to otherwise identically situated non-immigrants and refugees if those courts reached inconsistent results. This would simply make no sense in light of the purported policy rationale behind EO-2 Accordingly, this case is appropriate for certification pursuant to Rule 23(b)(1)(A).

V. CONCLUSION

Plaintiffs respectfully request that the Court grant this Motion and certify this challenge to Defendants' EO-2 as a class action. In addition, Plaintiffs request that Jason Doe, Jack Doe, and Julia Doe be appointed as Class Representatives of the Non-Immigrant Class and that Joseph Doe and James Doe be appointed as Class Representatives of the Refugee Class. Finally, Plaintiffs

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request that the American Civil Liberties Union of Washington Foundation and Keller Rohrback L.L.P. be appointed as Class Counsel.

DATED this 11th day of April, 2017.

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Attorneys for Plaintiffs/Cooperating Attorneys for the American Civil Liberties Union Of Washington Foundation

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2017, I electronically filed the foregoing Motion for Class Certification, related Declarations and [proposed] Order with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses on the Court's Electronic Mail Notice List.

I further certify that pursuant to Fed. R. Civ. P. 5(b)(E), I caused the foregoing documents to be served on all Defendants by sending an electronic copy via e-mail to Michelle Bennett, counsel for Defendants, at Michelle.Bennett@usdoj.gov on April 11, 2017.

DATED this 11th day of April, 2017.

KELLER ROHRBACK L.L.P.

By: /s/ Tana Lin

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Attorney for Plaintiffs/Cooperating Attorney for the American Civil Liberties Union Of Washington Foundation

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Upon consideration of Plaintiffs' Motion for Class Certification, the parties' briefing, oral argument, if any, this Court finds that the Class Plaintiffs—Jack Doe, Jason Doe, and Julia Doe on behalf of the proposed Non-Immigrant Class, and James Doe and Joseph Doe on behalf of the

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Refugee Class—have satisfied the requirements for class certification under Fed. R. Civ. P. 23(a) and (b)(1) or (b)(2). Specifically, the Class Plaintiffs have demonstrated that members of the proposed classes are so numerous that joinder is impracticable; that there are questions of law and fact common to the classes; that the claims of the Class Plaintiffs are typical of the claims of the class members; and that Class Plaintiffs and their counsel, as representatives of the classes, will fairly and adequately protect their interests. Additionally, this Court finds that Defendants have acted on grounds generally applicable to the classes in their entirety, thereby making appropriate final injunctive and declaratory relief for all class members, and that prosecuting separate actions by individual class members would create a risk of inconsistent adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendants.

In light of the above, this Court orders that Plaintiffs' motion be granted and that the following two classes be certified:

Non-Immigrant Class

All Washington residents who are nationals of the Designated Countries (Syria, Iran, Sudan, Libya, Somalia, and Yemen) who entered the United States on a non-immigrant visa and who do not have unexpired multiple-entry visas.

Refugee Class

All refugees and asylees, including those who have since adjusted their status to Lawful Permanent Resident, who now reside in Washington, and who have filed I-730 petitions for and await the arrival of their family members who have completed and cleared their final security screenings.

The Court appoints Plaintiffs Jack Doe, Jason Doe, and Julia Doe as representatives of the Non-Immigrant Class, and appoints Plaintiffs James Doe and Joseph Doe as representatives of the

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Refugee Class. The Court also appoints the ACLU of Washington and Keller Rohrback L.L.P. as Class Counsel.

DATED this _____ day of _____, 2017.

JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

Presented by:
KELLER ROHRBACK L.L.P.

By: /s/ Lynn Lincoln Sarko
By: /s/ Tana Lin
By: /s/ Amy Williams-Derry
By: /s/ Derek W. Loeser
By: /s/ Alison S. Gaffney

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Tana Lin, WSBA # 35271
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Attorneys for Plaintiffs

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF TANA LIN IN SUPPORT OF MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF KELLER ROHRBACK L.L.P. AS CLASS COUNSEL

Pursuant to 28 U.S.C. § 1746, I, "Tana Lin," hereby declare and state:

1. I am a partner at the law firm of Keller Rohrback L.L.P. ("Keller Rohrback"). A copy of the Keller Rohrback Complex Litigation Group resume is attached hereto as Exhibit 1. The resume includes my biography as well as those of the other attorneys at Keller Rohrback

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who are working on this case: Lynn Lincoln Sarko, Laurie Ashton, Alison Chase, Alison Gaffney, Derek Loeser, and Amy Williams-Derry.

2. Three of our attorneys working on this case – Lynn Lincoln Sarko, Derek Loeser, and myself – are former United States Department of Justice trial attorneys.

3. Keller Rohrback is a national firm, headquartered in Seattle, with a proven track-record of success in class action and cutting-edge complex litigation. Keller Rohrback is also known for its impact litigation and *pro bono* work. In 2013, Keller Rohrback was awarded the Legal Foundation of Washington's President's Award recognizing exemplary dedication to legal aid.

4. Keller Rohrback's Complex Litigation Group has more than 25 years of experience successfully representing consumers, employees, and members of the public in class action cases nationwide. Keller Rohrback frequently serves as lead counsel or as appointed class counsel in class actions in this district and throughout the country. Some of Keller Rohrback's prominent cases include:

- *In re the Exxon Valdez,* No. 89-00095 (D. Alaska) (Keller Rohrback represented classes of fishermen, Alaska natives, municipalities, and other injured plaintiffs in a lawsuit arising out of the 1989 oil spill in Prince William Sound, Alaska. After serving as trial counsel during the four-month jury trial, plaintiffs obtained a judgment in excess of $5 billion in punitive damages—at the time the largest punitive damages verdict in U.S. history.)
- *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, & Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal) (Keller Rohrback was appointed to serve on the

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Plaintiffs' Steering Committee in this massive consumer protection and environmental impact case, which has resulted in the expeditious achievement of a partial settlement worth $14.7 billion.)

- *In re Enron Corp. ERISA Litig.*, No. 01-3913 (S.D. Tex.) (Keller Rohrback represented Enron employees' retirement plans that held large quantities of Enron stock in employment benefits litigation arising out of the Enron scandal and the largest bankruptcy reorganization in American history at that time. It served as co-lead counsel, achieving four partial settlements providing more than $264 million in cash to the Enron employee retirement plans.)
- *In re Washington Mutual, Inc. ERISA Litig.*, No. 07-1874 (W.D. Wash.) (Keller Rohrback served as co-lead counsel in this ERISA breach of fiduciary duty class action on behalf of participants and beneficiaries in the company's retirement plans who invested in Washington Mutual stock. In January 2011, Judge Marsha J. Pechman granted final approval of the $49 million settlement in the ERISA action.)
- *Erickson v. Bartell Drug Co.*, 141 F. Supp.2d 1266 (W.D. Wash. 2001) (Keller Rohrback represented the class in this cutting-edge civil rights case establishing that an employer violated Title VII of the Civil Rights Act when its otherwise-comprehensive insurance coverage plan failed to cover certain prescriptions vital to women).
- *In re JPMorgan Chase Mortgage Modification Litig.*, MDL No. 2290 (D. Mass.) (Keller Rohrback represented homeowners who attempted to obtain mortgage

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loan modifications from JPMorgan Chase following the financial crisis and real estate crash. Keller Rohrback served as co-lead counsel in this consumer protection class action, which was resolved in May 2014 with a court-approved settlement valued at over $500 million.)

- *Ormond v. Anthem, Inc.*, No. 05-1908 (S.D. Ind.) (Keller Rohrback represented over 700,000 former Anthem insureds who alleged defendants breached their fiduciary duties by providing inadequate cash compensation in the mutual company's conversion to a stock company. The case settled for $90 million.)

5. KR currently represents the Republic of the Marshall Islands in a first of its kind lawsuit against former President Barack Obama and the United States of America for breach of the Treaty on the Non-Proliferation of Nuclear Weapons. *Republic of the Marshall Islands v. U.S., et al.*, Case No. 15-15636 (9th Cir).

6. Attached hereto as Exhibit 2 is a true and correct copy of the article by Yeganeh Torbati, Mica Rosenberg, & Arshad Mohammed, Exclusive: *U.S. Embassies Ordered to Identify Population Groups for Tougher Visa Screening*, Reuters (Mar. 23, 2017), *available at* http://www.reuters.com/article/us-usa-immigration-visas-exclusive-idUSKBN16U12X (last accessed Apr. 6, 2017).

7. Attached hereto collectively as Exhibit 3A-D are true and correct copies of the four cables referred to in the article that is attached as Exhibit 2. These cables are linked through the Reuters article cited in the previous paragraph and are available at http://live.reuters.com/Event/Live_US_Politics/791235253 (Exhibit 3A), http://live.reuters.com/Event/Live_US_Politics/791246151 (Exhibit 3B),

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http://live.reuters.com/Event/Live_US_Politics/791249837 (Exhibit 3C), and http://live.reuters.com/Event/Live_US_Politics/791255396 (Exhibit 3D).

8. Attached hereto as Exhibit 4 is a true and correct copy of the Fourth Declaration of Asif Chaudhry as filed in Washington v. Trump, No. 2:17-cv-141, Dkt. 118-8 (W.D. Wash. Mar. 13, 2017).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 11th day of April, 2017, at Seattle, Washington.

Tana Lin

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EXHIBIT 1

KELLER
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ABOUT KELLER ROHRBACK

Devoted to Justice

"[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity…[Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions…"
In re WorldCom, Inc. ERISA Litigation (Cote, J.).

Keller Rohrback's lawyers excel by being prepared and persuasive. It's a simple formula that combines our strengths: outstanding writing and courtroom skill, together with unparalleled passion and integrity. We have recovered billions of dollars for our clients, and have served as lead counsel in many prominent cases, including numerous financial crisis cases against Wall Street banks and mortgage originators. Our lawyers are widely recognized as leaders in their fields who have dedicated their careers to combating corporate fraud and misconduct. We have the talent as well as the financial resources to litigate against Fortune 500 companies – and do so every day.

Who We Are

Keller Rohrback's Complex Litigation Group has a national reputation as the go-to plaintiffs' firm for large-scale, complex individual and class action cases. We represent public and private investors, businesses, governments, and individuals in a wide range of actions, including securities fraud, fiduciary breach, antitrust, whistleblower, environmental, and product liability cases. Our approach is straightforward—we represent clients who have been harmed by conduct that is wrong, and we litigate with passion and integrity to obtain the best results possible. Every case is different, but we win for the same reason: we are persuasive. When you hire us, you hire smart, creative lawyers who are skilled in court and in negotiations.

Founded in 1919, Keller Rohrback's sixty-nine attorneys and over 100 staff members are based in six offices across the country in Seattle, Oakland, Santa Barbara, Phoenix, New York, and Ronan. Over the past century, our firm has built a distinguished reputation by providing top-notch representation. We offer exceptional service and a comprehensive understanding of federal and state law nationwide. We also are well known for our abilities to collaborate with co-counsel and to work together to achieve outstanding results—essential skills in large-scale cases in which several firms represent the plaintiffs. We pride ourselves on our reputation for working smartly with opposing counsel, and we are comfortable and experienced in coordinating high-stakes cases with simultaneous state and federal government investigations. Keller Rohrback attorneys earn the respect of our colleagues and our opponents through our deft handling of the array of complex issues and obstacles our clients face.

ABOUT KELLER ROHRBACK

What We Do

Keller Rohrback's Complex Litigation Group represents plaintiffs in large-scale cases involving corporate wrongdoing. We litigate against companies that pollute, commit fraud, fix prices, and take advantage of consumers, employees, and investors. We are passionate advocates for justice. In addition, the Complex Litigation Group regularly calls on attorneys in the firm's other practice areas for expertise in areas such as bankruptcy, constitutional law, corporate transactions, financial institutions, insurance coverage, and intellectual property. Our group's access to these in-house resources distinguishes Keller Rohrback from other plaintiffs' class action firms and contributes to the firm's success. We also have a history of working with legal counsel from other countries to vigorously pursue legal remedies on behalf of clients around the globe.

We have won verdicts in state and federal courts throughout the nation and have obtained judgments and settlements on behalf of clients in excess of seven billion dollars. Courts around the country have praised our work, and we are regularly appointed lead counsel in nationally prominent class action cases. Our work has had far-reaching impacts for our clients in a variety of settings and industries, creating a better, more accountable society.

Who We Serve

We represent individuals, institutions, and government agencies. The common denominators of our clients is a desire to see justice done—and to be represented by attorneys who practice law with integrity, honesty, and devotion to serving our clients' interests.

"Despite substantial obstacles to recovery, Keller Rohrback was willing to undertake the significant risks presented by this case…Class Counsel achieved real and substantial benefits for members of the Class. [Their] extensive prior experience in complex class action securities litigation… enabled the Class to analyze and achieve this excellent result." Getty v. Harmon (SunAmerica Securities Litigation) (Dwyer, J.).

ANTITRUST AND TRADE REGULATION

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Elizabeth A. Leland
Tana Lin
Ryan McDevitt
Karin Swope

Keller Rohrback's antitrust and trade regulation practice represents Plaintiffs in state and federal courts to ensure that consumers get the benefits of free and fair competition in the marketplace. Keller Rohrback has successfully litigated cases on behalf of both consumers and businesses who have been harmed by illegal anti-competitive conduct, such as price fixing, price discrimination, misleading and deceptive marketing practices, and the monopolization and attempted monopolization of markets.

For decades, Keller Rohrback has served as lead counsel, on MDL executive committees, and in other prominent roles in large price-fixing and price discrimination cases.

REPRESENTATIVE CASES

Nurse Wage Litigation: Fleischman v. Albany Medical Center; Cason-Merenda v. Detroit Medical Center (N.D.N.Y.); (E.D. Mich.)

Keller Rohrback was Co-Lead Counsel in these long-running antitrust actions which recovered $105 million in underpaid wages resulting from an alleged conspiracy among hospitals to set the compensation of their nurse employees in Albany, New York, and Detroit, Michigan.

Ferko v. National Ass'n For Stock Car Auto Racing, Inc., No. 02-50 (E.D. Tex.)

Keller Rohrback was Counsel for Plaintiff, a shareholder in Texas Motor Speedway (TMS), in a lawsuit that charged NASCAR with breach of contract, unlawful monopolization, and conspiring with International Speedway Corporation (ISC) to restrain trade in violation of the antitrust laws. The settlement agreement allowed TMS to purchase North Carolina Speedway from ISC and required NASCAR to sanction a Nextel Cup Series race at TMS in the future, relief that was valued at $100.4 million.

In re Vitamins Antitrust Litigation, MDL No. 1285 (D.D.C.)

Keller Rohrback played a significant role in litigating this MDL case, one of the largest and most successful antitrust cases in history. Chief Judge Thomas Hogan certified two classes of businesses who directly purchased bulk vitamins and were overcharged as a result of a ten-year global price-fixing and market-allocation conspiracy. Recoveries for the class through settlement and verdict totaled over $1 billion.

In re Online DVD Rental Antitrust Litigation, MDL No. 2029 (N.D. Cal.)

Keller Rohrback represented purchasers of online DVD rental services accusing Wal-Mart and Netflix of engaging in a market allocation scheme. The class achieved settlements of over $30 million.

"The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does again." *In re Linerboard Antitrust Litigation*, MDL No. 1261, 2004 WL 1221350 *6 (E.D. Pa. June, 2 2004) (DuBois, J.).

REPRESENTATIVE CASES continued

Johnson v. Arizona Hospital and Healthcare Association, No. 07-1292 (D. Ariz.)

Keller Rohrback represented agency nurses who worked at various Arizona hospitals seeking to recover the underpayment of wages resulting from a conspiracy to suppress the cost of agency nurses. The class achieved settlements of more than $26 million.

Molecular Diagnostics v. Hoffman-La Roche, Inc., No. 04-1649 (D.D.C.)

Keller Rohrback served on the Executive Committee of this class action lawsuit on behalf of direct purchasers of thermus aquaticus DNA polymerase (Taq), an essential input to technologies used to study DNA. The lawsuit alleged that various Hoffman-La Roche entities, in concert with the Perkins Elmer Corp., fraudulently procured a patent for Taq with the intent and effect of illegally monopolizing the Taq market. The court approved a $33 million settlement in 2008.

Daisy Mountain Fire District v. Microsoft Corp., MDL No. 1332 (D. Md.)

Keller Rohrback obtained a settlement in excess of $4 million on behalf of a class of Arizona governmental entities that indirectly purchased operating systems and software from Microsoft for overcharges resulting from Microsoft's monopolistic practices. The settlement returned millions of dollars to local government entities at a time of severe budget crisis in the state.

Transamerican Refining Corporation v. Dravo Corp., No. 88-789 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed on behalf of all cost-plus purchasers of specialty steel pipe. Fabricators and suppliers of that pipe were sued on allegations of a nationwide price fixing conspiracy. The class, comprised mainly of owners of electric generating plants and oil refineries, achieved a settlement of more than $49 million.

In approving a settlement, Judge Alan McDonald stated, "[T]he Court is impressed by the manner in which the issues have been addressed, the action has been initiated and resolved; and that is, of course, an accolade to the attorneys on both sides of the issue. And, of course, that is the underlying basis for the Court's approval. No one has more respect for the art of settlement than the incumbent of this bench. It is the most difficult of all undertakings by trial lawyers, and settlement always recognizes their composite judgment, oftentimes of nuances which are impossible to articulate. So given the caliber of the attorneys involved on both sides of this matter, the Court is satisfied that if it is good enough for them, it should be good enough for the Court." *In re Soft Drink Bottling Antitrust Litigation* (E.D. Wash. 1990).

APPELLATE PRACTICE

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Karin Swope

Appeals require specialized skills and experience, and Keller Rohrback has a seasoned appellate team that includes award-winning brief writers and outstanding oral advocates. Our appellate expertise is particularly important in large cases, including complex class actions. Keller Rohrback has the experience and talent to handle any issue that arises involving interlocutory appeals and will work to ensure that any judgment or settlement is affirmed on appeal.

REPRESENTATIVE CASES

Clarke v. Baptist Memorial Healthcare Corp., --F. App'x -- (6th Cir. 2016)

Keller Rohrback overturned the district court's denial of intervention, thus allowing our clients to challenge an earlier denial of class certification.

Baker v. Microsoft Corp., 797 F.3d 607 (9th Cir. 2015)

In this proposed class action arising from a defect in Microsoft's Xbox 360, Keller Rohrback persuaded the Ninth Circuit that the trial court had erred by striking the class allegations from the complaint.

Alcantara v. Bakery & Confectionary Union, 751 F.3d 71 (2d Cir. 2014)

Keller Rohrback successfully defended the trial court's decision and judgment that the Defendants had unlawfully reduced pension benefits.

Gates v. UnitedHealth Group Inc., 561 F. App'x 73 (2d Cir. 2014)

Keller Rohrback persuaded the Second Circuit to reverse the district court's dismissal of our client's claims for medical coverage.

Wurtz v. Rawlings Co., 761 F.3d 232 (2d Cir. 2014)

Keller Rohrback submitted an amicus brief on behalf of the New York State Trial Lawyers Association in support of the appellants. The Second Circuit cited the amicus brief and adopted much of its reasoning in reversing the trial court.

Heckman v. Williamson County, 369 S.W.3d 137 (Tex. 2012)

Keller Rohrback represented a proposed class of indigent criminal Defendants who challenged the constitutionality of a number of pretrial procedures. Keller Rohrback persuaded the Texas Supreme Court to reverse the Texas Court of Appeals and allow the Plaintiffs to proceed with their claims.

Braden v. Wal-Mart Stores, Inc., 588 F.3d 585 (8th Cir. 2009)

Keller Rohrback represented a class of Wal-Mart employees who alleged that Wal-Mart's 401(k) plan charged them excessive fees. Keller Rohrback convinced the Eighth Circuit to reverse the trial court and reinstate the employees' claims.

In re Syncor ERISA Litigation, 516 F.3d 1095 (9th Cir. 2008)

Keller Rohrback represented a group of workers who alleged that their employer had violated the law by investing their retirement savings in the employer's stock. Keller Rohrback convinced the Ninth Circuit to reverse the dismissal of the trial court and reinstate the workers' claims.

CONSUMER PROTECTION CLASS ACTIONS KR

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For decades, consumers have trusted the attorneys of Keller Rohrback to protect them from harmful and unfair trade practices. Our firm is a leader in representing consumers in class action lawsuits in diverse areas, including vehicles, children's products, food contamination, drugs, mortgage modifications, identity theft, and data breaches. Keller Rohrback currently represents a wide range of consumers, such as vehicle owners and lessees, parents, environmentalists, fishermen, employees, professors, doctors, and nurses.

Through decades of hard work, ingenuity, and creativity, Keller Rohrback has achieved meaningful results for decades. These results impact not just our clients, but future consumers too; for example, homeowners now benefit from improved loan-modification practices at one of the country's biggest banks as a result of our advocacy.

Keller Rohrback attorneys are frequently featured speakers and presenters at prestigious legal education seminars on class actions, consumer protection, and data privacy.

REPRESENTATIVE CASES

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 (N.D. Cal.)

Keller Rohrback filed the first multi-Plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Our clients are consumers nationwide who allege they have been damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States and over eleven million worldwide. Keller Rohrback Managing Partner Lynn Sarko serves on the Plaintiffs' Steering Committee for this national litigation.

In re JPMorgan Chase Mortgage Modification Litigation, MDL No. 2290 (D. Mass.)

Keller Rohrback served as Co-Lead Counsel in this MDL, representing homeowners who attempted to obtain mortgage loan modifications from JPMorgan Chase and related entities. Plaintiffs alleged breach of contract and violations of consumer protection laws when Defendants failed to timely evaluate or approve mortgage modification applications of homeowners who had completed identified prerequisities. Keller Rohrback achieved a settlement for the class valued at over $500 million.

In re Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation, MDL No. 08-1967 (W.D. Mo.)

Keller Rohrback served on the Plaintiffs' Steering Committee in this MDL on behalf of purchasers of plastic baby bottles and "sippy" cups which contained the chemical bisphenol-A (BPA). The action was favorably settled.

REPRESENTATIVE CASES continued

In re Mattel, Inc., Toy Lead Paint Products Liability Litigation, MDL No. 1897 (C.D. Cal.)

Keller Rohrback served as Chair of the Executive Committee in this nationwide MDL against Mattel and Fisher-Price on behalf of purchasers of toys recalled because they were manufactured using lead paint and/or dangerous magnets. On behalf of Plaintiffs, Keller Rohrback achieved a settlement valued at approximately $50 million.

Brotherson v. Professional Basketball Club, L.L.C., No. 07-1787 (W.D. Wash.)

Keller Rohrback represented Seattle Sonics season ticket holders who renewed their 2007–2008 season ticket packages before the team was relocated to Oklahoma City. After Plaintiffs prevailed on summary judgment, the parties negotiated a significant settlement that returned substantial sums to the class.

In re Checking Account Overdraft Litigation, No. 09-2036 (S.D. Fla.)

Keller Rohrback serves as Co-Executive Lead Counsel with regard to Defendant, Key Bank, representing consumers who allege that KeyBank violated state law by changing the order of debit card transactions to increase overdraft fees charged to customers, resulting in unlawful profits to the bank in the tens of millions of dollars. The matter is on appeal to the Eleventh Circuit.

Telephone Consumer Protection Act Cases, (King Cnty. Super. Ct., Wash.)

Keller Rohrback prosecuted numerous class actions concerning the sending of unsolicited facsimiles in violation of the Washington Telephone Consumer Protection Act, resulting in the issuance of eleven permanent injunctions and the recovery of over $56 million on behalf of injured Plaintiffs.

Ormond v. Anthem, Inc., No. 05-1908 (S.D. Ind.)

Anthem Insurance converted from a mutual company to a stock company on November 2, 2001. More than 700,000 former members of the mutual company sued Anthem, alleging that the cash compensation they received as a result of the demutualization was inadequate. After class certification and shortly before the start of trial, Keller Rohrback and co-counsel settled the action for $90 million.

Corona v. Sony Pictures Entertainment, Inc., No. 14-9600 (C.D. Cal.)

Keller Rohrback serves as interim Co-Lead Counsel and Liaison Counsel in this case against Sony Pictures Entertainment, Inc. on behalf of former and current Sony employees affected by the company's highly publicized data breach. Plaintiffs alleged that Sony failed to secure and protect its computer systems, servers, and databases, resulting in the release of the named Plaintiffs and other class members' personal information. Keller Rohrback obtained a significant settlement for the class in October 2015, which was approved in April 2016.

Iacovelli v. SBTickets.com, LLC, No. 15-1459 (Maricopa Cnty. Super. Ct., Ariz.)

Keller Rohrback filed a class action in Arizona state court on behalf of individuals who paid for, but did not receive, tickets to the 2014 Super Bowl (Super Bowl XLIX) from the ticket broker SBTickets. Despite purchasing tickets and receiving numerous representations that their tickets were guaranteed, SBTickets customers were told just days before the game, and in some instances, only hours before kickoff, that their ticket orders would not be fulfilled. The case was settled on favorable terms for the class notwithstanding the Defendant's insolvency and bankruptcy proceedings.

EMPLOYEE BENEFITS

ATTORNEYS

Lynn Lincoln Sarko
Laurie Ashton
Gretchen Freeman Cappio
T. David Copley
Alison Gaffney
Laura Gerber
Matthew Gerend
Gary Gotto
Benjamin Gould
Amy N. L. Hanson
Khesraw (Kash) Karmand
Dean N. Kawamoto
Ron Kilgard
David Ko
Tanya Korkhov
Cari Campen Laufenberg
Elizabeth A. Leland
Jeffrey Lewis
Derek Loeser
Ian Mensher
Gretchen Obrist
David Preminger
Erin Riley
Karin B. Swope
Havila C. Unrein
Amy Williams-Derry

Keller Rohrback is the preeminent firm for Employee Retirement Income Security Act of 1974 (ERISA) and other benefit class action litigation. Our firm is a pioneer of ERISA class action litigation, with over a billion dollars of pension and health benefits recovered for our clients. Keller Rohrback has played a major role in developing the law and establishing that ERISA's strict fiduciary duties apply to all investments in company-sponsored retirement plans, as well as to benefits in health and welfare plans.

Keller Rohrback is routinely appointed lead or co-lead counsel in major employee benefit class actions. Our work in this complex and rapidly developing area has been praised by our clients, our co-counsel, and federal courts. Managing a complex, large-scale employee benefit case requires knowledge of employee benefit, securities, accounting, corporate, bankruptcy, and class action law. Keller Rohrback has excelled in these cases by developing a deep understanding of ERISA and by drawing on our expertise in numerous related practice areas.

Keller Rohrback attorneys are frequently featured speakers and presenters at prestigious legal education seminars on employee benefit class actions and ERISA.

REPRESENTATIVE CASES

Whetman v. IKON Office Solutions, Inc., MDL No. 1318 (E.D. Pa.)

The wave of 401(k) company stock cases began with *Whetman v. IKON Office Solutions, Inc*. In a first-of-its-kind complaint, we alleged that company stock was an imprudent investment for IKON's 401(k) plan, that the fiduciaries of the plan failed to provide complete and accurate information concerning company stock to the participants, and that they failed to address their conflicts of interest. This case resulted in ground-breaking opinions in the ERISA 401(k) area of law on motions to dismiss, class certification, approval of securities settlements with a carve-out for ERISA claims, and approval of ERISA settlements providing a total recovery to the Plans of $111 million. Judge Katz granted final approval of the settlement on August 9, 2002.

In re Enron Corp. ERISA Litigation, MDL No. 1446 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of Texas. After groundbreaking motions to dismiss decisions and several years of discovery, Keller Rohrback negotiated four separate settlements with different groups of Defendants, resulting in recoveries of over $264 million for the class. Judge Melinda Harmon approved the fifth and final settlement on February 23, 2007.

REPRESENTATIVE CASES continued

In re Lucent Technologies, ERISA Litigation, No. 01-3491 (D.N.J.)

Keller Rohrback served as Co-Lead Counsel in this class action brought on behalf of participants and beneficiaries of the Lucent defined contribution plans who invested in Lucent stock. A settlement providing injunctive relief and the payment of $69 million to the plan was approved by Judge Joel Pisano on December 12, 2003.

In re WorldCom, Inc. ERISA Litigation, No. 02-4816 (S.D.N.Y.)

Keller Rohrback served as Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the WorldCom 401(k) Salary Savings Plan who invested in WorldCom stock. Settlements providing for injunctive relief and payments of over $48 million to the plan were approved by Judge Denise Cote on October 26, 2004 and November 21, 2005.

> "[Keller Rohrback] has performed an important public service in this action and has done so efficiently and with integrity...[Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions... [Keller Rohrback] should be appropriately rewarded as an incentive for the further protection of employees and their pension plans not only in this litigation but in all ERISA actions." *In re WorldCom, Inc. ERISA Litigation*, No. 02-4816, 2004 WL 2338151, *10 (S.D.N.Y. Oct. 18, 2004) (Cote, J.).

In re AIG ERISA Litigation, No. 04-9387 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for injunctive relief and the payment of $25 million to the plans was approved by Judge Kevin T. Duffy on October 8, 2008.

In re AIG ERISA Litigation II, No. 08-5722 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the AIG 401(k) retirement plans who invested in AIG stock. A settlement providing for injunctive relief and the payment of $40 million to the plans was approved by Judge Laura Swain on September 18, 2015.

Alvidres v. Countrywide Financial Corp., No. 07-5810 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action filed on behalf of participants and beneficiaries of the Countrywide 401(k) plan who invested in Countrywide stock. A settlement providing for injunctive relief and the payment of $55 million to the plan was approved by Judge John F. Walter on November 16, 2009.

In re CMS Energy ERISA Litigation, No. 02-72834 (E.D. Mich.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Eastern District of Michigan on behalf of participants and beneficiaries of the CMS defined contribution plans who invested in CMS stock. A settlement providing injunctive relief and a payment of $28 million to the plan was approved by Judge George Caram Steeh on December 27, 2004.

REPRESENTATIVE CASES continued

In re Dynegy, Inc. ERISA Litigation, No. 02-3076 (S.D. Tex.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of Texas on behalf of participants and beneficiaries of the Dynegy defined contribution plans who invested in Dynegy stock. A settlement providing injunctive relief and a payment of $30.75 million to the plan was approved by Judge Sim Lake on March 5, 2004.

In re Fremont General Corporation Litigation, No. 07-2693 (C.D. Cal.)

Keller Rohrback served as Lead Counsel in this class action filed in the Central District of California on behalf of participants and beneficiaries of the Freemont 401(k) plan who invested in Fremont stock. A settlement providing injunctive relief and a payment of $21 million to the plan was approved by Judge Jacqueline Nguyen on August 10, 2011.

In re Global Crossing, Ltd. ERISA Litigation, No. 02-7453 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of the GX defined contribution plans who invested in GX stock. A settlement providing injunctive relief and a payment of $79 million to the plan was approved by Judge Gerard Lynch on November 10, 2004.

In re HealthSouth Corp. ERISA Litigation, No. 03-1700 (N.D. Ala.)

Keller Rohrback served as Lead Counsel in this class action filed in the Northern District of Alabama on behalf of participants and beneficiaries of HealthSouth's retirement plans who invested in HealthSouth stock. A settlement providing injunctive relief and a payment of $28.875 million to the plan was approved by Judge Bowdre on June 28, 2006.

In re Household International, Inc. ERISA Litigation, No. 02-7921 (N.D. Ill.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Northern District of Illinois on behalf of participants and beneficiaries of Household's retirement plans who invested in Household stock. A settlement providing injunctive relief and a payment of $46.5 million to the plan was approved by Judge Samuel Der-Yeghiayan on November 22, 2004.

In re Merck & Co., Inc. "ERISA" Litigation, MDL No. 1658 (D.N.J.)

Keller Rohrback served on the Co-Lead Counsel Committee in this class action filed in the District of New Jersey on behalf of participants and beneficiaries of Merck's retirement plans who invested in Merck stock. A settlement providing injunctive relief and a payment of $49.5 million to the plan was approved by Judge Stanley R. Chesler on November 29, 2011.

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, No. 07-10268 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this class action filed in the Southern District of New York on behalf of participants and beneficiaries of Merrill Lynch's defined contribution plans who invested in Merrill Lynch stock. A settlement providing injunctive relief and a payment of $75 million to the plans was approved by Judge Jed S. Rakoff on August 21, 2009.

In re State Street Bank and Trust Co. ERISA Litigation, No. 07-8488 (S.D.N.Y.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Southern District of New York brought on behalf of participants and beneficiaries in the company's retirement plans. A settlement providing a payment of $89.75 million was approved by Judge Richard J. Holwell on February 19, 2010.

REPRESENTATIVE CASES continued

Overall v. Ascension Health, No. 13-11396 (E.D. Mich.)

Keller Rohrback served as Co-Lead Counsel in this lawsuit that alleged Defendants' claim that the Ascension pension plans are exempt from ERISA's protections because it is a "church plan" is improper because, among other things, Ascension Health is not a church, or a convention or association of churches, and the Ascension Pension Plans were not established by a church or a convention or association of churches. A settlement providing for equitable relief, plus payment of $8 million to the plans was approved by Judge Avern Cohn on April 14, 2015. Keller Rohrback continues to litigate a number of similar cases throughout the country, challenging Defendants' claims that their pension plans are exempt from ERISA.

In re Washington Mutual, Inc. ERISA Litigation, No. 07-1874 (W.D. Wash.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Western District of Washington on behalf of participants and beneficiaries in the company's retirement plans who invested in Washington Mutual stock. On January 7, 2011, Judge Marsha J. Pechman granted final approval of the $49 million settlement in the ERISA action.

In re Williams Companies ERISA Litigation, No. 02-153 (N.D. Okla.)

Keller Rohrback served as Lead Counsel in this ERISA breach of fiduciary duty class action filed in the Northern District of Oklahoma on behalf of participants and beneficiaries in the company's retirement plans who invested in Williams stock. A settlement providing a payment $55 million in cash, plus equitable relief, was approved by Judge Terence C. Kern on November 16, 2005.

In re Xerox Corporation ERISA Litigation, No. 02-1138 (D. Conn.)

Keller Rohrback served as Co-Lead Counsel in this ERISA breach of fiduciary duty class action in the District of Connecticut on behalf of participants and beneficiaries in the company's retirement plans who invested in Xerox stock. A settlement providing for equitable relief plus a payment of $51 million to the plans was approved by Judge Alvin Thompson on April 14, 2009.

"The Court finds that [Keller Rohrback] is experienced and qualified counsel who is generally able to conduct the litigation as lead counsel on behalf of the putative class. Keller Rohrback has significant experience in ERISA litigation, serving as co-lead counsel in the Enron ERISA litigation, the Lucent ERISA litigation, and the Providian ERISA litigation, and experience in complex class action litigation in other areas of law" *In re Williams Cos. ERISA Litigation*, No. 02-153, 2002 U.S. Dist. LEXIS 27691, *8 (N.D. Okla. Oct. 28, 2002) (Holmes, J.).

REPRESENTATIVE CASES continued

Fish v. Greatbanc Trust Company, No. 09-1668 (N.D. Ill.)

Keller Rohrback represents participants in the Antioch ESOP in this lawsuit filed in the Northern District of Illinois. Plaintiffs allege that Defendants breached their ERISA fiduciary duties by allowing the Antioch Company to redeem the Antioch shares of non-ESOP shareholders for more than they were worth, leaving the Antioch ESOP as the sole shareholder of a company with a greatly reduced value.

Potter v. ConvergEx, No. 13-9150 (S.D.N.Y.)

Keller Rohrback serves as Co-Counsel in this lawsuit filed in the Southern District of New York that alleges Defendants violated ERISA by "double-charging" for transition management and brokerage services. Defendants funneled trade orders to an offshore subsidiary broker located in Bermuda, which created a "spread" between the actual investment price and the reported price by adding markups/markdowns. While the reported price was confirmed with customers, the actual price was undisclosed and constituted unauthorized additional compensation.

Rader v. Bruister, No. 13-1081 (S.D. Miss.)

This case alleges breach of fiduciary duty and prohibited transactions in connection with the purchase by the Bruister Company ESOP of shares from its founder. In 2014, Keller Rohrback obtained a judgment for approximately $6.5 million after a lengthy bench trial. Collection actions are proceeding on the existing judgment. Defendants appealed the judgment. The appeal was fully briefed and argued in 2015.

> "[T]he Court expressly finds that the [Keller Rohrback] attorneys added considerable value to the prosecution of these claims through their briefing, preparation, and courtroom appearances. . . . The [Keller Rohrback] attorneys were skilled and knowledgeable in ESOP litigation . . . ." *Perez v. Bruister*, 2015 WL 5712883, at *4 (S.D. Miss. 2015) (Jordan, J.)

ENVIRONMENTAL LITIGATION

ATTORNEYS

Lynn Lincoln Sarko
Gretchen Freeman Cappio
Alison Chase
Derek Loeser
Daniel Mensher
Matthew Preusch
Amy Williams-Derry
Michael Woerner

Attorneys in Keller Rohrback's Complex Litigation Group have successfully represented individuals, class members, municipalities, and nonprofit organizations in complex and critical environmental litigation. In cases involving oil spills, mishandled hazardous waste, contaminated consumer products, and industrial pollution, Keller Rohrback works to protect human health and the environment. The firm combines its unparalleled experience in consumer protection and its deep knowledge of environmental law, making Keller Rohrback a worldwide leader in litigation to safeguard our environment and the people and animals that rely on it.

REPRESENTATIVE CASES

In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Litigation, No. 3:15-md-02672 (N.D. Cal.)

Keller Rohrback filed the first multi-plaintiff complaint against Volkswagen on September 20, 2015, two days after the defeat device scheme came to light. Our clients are consumers nationwide who allege they have been damaged by Volkswagen's fraudulent use of an emissions "defeat device" in over 500,000 vehicles in the United States and over eleven million worldwide. Keller Rohrback's Lynn Sarko serves on the Plaintiffs' Steering Committee for this national litigation.

In re Exxon Valdez, No. 89-95 (D. Alaska)

Keller Rohrback was trial counsel representing fishermen, landowners, and businesses located in Prince William Sound in their action against Exxon to recover damages caused by the Exxon Valdez oil spill. A federal jury awarded a $5 billion judgment in favor of Keller Rohrback clients. At the time, it was the largest punitive damages verdict in U.S. history. Additional claims against the pipeline owner were settled for $98 million. More than twenty-five years after the tragic spill, the Exxon Valdez spill is still considered one of the most devastating human-caused environmental disasters. In addition, Keller Rohrback Managing Partner Lynn Sarko was appointed to serve as the Administrator of the Exxon and Alaska Qualified Settlement Funds.

Photo: Mark Colman

Andrews v. Plains All American Pipeline, No. 2:15-cv-04113 (C.D. Cal.)

Keller Rohrback serves as interim co-lead counsel representing fisherman, fish processors, tour companies, and others affected by the May 2015 spill from Plains All American's Line 901 pipeline in Santa Barbara County. The oil spill contaminated pristine beaches, closed critical fishing grounds, and damaged natural resources throughout the region. Keller Rohrback seeks compensation for victims of the spill for their present and future damages and to hold Plains accountable for the harm it caused to the local economy and environment.

ENVIRONMENTAL LITIGATION

REPRESENTATIVE CASES continued

Meeker v. Bullseye Glass Co., No. 16CV07002, Circuit Court of the State of Oregon, County of Multnomah

Keller Rohrback has filed the first and only complaint against Bullseye Glass company for contaminating a residential neighborhood in Portland Oregon by emitting hazardous levels of arsenic, cadmium, lead, chromium, and other toxic materials from its facility. Despite using thousands of pounds a year of dangerous heavy metals, Bullseye Glass has used no pollution control technology at all for more than four decades. Using innovative air and soil monitoring, Keller Rohrback is helping this neighborhood to protect itself and hold Bullseye accountable for the harm it has caused.

Wishtoyo Foundation v. Magic Mountain, No. 2:12-cv-05600 (C.D. Cal.)

Keller Rohrback worked with a team of environmental lawyers on behalf of Los Angeles-based clients who successfully negotiated a groundbreaking settlement with Six Flags Magic Mountain to address its stormwater pollution discharged to the Santa Clara River. The settlement significantly reduced the amount of heavy metals and other pollutants entering the Santa Clara from the amusement park by requiring the facility to install state-of-the-art technology, develop and implement a comprehensive site management plan, and fully comply with the Clean Water Act. Additional monetary payments made by Six Flags as a result of the case are being used to perform critical habitat restoration and mitigation projects along the Santa Clara River.

Mapleton Groundwater Litigation (Ruff v. Ensign-Bickford Industries, Inc.), No. 2:99-cv-120B (D. Utah)

Keller Rohrback attorneys successfully litigated a series of groundwater contamination suits against multiple international Defendants accused of releasing hazardous chemicals into the watershed over six decades. The suits were brought on behalf of individuals and their families against Defendants who owned a former explosives plant in Mapleton, Utah. The Plaintiffs alleged that improper waste

Photo: Mark Colman

disposal caused contaminants to seep into the groundwater and that the chemicals caused property damage and non-Hodgkin's lymphoma cancers affecting numerous residents. The matter involved complex scientific issues related to hydrogeology, chemical migration pathways, aquifer dynamics, clean-up methods, and contaminant degradation. The litigation resolved prior to trial after lengthy evidentiary hearings at which Plaintiffs received favorable Daubert rulings.

Clean Water Act Enforcement – General Magnaplate

In partnership with the non-profit Environmental Defense Center, one of the oldest environmental organizations in the United States, Keller Rohrback L.L.P. helped reach a final settlement with General Magnaplate California to control the significant pollutants the company discharged via stormwater into the fragile Santa Clara River. Under the settlement, General Magnaplate agreed to implement enhanced storm water management measures at its electroplating facility to ensure that storm water runoff does not contain high levels of pollutants that pose a threat to human health and the environment. These measures include installing effective treatment technology and repairing paved surfaces. In addition, General Magnaplate will contribute $15,000 to the Rose Foundation for Communities and the Environment to be used to improve the water quality in the Santa Clara River watershed.

INTERNATIONAL LAW

ATTORNEYS

Lynn Lincoln Sarko
Laurie Ashton
Alison Chase
Juli Farris
Gary A. Gotto
Ian Mensher

Keller Rohrback has experience in international forums. Keller Rohrback clients include sovereign nations, state and local governments, sovereign Native American tribes, and quasi-governmental agencies where international agreements or other tort or statutory claims are at issue.

Keller Rohrback has been honored to represent sovereigns in litigation and arbitration matters involving governmental and business entities. The firm currently has three cases pending in the International Court of Justice and is pursuing a breach of treaty claim on behalf of a sovereign nation. Keller Rohrback is also investigating environmental contamination claims on behalf of a sovereign nation.

Keller Rohrback attorneys have represented clients in international arbitration proceedings, including International Centre for Dispute Resolution and International Chamber of Commerce arbitrations, as well as ad hoc arbitrations conducted under the United Nations Commission on International Trade Law Arbitration Rules. Domestically, these international arbitrations have given rise to related litigation in U.S. courts, including confirmation and enforcement proceedings under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

In addition, Keller Rohrback attorneys have represented private clients with international interests in civil litigation in U.S. courts, including state and federal courts in California, New York, Illinois, and Texas. Keller Rohrback attorneys have litigated trademark claims on foreign-registered trademarks in several western European countries and have also succeeded in obtaining rulings to conduct depositions and other discovery in Russia for litigation matters pending in the U.S. federal courts. The firm has also represented claimants in insolvency proceedings in Canada, proceeding under the Companies' Creditors Arrangement Act.

Keller Rohrback is a member firm of several international organizations: the Global Justice Network, a consortium of international counsel working together and across borders for the benefit of victims; the International Financial Litigation Network of attorneys, who handle cross-border litigation in the finance arena; and the Sovereign Wealth Fund Institute, a global organization of asset managers and service providers.

REPRESENTATIVE CASES

The Republic of the Marshall Islands v. United States of America et al., No. 14-1885 (N.D. Cal.)

Keller Rohrback currently represents the Republic of the Marshall Islands (RMI), a sovereign nation, in an action for breach of the Treaty on the Non-Proliferation of Nuclear Weapons, and in multiple similar cases pending at the International Court of Justice against the United Kingdom, India, and Pakistan. For this ground-breaking work, Keller Rohrback has been nominated by the International Peace Bureau for the 2016 Nobel Peace Prize as part of the international legal team representing the RMI, together with the RMI's former Foreign Minister, Tony deBrum, who initiated the litigation.

KELLER ROHRBACK
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LYNN LINCOLN SARKO

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PRACTICE EMPHASIS

- Antitrust and Trade Regulation
- Appeals
- Class Actions
- Constitutional Law
- Commodities and Futures Contracts
- Consumer Protection
- Data Breach
- Employment Law
- Environmental Litigation
- Employee Benefits and Retirement Security
- Fiduciary Breach
- Financial Products and Services
- Institutional Investors
- Intellectual Property
- International Law
- Mass Personal Injury
- Medical Negligence
- Securities
- State and Local Government
- Whistleblower

Lynn Lincoln Sarko is a master strategist and litigator who leads Keller Rohrback's nationally recognized Complex Litigation Group. One of the nation's top attorneys in complex litigation, Lynn does not just help clients win – he helps them win what they want. Through smart, efficient strategy and tailored, creative problem solving, Lynn and his team accomplish the best outcomes while minimizing costs and maximizing value.

Lynn's diverse experience enables him to think outside the box to resolve complex cases. He regularly interacts with international business interests, representing sovereign nations and institutional clients seeking to recover investment losses caused by financial fraud and other malfeasance. He is currently involved in several matters involving complex derivatives and specialty investment products. Lynn is the driving force behind Keller Rohrback's membership with the Sovereign Wealth Fund Institute, a global organization of leading asset managers and service providers engaged in the public investor community. He represents clients with regard to regulatory investigations and issues involving state and federal supervisory agencies and has litigated actions involving several of the nation's largest accounting and investment firms.

Lynn has led the firm's securities and retirement fund practice for over 25 years and regularly serves as lead counsel in multiparty individual and class action cases involving ERISA, antitrust, securities, breach of fiduciary duty, and other investment fraud issues. Other law firms often hire him as settlement counsel in these and other complex cases because of his reputation as a skilled negotiator. His successes in this area include multimillion dollar settlements in the IKON, Anicom, Scientific-Atlanta, United Companies Financial Corp., and Apple securities fraud and derivative cases and the Enron, WorldCom, Global Crossing, Health South, Delphi, Washington Mutual, Countrywide, Lucent, Merrill Lynch, and Xerox consolidated pension and retirement plan cases.

Courts and professional organizations have honored Lynn for his work on financial, fiduciary duty, consumer and numerous other high profile public cases. After serving as trial counsel in the Exxon Valdez Oil Spill case, which resulted in a $5 billion punitive damages verdict, Lynn was appointed by the court as Administrator for all funds recovered. He prosecuted the Microsoft civil antitrust case, Vitamin price-fixing cases, the MDL Fen/Phen Diet Drug Litigation, and notable public service lawsuits such as Erickson v. Bartell Drug Co., which established a woman's right to prescription contraceptive health coverage.

Prior to joining Keller Rohrback, Lynn was an Assistant United States Attorney for the District of Columbia, Criminal Division, an associate at the Washington, D.C. office of Arnold & Porter, and law clerk to the Honorable Jerome Farris, United States Court of Appeals for the Ninth Circuit, in Seattle. He has been the managing partner of Keller Rohrback since 1991.

Lynn appears in federal courts from coast to coast, maintaining an active national litigation practice. He regularly counsels and represents consumers, employees, and businesses who have suffered harm resulting from the improper disclosure of proprietary, personal, health, and other protected information.

KELLER ROHRBACK
LAW OFFICES ◆ L.L.P.

EDUCATION

University of Wisconsin

B.B.A., 1977

University of Wisconsin

M.B.A., 1978, *Beta Alpha Psi*

University of Wisconsin

J.D., 1981, *Order of the Coif*; Editor-in-Chief, *Wisconsin Law Review;* Salmon Dalberg Award (outstanding graduate)

BAR & COURT ADMISSIONS

1981, Wisconsin

1983, District of Columbia

1986, Washington

HONORS & AWARDS

Super Lawyers List, Washington Law & Politics, 1999-2013

Avvo Top Tax Lawyer, Washington CEO Magazine, 2008

Trial Lawyer of the Year, 1995

Salmon Dalberg Award, 1981

PROFESSIONAL & CIVIC INVOLVEMENT

American Bar Association, *Member*

Bar Association of The District of Columbia, *Member*

Federal Bar Association, *Member*

King County Bar Association, *Member*

State Bar of Wisconsin, *Member*

Trial Lawyers for Public Justice, *Member*

Washington State Bar Association, *Member*

Washington State Trial Lawyers Association, *Member*

American Association for Justice, *Member*

Social Venture Partners of Santa Barbara, Founding Partner

The Association of Trial Lawyers of America, *Member*

American Academy of Trial Counsel, *Fellow*

Editorial Board, *Washington State Securities Law Deskbook* (scheduled for publication in 2012)

SELECTED PUBLICATIONS

Thomson/West Webinar, "Stock Drop and Roll: Key Supreme Court Rulings and New Standards in ERISA 'Stock Drop' Cases," July 24, 2014

14th Annual Pension Law, Governance and Solvency Conference, 2013

Canadian Institute's 14th Annual Advanced Forum on Pension Law, Governance and Solvency, 2013

ERISA Litigation & Regulatory Compliance Congress, 2013

American Conference Institute's 6th National Forum on ERISA Litigation, 2013

25th Annual ERISA Litigation Converence, 2012

American Conference Institute's 5th National Forum on ERISA Litigation, 2012

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PRACTICE EMPHASIS

- Business Reorganizations
- Class Action & Consumer Litigation
- Constitutional Law
- Employee Benefits and Retirement Security
- Fiduciary Breach
- International Law

EDUCATION

University of California, San Diego

B.A., 1987, Economics

Arizona State University College of Law

J.D., 1990, Order of the Coif; *Member*, *Arizona State Law Journal*, 1988-1990; Note and Comment Editor, *Arizona State Law Journal*, 1989-1990; Student Instructor, Legal Research and Writing, 1989-1990.

Laurie Ashton is Of Counsel to Keller Rohrback. Prior to becoming Of Counsel, she was a partner in the Phoenix affiliate of Keller Rohrback. Early in her career, as an Adjunct Professor, she taught semester courses in Lawyering Theory and Practice and Advanced Business Reorganizations. She also served as a law clerk for the Honorable Charles G. Case, U.S. Bankruptcy Court, for the District of Arizona for two years.

In complex litigation, Laurie was the lead attorney for Keller Rohrback in a series of successful groundwater contamination suits brought in 1996 against multiple international defendants concerning chemical releases spanning over 60 years. She was also the lead attorney for Keller Rohrback in an ERISA class action suit on behalf of over 21,000 employees who lost a material percentage of their retirement assets at the hands of fiduciaries who maintained the investment of those assets in their own declining company stock—a case that was, at its time, amongst the largest of its kind in the nation. Laurie has led or been a member of the team leading numerous high profile business reorganizations, including a case in which the Court confirmed a reorganization plan over the objection of the international life insurance company's feasibility expert, based on Laurie's cross examination.

Laurie has been active in the State Bar of Arizona where she served on the Ethics Committee for six years. She was also the coauthor of a textbook on limited liability companies and partnerships, published by West, and is AV rated by Martindale.

An important part of Laurie's international work involves the domestic and international legal implications of treaty obligations and breaches. She is lead counsel for The Republic of the Marshall Islands in its federal court treaty breach suit against the United States, and a member of the international legal team representing the Marshall Islands in three cases pending at the International Court of Justice in The Hague, against the United Kingdom, India and Pakistan. For this work, Laurie is part of the legal team that the International Peace Bureau has nominated, along with the former Foreign Minister of the Marshall Islands, for the 2016 Nobel Peace Prize.

Laurie is frequently interviewed and has been cited by Reuters, Newsweek, Fox News, Huffington Post, Slate Magazine, Radio New Zealand, Radio Australia, and others. She currently serves as a Trustee of the Santa Barbara Foundation, a member of the Human Rights Watch Committee in Santa Barbara, and as a Director of the Global Justice Center in New York, which advances human rights pursuit to various international laws, including the Geneva and Genocide Conventions, as well as customary international law.

KELLER ROHRBACK
LAW OFFICES ◆ L.L.P.

BAR & COURT ADMISSIONS

1990, Arizona

1999, Colorado

2007, Washington, D.C.

2013, Eastern District of Michigan

Sixth Circuit Court of Appeals

Ninth Circuit Court of Appeals

Tenth Circuit Court of Appeals

U.S. Supreme Court

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of Arizona, *Member*

Colorado Bar Association, *Member*

Washington, D.C. Bar Association, *Member*

Adjunct Professor of Law, *Advanced Chapter 11*, Arizona State University, 1996

Adjunct Professor of Law, *Lawyering Theory & Practice,* Arizona State University, 1997

Committee on the Rules of Professional Conduct ("Ethics Committee"), State Bar of Arizona, *Member,* 1997-2003

Court Appointed Special Advocate, King County, 2007-2009

Santa Barbara Foundation, *Trustee*

Global Justice Center, New York, *Director*

Human Rights Watch Committee, Santa Barbara, *Member*

PUBLICATIONS & PRESENTATIONS

Author, Case Note, *Arizona Mortgage and Deed of Trust Anti-Deficiency Statutes: The Underlying Obligation on a Note Secured By Residential Real Property After Baker v. Gardner*, 21 Ariz. St. L.J. 465, 470 (1989).

Co-Author, *Arizona Legal Forms: Limited Liability Companies and Partnerships* (1996-2004).

Guest Lecturer, Harvard Law School, 1997, 1999, 2001-2002.

Guest Lecturer, Stanford Law School, 2003.

Speaker, United Nations 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons; Panel, *Marshall Islands Nuclear Zero Lawsuits*

Speaker, Humanity House, The Hague, *"Legal Obligations for Nuclear Disarmament,"* March 2016.

Speaker, Bertha Von-Suttner Master Class, The Peace Palace, The Hague, *"Forward Into Light, The Barbarization of the Sky."*

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ALISON CHASE

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PRACTICE EMPHASIS

- Class Actions
- Commerical Litigation
- International Law
- Securities

EDUCATION

Emory University

B.A., *magna cum laude*, 2000, Political Science and Philosophy, Phi Beta Kappa

Yale Law School

J.D., 2003; Editor, *Yale Law Journal*, Articles Editor, Yale Journal of International Law

Alison Chase is a committed legal advocate. Alison practices in Keller Rohrback's nationally recognized Complex Litigation Group. Her broad litigation experience includes white collar criminal defense, complex commercial litigation, international commercial arbitration, and international litigation. Alison's diverse experience and interests enable her to advise and guide clients through a wide variety of complex litigation.

Alison is currently part of the litigation team representing several of the Federal Home Loan Banks in mortgage-backed securities litigation. Alison also maintains an active practice in the appellate arena, representing a class of sitting judges as well as the Republic of the Marshall Islands, while also representing private entities in a wide variety of commercial litigation.

Prior to joining the firm, Alison practiced with Irell & Manella in Los Angeles and O'Melveny & Myers in San Francisco. She also served as a clerk to the Honorable J. Clifford Wallace of the U.S. Court of Appeals, Ninth Circuit and the Honorable Valerie Baker Fairbank, U.S. District Judge for the Central District of California.

At home, Alison stays busy keeping up with her three rescue dogs.

BAR & COURT ADMISSIONS

2003, California

2007, United States District Court for the Central District of California

2010, Ninth Circuit Court of Appeals

2011, Arizona

2014, United States District Court for the Northern District of California

2016, United States District Court for the Southern District of California

PROFESSIONAL & CIVIC INVOLVEMENT

State Bar of California, *Member*

State Bar of Arizona, *Member*

AWARDS & HONORS

Finalist, Morris Tyler Moot Court

Recipient, Gherini Prize for Outstanding Paper in International Law

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ALISON GAFFNEY

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PRACTICE EMPHASIS

- Class Actions
- Consumer & Data Privacy Protection
- Employee Benefits & Retirement Security

EDUCATION

Swarthmore College

B.A., 2002, Linguistics and Languages (Spanish & Mandarin Chinese); McCabe Scholar

University of California, San Diego

M.A., 2007, Latin American Studies (International Migration)

University of Washington School of Law

J.D., 2012

Alison Gaffney leaves no stone unturned. A member of Keller Rohrback's nationally recognized Complex Litigation Group, Alison is a thorough researcher and a quick study no matter the factual context. At Keller Rohrback, Alison has devoted her time to representing employees and consumers in a variety of class action and individual claims. She represents pension plan participants challenging hospital conglomerates' claimed "church plans" status in *Holcomb v. Hospital Sisters Health System* (C.D. Illinois) and *Carver v. Presence Health Network* (N.D. Illinois). In *Dolins v. Continental Casualty Company* (N.D. Illinois), Alison represents a putative class of employees in their ERISA breach claim. Alison also represents consumers in a class action case currently pending before the United States Court of Appeals for the Ninth Circuit regarding the prescription drug Cymbalta, and serves as counsel in *Kessler v. Samsung Electronics America, Inc.* (E.D. Wisconsin), a class action involving alleged defects in Samsung's S7 series smartphones.

Prior to law school, Alison completed a master's degree focused on international migration. During law school, she interned with the Seattle Immigration Court. In addition, she represented clients in deportation proceedings through the law school's Immigration Law Clinic and with the Northwest Immigrant Rights Project, where she continues to volunteer. As a pro bono attorney, Alison has had the privilege of representing individuals from many countries, including Mexico, Venezuela, Rwanda, and Kenya.

When she is not fighting for her clients, Alison is busy keeping up with her two young and energetic sons, scrambling with The Mountaineers, and generally enjoying the beauty of the Pacific Northwest.

BAR & COURT ADMISSIONS

2012, Washington

2013, U.S. District Court for the Western District of Washington

2015, U.S. District Court for the Eastern District of Washington

2016, U.S. District Court for the Central District of Illinois

2013, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the Ninth Circuit

2016, U.S. District Court for the Eastern District of Wisconsin

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PROFESSIONAL & CIVIC INVOLVEMENT

Washington State Bar Association, *Member*

King County Bar Association, *Member*

Mother Attorneys Mentoring Association of Seattle (MAMAS), *Member*

Northwest Immigrant Rights Project, *Pro Bono Attorney*

LANGUAGES

Spanish

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TANA LIN

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
- Class Actions
- Consumer Protection
- Employment Law
- Fiduciary Breach
- Mutual Fund Excessive Fees

EDUCATION

Cornell University

A.B., *with distinction*, 1988, Government

New York University School of Law

J.D., 1991, Root-Tilden-Snow Scholar

Tana Lin fights hard for her clients, building cases that are legally and factually compelling. Tana has 25 years of litigation experience in civil and criminal matters in state and federal courts throughout the country. She is a member of the firm's nationally recognized Complex Litigation Group.

Tana joined Keller Rohrback in 2004 after practicing as a civil rights and criminal defense attorney. She began her legal career as a trial attorney with the Public Defender Service for the District of Columbia, one of the preeminent public defender offices in the country, where she handled cases at the trial level and argued appellate cases before the District of Columbia Court of Appeals.

Tana then joined the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice where she enforced federal discrimination laws across the country. At DOJ, and later at the Chicago District Office of the U.S. Equal Employment Opportunity Commission, she investigated and prosecuted employment discrimination cases against large governmental entities such as the Louisiana State Police and private corporations such as Wal-Mart. She also served as the Litigation coordinator for the Michigan Poverty Law Program, developing statewide projects to address issues facing the underprivileged and crafting creative solutions by developing partnerships with interested stakeholders.

At Keller Rohrback, Tana has achieved significant settlements for her clients. She has won landmark victories for shareholders of mutual funds in suits alleging breaches of fiduciary duty by investment advisors in violation of the Investment Company Act. She has protected the retirement funds of employees whose employers breached their fiduciary duties in violation of the Employee Retirement Income Security Act (ERISA). Tana has also stood up for workers who had been denied their proper wages and overtime payments. Tana was recently part of the trial team representing 20,000 Detroit nurses alleging an antitrust conspiracy by healthcare providers to depress compensation levels. This extraordinary case settled on the eve of trial. In total, Tana played an essential role in recovering almost $90 million on behalf of affected Detroit nurses.

Tana's wide ranging experience helps her quickly grasp what issues will dictate a case's outcome, and she works tirelessly to see that her clients obtain the best result available.

BAR & COURT ADMISSIONS

1991, District of Columbia

2000, Illinois

2001, Michigan

2004, Washington

HONORS & AWARDS

Named to Washington Super Lawyers list, 2012, 2014 - 2016

U.S. Department of Justice Special Achievement Award, 1997

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PROFESSIONAL & CIVIC INVOLVEMENT

ACLU of Washington: *Board of Directors*, 2016-present; *Legal Committee*, 2015-present; *Executive and Budget Committees*, 2017

American Association for Justice, *Member*

American Bar Association, *Member*

American Bar Association Gun Violence Advisory Committee, *Member*, 2016-2017

Asian Bar Association of Washington, *Member,* 2006-present; *Board of Directors,* 2010-2012

Joint Asian Judicial Evaluation Committee, *Member,* 2006-2008, 2011-2013, 2015-present; *Chairperson,* 2010

King County Bar Association, *Member*

Lawyers Fostering Independence Program, *Volunteer Attorney,* 2008-present

Mother Attorneys Mentoring Association (MAMAS), *Founding Member*

National Employment Lawyers Association, *Member*

Washington State Bar Association, *Member*

Washington State Association for Justice, *Member*

PUBLICATIONS & PRESENTATIONS

Presenter, Women Antitrust Plaintiffs' Attorneys Networking Event, Minneapolis, MN, *How to Prepare for the Big Event: Trial (The Last 90 Days*), Oct. 2010.

Faculty, Trial Advocacy College, National Legal Aid and Defender Association, Philadelphia, PA, July 2005.

Tana Lin, *Recovering Attorney's Fees under the Individuals With Disabilities Education Act,* West's Education Law Reporter, 180 Ed.LawRep. 1 (2003).

Civil Track Plenary Panelist, National Legal Aid and Defender Annual Conference, Seattle, WA, *Navigating the Crossroads of Change: Where Do We Go from Here?*, Nov. 2003.

Presenter, National Legal Aid and Defender Annual Conference, Seattle, WA, Holistic Advocacy for Youth: Addressing the Basic Needs of Children Through Civil, Criminal and Community Collaborations, Nov. 2003.

Presenter, National Legal Aid and Defender Annual Conference, Seattle, WA, Civil and Criminal Strategies for Protecting Clients Accused of Food Stamp Fraud, Nov. 2003.

Lead Trainer, Negotiation Skills Training, Committee on Regional Training, Ann Arbor, MI, Oct. 2003.

Faculty and Lecturer, Trial Advocacy Training for Legal Aid Attorneys, National Legal Aid and Defender Association, Los Angeles, CA, July 2003.

Trainer, Basic Lawyering Skills Training, Committee on Regional Training, Ann Arbor, MI, Dec. 2002.

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DEREK LOESER

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PRACTICE EMPHASIS

- Antitrust & Trade Regulation
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- Class Action & Consumer Litigation
- Employee Benefits & Retirement Security
- Employment Law
- Environmental Litigation
- Fiduciary Breach
- Financial Products & Services
- Institutional Investors
- Mortgage Put-Back Litigation
- Securities Fraud
- Whistleblower

Derek Loeser is a senior member of Keller Rohrback's nationally recognized Complex Litigation Group and a member of the firm's Executive Committee. He maintains a national practice prosecuting class action and large scale individual cases, including corporate fraud and misconduct, securities, Employee Retirement Income Security Act ("ERISA"), breach of fiduciary duty, and investment mismanagement cases. Derek has served as lead and co-lead counsel in large, complex cases in both state and federal courts around the country.

Derek has been a plaintiffs' attorney for over twenty years. He has a passion for taking on large corporations and holding them accountable for wrongdoing. Through all stages of litigation, including trial, he has helped recover over a billion dollars for institutions, retirement plans, retirees, employees, and consumers. Notable cases include mortgage-backed securities cases on behalf of the Federal Home Loan Banks of Chicago, Indianapolis and Boston, and ERISA class cases representing employees in cases against Enron, WorldCom, Countrywide, and Washington Mutual, among others. Many of Derek's cases have required coordinating with state and federal agencies involved in litigation that parallels cases pursued by Keller Rohrback, including states attorneys general, the Department of Justice, and the Department of Labor. In addition, Derek has extensive experience negotiating complex, multi-party settlements, and coordinating with the many parties and counsel necessary to accomplish this.

Before joining Keller Rohrback, Derek served as a law clerk for the Honorable Michael R. Hogan, U.S. District Court for the District of Oregon, and was a trial attorney in the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C., where he prosecuted individual and class action employment discrimination cases. He is a frequent speaker at national conferences on class actions, ERISA and other complex litigation topics.

EDUCATION

Middlebury College

B.A., summa cum laude, 1989, American Literature (higheset department honors), Stolley-Ryan American Literature Prize, Phi Beta Kappa

University of Washington School of Law

J.D., with honors, 1994

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HONORS & AWARDS

U.S. Department of Justice Honors Program Hire, 1994

U.S. Department of Justice Award for Public Service, 1996

U.S. Department of Justice Achievement Award, 1996

Selected to Rising Stars list in Super Lawyers - Washington, 2005-2007

Selected to Super Lawyers list in Super Lawyers - Washington, 2007-2012, 2014-2015

Recipient of the 2010 Burton Award for Legal Achievement for the article, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty, Pension & Benefits Reporter*, Bureau of National Affairs, Inc. (Sept. 1, 2009).

BAR & COURT ADMISSIONS

1994, Washington

1998, U.S. District Court for the Western District of Washington

1998, U.S. District Court for the Eastern District of Washington

1998, U.S. Court of Appeals for the Ninth Circuit

2002, U.S. District Court for the Eastern District of Michigan

2004, U.S. District Court for the Northern District of Illinois

2006, U.S. Court of Appeals for the Eleventh Circuit

2013, U.S. Court of Appeals for the Second Circuit

2008, U.S. Court of Appeals for the Eighth Circuit

2010, U.S. Court of Appeals for the Fourth Circuit

2010, United States Supreme Court

2012, U.S. Court of Appeals for the Third Circuit

2014, U.S. Court of Appeals for the First Circuit

PUBLICATIONS & PRESENTATIONS

Derek W. Loeser, *The Legal, Ethical, and Practical Implications of Noncompetition Clauses: What Physicians Should Know Before They Sign*, J.L. Med. & Ethics, Vol. 31:2 (2003).

Derek W. Loeser & Benjamin B. Gould, *Point/Counterpoint: Is Rule 23(b)(1) Still Applicable to ERISA Class Actions?*, ERISA Compliance and Enforcement Library of the Bureau of National Affairs, Inc. (May 1, 2009).

Derek W. Loeser & Benjamin B. Gould, *The Continuing Applicability of Rule 23(b)(1) to ERISA Actions for Breach of Fiduciary Duty*, Pension & Benefits Reporter, Bureau of National Affairs, Inc. (Sept. 1, 2009).

Speaker, 22nd Annual ERISA Litigation Conference, Las Vegas, NV, Oct. 2009.

Speaker, 22nd Annual ERISA Litigation Conference, New York, NY, Nov. 2009.

Speaker, ABA Mid-Winter Meeting, San Antonio, TX, 2010.

Derek W. Loeser & Erin M. Riley, *The Case Against the Presumption of Prudence,* Pension & Benefits Daily, Bureau of National Affairs, Inc. (Sept. 10, 2010).

Derek W. Loeser, Erin M. Riley & Benjamin B. Gould, 2010 *ERISA Employer Stock Cases: The Good, the Bad, and the In Between-Plaintiffs' Perspective*, Pension & Benefits Daily, Bureau of National Affairs, Inc. (Jan. 28, 2011).

Speaker, *Post-Certification: Motion Issues in Class Actions*, Litigating Class Actions, Seattle, WA, 2012.

Speaker, *Investment Litigation: Fees & Investments in Defined Contribution Plans*, ERISA Litigation, Washington, D.C., 2012.

Speaker, *Post-Certification Motion Practice in Class Actions*, Seattle, WA, June, 2014.

Speaker, *Fiduciary Challenges in a Low Return Environment*, Seattle, WA, December, 2014.

Speaker, *Class Action & Data Breach Litigation,* Santa Barbara, CA, March, 2016.

Panelist, Law Seminars International - *VW Diesel Emissions Litigation: A Case Study of the Interplay Between Government Regulatory Activity and Consumer Fraud Class Actions,* May 6, 2016.

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AMY WILLIAMS-DERRY

CONTACT INFO

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PRACTICE EMPHASIS

- Class Actions
- Consumer Protection
- Environmental Litigation
- Employee Benefits and Retirement Security
- Fiduciary Breach Financial Projects and Services
- Institutional Investors
- Securities
- Whistleblower

EDUCATION

Brown University

B.A., *with honors,* 1993 Sociology

University of Virginia School of Law

J.D., 1998; Editor in Chief, *Virginia Environmental Law Journal,* 1997-1998

Amy Williams-Derry's practice at Keller Rohrback L.L.P. combines her passion for protecting people and the environment with her talent and experience in commercial litigation, complex financial transactions, and consumer protection.

Amy is a senior member of the complex litigation group at Keller Rohrback, where she draws on her diverse background representing plaintiffs, defendants, and coordinating with federal and state governmental entities to secure the best results for her clients. Prior to law school, Amy worked on environmental and transportation issues in Washington, D.C. At the University of Virginia School of Law, Amy was the Editor-in-Chief of the Virginia Environmental Law Journal.

After practicing commercial litigation for five years with a prominent Seattle firm, Amy applied her trial, arbitration, and mediation experience to an environmental law fellowship in the non-profit sector. Working with Earthjustice, she fought for salmon, old-growth timber forests, and endangered species in litigation in state and federal courts throughout the Pacific Northwest.

Amy joined Keller Rohrback in 2005 with this wealth of experience in commercial litigation and environmental law. At Keller Rohrback, Amy has expanded her docket to include complex class actions, investor cases, and multi-defendant actions. Amy thrives on solving complex problems by looking at them from a variety of angles, and her practice has flourished at Keller Rohrback where she has played key roles in cases nationwide in ERISA, securities, complex financial transactions, consumer protection, and environmental actions on behalf of both institutions and individuals.

Amy has represented clients in proceedings involving the U.S. Department of Justice, as well as in mediation and arbitration settings, including before the National Labor Relations Board, National Association of Securities Dealers, and the New York Stock Exchange. Amy's current representative cases include Federal Home Loan Bank of Boston v. Ally Financial, Inc., et al. (D. Mass.), Federal Home Loan Bank of Chicago v. Banc of America Funding Corp., et al. (Cook Cty. Ill.), and In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation (N.D. Cal.).

BAR & COURT ADMISSIONS

1998, Washington

1998, U.S. District Court for the Western District of Washington

1998, U.S. District Court for the Eastern District of Washington

1999, U.S. Court of Appeals for the Ninth Circuit

2007, U.S. District Court for the Eastern District of Michigan

2007, U.S. Court of Appeals for the Second Circuit

2014, U.S. Court of Appeals for the First Circuit

2015, US Supreme Court

2015, Massachusetts

KELLER ROHRBACK
LAW OFFICES ◆ L.L.P.

PROFESSIONAL & CIVIC INVOLVEMENT

King County Bar Association, *Member*

Washington State Bar Association, *Member*

American Bar Association, *Member*

WithinReach, *Board of Directors*, 2006-2009

The Evergreen School, *Annual Giving Co-Chair*, 2012-2013

Washington Women Lawyers, *Member*

King County Washington Women Lawyers, *Member*

The National Association of Public Pension Attorneys, *Member*

HONORS & AWARDS

Selected to Rising Stars list in *Super Lawyers - Washington*, 2003-2009

AV®, Peer Review Top-Rated by Martindale-Hubbell

PUBLICATIONS & PRESENTATIONS

No Surprises After Winstar: Contractual Certainty and Habitat Conservation Planning Under the Endangered Species Act, 17 Va. Envtl. L.J. 357 (1998)

Presenter, American Law Institute-American Bar Association ERISA Conference, E*mployer Stock Cases and Cash Balance Plans,* Scottsdale, AZ, 2008.

Presenter, Washington State Bar Association, Employment Benefits CLE, *Hot Topics in ERISA Class Action Litigation,* Seattle, WA, 2010.

Presenter, HarrisMartin MDL Conference: *Fantasy Sports, Volkswagen, Porsche, and Pharmaceutical Litigation,* Cape Coral, FL 2016

Presenter, HarrisMartin *Aliso Canyon Gas Leak Litigation Conference,* Santa Barbara, CA 2016.

Presenter, HarrisMartin MDL Conference: *Environmental Contamination Cases*, Seattle, WA 2016.

KELLER ROHRBACK

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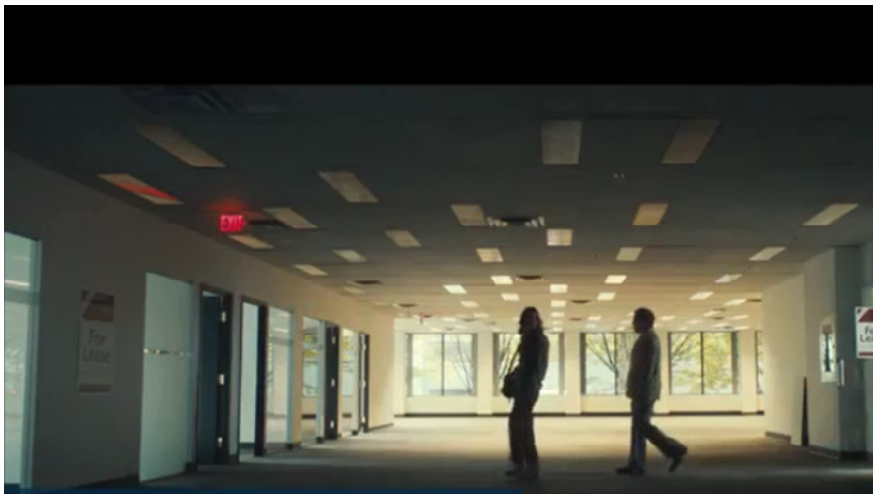
EXHIBIT 2

WORLD NEWS | Thu Mar 23, 2017 | 11:17am EDT

Exclusive: U.S. embassies ordered to identify population groups for tougher visa screening



By **Yeganeh Torbati**, **Mica Rosenberg** and **Arshad Mohammed** | WASHINGTON/NEW YORK

U.S. Secretary of State Rex Tillerson has directed U.S. diplomatic missions to identify "populations warranting increased scrutiny" and toughen screening for visa applicants in those groups, according to diplomatic cables seen by Reuters.

He has also ordered a "mandatory social media check" for all applicants who have ever been present in territory controlled by the Islamic State, in what two former U.S. officials said would be a broad, labor-intensive expansion of such screening. Social media screening is now done fairly rarely by consular officials, one of the former officials said.

Four cables, or memos, issued by Tillerson over the last two weeks provide insight into how the U.S. government is implementing what President Donald Trump has called "extreme vetting" of foreigners entering the United States, a major campaign promise. The cables also demonstrate the administrative and logistical hurdles the White House faces in executing its vision.

The memos, which have not been previously reported, provided instructions for implementing Trump's March 6 revised executive order temporarily barring visitors from six Muslim-majority countries and all refugees, as well as a simultaneous memorandum mandating enhanced visa screening.

The flurry of cables to U.S. missions abroad issued strict new guidelines for vetting U.S. visa applicants, and then retracted some of them in response to U.S. court rulings that challenged central tenets of Trump's executive order.

The final cable seen by Reuters, issued on March 17, leaves in place an instruction to consular chiefs in each diplomatic mission, or post, to convene working groups of law enforcement and intelligence officials to "develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny."

Applicants falling within one of these identified population groups should be considered for higher-level security screening, according to the March 17 cable.

Those population groups would likely vary from country to country, according to sources familiar with the cables, as the March 17 memo does not explicitly provide for coordination between the embassies.

Trump has said enhanced screening of foreigners is necessary to protect the country against terrorist attacks.

Advocates and immigration lawyers said the guidance could lead to visa applicants being profiled on the basis of nationality or religion rather than because they pose an actual threat to the United States.

"Most posts already have populations that they look at for fraud and security issues," said Jay Gairson, a Seattle-based immigration attorney who has many clients from countries that would be affected by Trump's travel ban.

A U.S. Customs and Border Patrol officer interviews people entering the United States from Mexico at the border crossing in San Ysidro, California, U.S. on October 14, 2016. REUTERS/Mike Blake

"What this language effectively does is give the consular posts permission to step away from the focused factors they have spent years developing and revising, and instead broaden the search to large groups based on gross factors such as nationality and religion."

Virginia Elliott, a spokeswoman for the State Department's Bureau of Consular Affairs, said the department was working to implement Trump's presidential memorandum "in accordance with its terms, in an orderly fashion, and in compliance with any relevant court orders, so as to increase the safety and security of the American people."

State Department officials declined to comment on the specifics of the cables, saying they were internal communications.

CABLE FLURRY

In cables dated March 10 and March 15, Tillerson issued detailed instructions to consular officials for implementing Trump's travel order, which was due to take effect on March 16.

Following successful legal challenges to an earlier, more sweeping travel ban signed by Trump in January, the White House issued a narrower version of the ban earlier this month.

On the same day Tillerson sent out his memo about implementing the new executive order on March 15, a federal court in Hawaii enjoined key parts of the order. That forced him to send another cable on March 16, rescinding much of his earlier guidance.

On March 17, Tillerson issued a fourth cable that set out a new list of instructions for consular officials. At the same time, it withdrew more sections of the March 15 guidance, because they had been issued without approval from the White House Office of Management and Budget (OMB), which is responsible for reviewing all agency rules.

A White House spokesman referred questions about the cables to the State Department and OMB.

Reuters could not determine to what extent the cables departed from guidance given to consular officers under previous administrations, since this type of guidance is not made public.

Some of the language in the cables, including the line that "all visa decisions are national security decisions," is similar to statements made by U.S. officials in the past.

Some consular officials suggested some of the March 17 guidance – aside from identifying particular populations and doing more social media checks - differed little from current practice, since vetting of visa applicants is already rigorous.

ALSO IN WORLD NEWS

Russia warns of serious consequences from U.S. strike in Syria

Four killed by truck driven into crowd in Swedish capital

PHONE NUMBERS, EMAIL ADDRESSES

Among the instructions rescinded by Tillerson were a set of specific questions for applicants from Iran, Libya, Somalia, Sudan, Syria and Yemen, the countries targeted by Trump's March 6 executive order, as well as members of populations identified as security risks.

The questions asked where applicants had lived, traveled and worked over the previous 15 years. Applicants would also have been required to provide prior passport numbers and all phone numbers, email addresses and social media handles used in the previous five years.

The March 16 and 17 cables from Tillerson instructed consular officers not to ask those questions, due to court action and pending approval by the OMB.

Both Republicans and Democrats in Congress have called for wider social media screening for those seeking to enter the United States, saying that such checks could help to spot possible links to terrorist activity.

Some former officials and immigration attorneys cautioned that delving deeper into applicants' social media use could significantly lengthen processing time of visas.

"There's so much social media out there," said Anne Richard, a former U.S. assistant secretary of state in the Obama administration. "It's not something you can do on a timely basis."

Both the March 15 and March 17 cables seem to anticipate delays as a result of their implementation. They urged embassies to restrict the number of visa interviews handled per day, acknowledging this "may cause interview appointment backlogs to rise."

To read the cables:

1) CABLE 23338 – Guidance to Visa-Issuing Posts; March 10, 2017

2) CABLE 24324 – Implementing Immediate Heightened Screening and Vetting of Visa Applications; March 15, 2017

3) CABLE 24800 – Halt Implementation; March 16, 2017

4) CABLE 25814 – Implementing Immediate Heightened Screening and Vetting of Visa Applications; March 17, 2017

(Additional reporting by Kristina Cooke in San Francisco and Arshad Mohammed and John Walcott in Washington; Editing by Sue Horton and Ross Colvin)

NEXT IN WORLD NEWS

At U.S.-China summit, Trump says he and Xi can overcome their many problems

PALM BEACH, Fla. U.S. President Donald Trump said on Friday he had made progress in talks with Chinese President Xi Jinping and expected them to overcome many problems, a marked contrast to the stridently anti-China rhetoric of Trump's 2016 election campaign.

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EXHIBIT 3

EXHIBIT 3A

FROM

Live: U.S. Politics

MRN: 17 STATE 23338
Date/DTG: Mar 10, 2017 / 102253Z MAR 17
From: SECSTATE WASHDC
Action: SOMALIA, USMISSION ROUTINE ;
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE ROUTINE
E.O.: 13526
TAGS: CMGT, KPAO, PTER, KHLS
Captions: SENSITIVE
Reference: A) 17 STATE 8708
B) 17 STATE 9516
C) 17 STATE 11004
D) 17 STATE 21026
Subject: (SBU) NEW EXECUTIVE ORDER 13780: PROTECTING THE NATION FROM FOREIGN
TERRORIST ENTRY INTO THE UNITED STATES - GUIDANCE TO VISA-ISSUING POSTS
1. (SBU) Summary: On March 6, 2017, the President issued a new Executive Order, E.O. 13780, (new E.O.), entitled Protecting the Nation from Foreign Terrorist Entry into the United States. The new E.O. contains provisions that will impact visa adjudication and issuance procedures beginning on the new E.O.'s effective date, 12:01 a.m. Eastern Daylight Time (EDT) March 16, 2017. The new E.O. rescinds its predecessor, E.O. 13769 ("old E.O."). We are working with the Department of Justice to determine when and how we may proceed with implementing the new E.O., in light of pending litigation. All visa issuing posts should carefully review and prepare to implement this guidance effective 12:01 a.m. EDT March 16, 2017. Although posts should be prepared to implement this guidance as of that date and time, do not begin implementation until you receive authorization to do so; such authorization will be sent in a subsequent cable. Any modifications to this guidance, due to litigation or other reasons, will also be sent in a subsequent cable. Public talking points and additional operational resources will be updated and available on CA Web. The full text of the E.O. is available here.

2. (SBU) Suspension of entry into the United States for aliens from certain countries: The new E.O. exercises the President's authority under sections 212(f) and 215(a)(1) of the Immigration and Nationality Act (INA) to suspend entry into the United States of certain aliens from the following countries for 90 days as of the new E.O.'s effective date, 12:01 a.m. EDT March 16, 2017: Iran, Libya, Somalia, Sudan, Syria, and Yemen. Additionally, posts must complete required additional visa screening steps for nationals of Iraq. Guidance will be sent septel outlining the new issuance procedures for Iraqi nationals. The suspension of entry in the new E.O. does not apply to individuals who are inside the United States on the effective date of the new E.O. (i.e., 12:01 a.m. EDT March 16, 2017), who have a valid visa on the effective date of the new E.O. or who had a valid visa at 5:00 p.m. EDT January 27, 2017, even after their visas expire or they leave the United States. The suspension of entry also does not apply to other categories of individuals, as detailed below. The new E.O. states that no visas will be revoked based on the new E.O. New applicants will be reviewed on a case-by-case basis, with consular officers taking into account the scope and exception provisions in the new E.O. and the applicant's qualification for a discretionary waiver. End summary.

Nonimmigrant Visas

3. (SBU) GSS vendors and posts should continue scheduling NIV applicants of the six indicated nationalities. The new E.O. provides for a number of exemptions from its scope and includes waiver provisions, and whether an applicant is exempt or qualified for a waiver can only be determined on a case-by-case basis during the course of a visa interview.

4. (SBU) After the Department sends the cable instructing posts to begin implementing the new
E.O., NIV applicants presenting passports from any of the six countries included in the new E.O.
should be interviewed and adjudicated following these procedures:
a.) Officers should first determine whether the applicant is eligible for a visa under the INA, without regard to the new E.O. If the applicant is not eligible, the appropriate refusal code should be entered into the Consular Lookout and Support System (CLASS). See 9 FAM 303.3-4(A). Posts must follow existing FAM guidance in 9 FAM 304.2 to determine whether an SAO must be submitted. Applicants found ineligible for grounds unrelated to the new E.O. should be refused according to standard procedures.
b.) If an applicant is found otherwise eligible for the visa, the consular officer will need to
determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the individual qualifies for a waiver (see paragraphs 10-14).
c.) Applicants who are not exempt from the new E.O.'s suspension of entry provision and who do not qualify for a waiver should be refused by entering the code "EO17" into the Consular Lookout and Support System (CLASS). As coordinated with DHS, this code represents a Section 212(f) denial under the new E.O. Immigrant Visas

5. (SBU) The National Visa Center (NVC) will continue to schedule immigrant visa (IV) appointments for all categories and all nationalities. However, NVC will not send any V93 cases to posts. After receiving cable instructions to begin implementing the new E.O., posts should halt the issuance of V93 foils immediately and cancel any scheduled V93 appointments (please see refugee paragraph below). Posts should continue to interview all other IV applicants presenting passports from any of the six countries included in the new E.O., following these procedures:
a.) Officers should first determine whether the applicant is eligible for the visa, without regard to the new E.O. If the applicant is not eligible, the application should be refused according to standard procedures.
b.) If an applicant is found otherwise eligible for the visa, the consular officer will need to
determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the applicant qualifies for a waiver (paragraphs 10-14).
c.) Immigrant visa applicants who are not exempt from the new E.O.'s suspension of entry provision and who do not qualify for a waiver should be refused 221(g) and the consular officer should request an advisory opinion from VO/L/A. Diversity Visas

6. (SBU) For Diversity Visa (DV) applicants already scheduled for interviews falling after the new E.O. effective date of 12:01 a.m. EDT March 16, 2017, post should interview the applicants. After receiving cable instructions to implement the new E.O., posts should interview applicants following these procedures:
a.) Officers should first determine whether the applicant is eligible for the DV, without regard to the new E.O. If the applicant is not eligible, the application should be refused according to standard procedures.
b.) If an applicant is found otherwise eligible, the consular officer will need to determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the applicant qualifies for a waiver (paragraphs 10-14). Based on the Department's experience with the DV program, we anticipate that very few DV applicants are likely to be exempt from the E.O.'s suspension of entry or to qualify for a waiver. If a scheduled applicant is not exempt and does not qualify for a waiver, please request an advisory opinion from VO/L/A.

7. (SBU) The Kentucky Consular Center (KCC) will schedule additional DV appointments on dates after the period of suspension ends for cases in which the

principal applicant is from one of these six nationalities. If a derivative applicant appears qualified but is subject to the new E.O., KCC will enter a case note in the DS-260 to alert post. If post becomes aware of a DV case that has not been scheduled from one of these six countries due to this guidance, but which may not be covered by the new E.O., or may qualify for a waiver, coordinate with KCC to schedule the case for an interview (if the case is current) and a determination by a consular officer of whether or not the E.O. applies.
Individuals Who Are Exempt from the New E.O.'s Suspension of Entry

8. (SBU) The new E.O.'s suspension of entry does not apply to the following:
a.) Any applicant who was in the United States on the new E.O.'s effective date of March 16, 2017;
b.) Any applicant who had a valid visa at 5:00 p.m. EST on January 27, 2017, the day the old E.O. 13769 was signed;
c.) Any applicant who had a valid visa on the new E.O.'s effective date of March 16, 2017.
d.) Any lawful permanent resident of the United States;
e.) Any applicant who is admitted to or paroled into the United States on or after the effective date of the new E.O.;
f.) Any applicant who has a document other than a visa, valid on the effective date of the new E.O. or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as advance parole;
g.) Any dual national of a country designated under the order when traveling on a passport issued by a non-designated country;
h.) Any applicant traveling on an A-1, A-2, NATO-1 through NATO-6 visa, C-2 for travel to the United Nations, C-3, G-1, G-2, G-3, or G-4 visa, or a diplomatic-type visa of any classification; and
i.) Any applicant who has been granted asylum; any refugee who has already been admitted to the United States; or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

9. (SBU) When issuing an IV or an NIV to an individual who falls into one of the categories listed in paragraph 8, the visa should be annotated to state, "Exempt from E.O. 13780." Interviewing officers must also enter a clear case note stating the specific reason why the applicant is exempt from the new E.O.'s suspension of entry.

Qualification for a Waiver and Process

10. (SBU) The new E.O. permits consular officers to grant waivers and authorize the issuance of
a visa on a case-by-case basis when the applicant demonstrates to the officer's satisfaction that:
a.) Denying entry during the 90-day suspension would cause undue hardship;
b.) His or her entry would not pose a threat to national security; and
c.) His or her entry would be in the national interest.

11. (SBU) The new E.O. lists the following examples of circumstances in which an applicant may be considered for a waiver, subject to meeting the three requirements above. Unless the adjudicating consular officer has particular concerns about a case, determining that a case falls under any circumstance listed in this paragraph is a sufficient basis for concluding a waiver is in the national interest. Determining that a case falls under some of these circumstances may also be a sufficient basis for concluding that denying entry during the 90-day suspension would cause undue hardship:
a.) The applicant had previously been admitted to the United States for a continuous period of work, study, or other long-term activity, is outside the United States on the effective date of this order, seeks to reenter the United States to resume that activity, and the denial of reentry during the suspension period would impair that activity;
b.) The applicant has previously established significant contacts with the United States but is outside the United States on the effective date of the new E.O. for work, study, or other lawful activity;
c.) The applicant seeks to enter the United States for significant business or professional
obligations and the denial of entry during the suspension period would impair those obligations;
d.) The applicant seeks to enter the United States to visit or reside with a close family

member (e.g., a spouse, child, or parent) who is a U.S. citizen, lawful permanent resident, or alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry during the suspension period would cause undue hardship;
e.) The applicant is an infant, a young child, or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case;
f.) The applicant has been employed by, or on behalf of, the United States government (or is the eligible dependent of such an employee) and the employee can document that he or she has provided faithful and valuable service to the United States government;
g.) The applicant is traveling for purposes related to an international organization designated under the International Organizations Immunities Act, traveling for purposes of conducting meetings or business with the United States government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;
h.) The applicant is a legal resident of Canada who applies for a visa at a location within Canada; or
i.) The applicant is traveling as a U.S. government-sponsored exchange visitor.

12. (SBU) Listed in this paragraph are other circumstances in which an applicant may be considered for a waiver, subject to meeting the three requirements in paragraph 10. Unless the adjudicating consular officer has particular concerns about a case, determining that a case falls under any circumstance listed in this paragraph is a sufficient basis for concluding a waiver is in the national interest. Determining that a case falls under some of these circumstances may also be a sufficient basis for concluding that denying entry during the 90-day suspension would cause undue hardship:
a.) The applicant is a high-level government official traveling on official business who is not eligible for the diplomatic visa normally accorded to foreign officials of national governments (A or G visa). Examples include governors and other appropriate members of sub-national (state/local/regional) governments; and members of subnational and regional security forces;
b.) The applicant is traveling to participate in a Department of Defense (DoD) program that DoD deems mission critical;
c.) The applicant is traveling to participate in a major cultural, media, and other national event such as a U.S. Olympic Committee sponsored competition that would support U.S. government objectives; and
d.) Cases where all three criteria in paragraph 10 are met and the Chief of Mission or Assistant Secretary of a Bureau supports the waiver.

13. (SBU) If the applicant qualifies for a waiver based on criteria in paragraph 11 or 12, the consular officer may issue the visa with the concurrence of the Visa Chief (IV or NIV) or the Consular Section Chief. The visa should be annotated to read, “Waiver of Executive Order Approved.” Case notes must reflect the basis for the waiver; the undue hardship that would be caused by denying entry during the suspension; the national interest; and the position title of the manager concurring with the waiver. To document national interest in case notes in circumstances falling under paragraph 11 or paragraph 12(a), (b), or (c), the consular officer may write, “National interest was established by the applicant demonstrating satisfaction of the requirements for the waiver based on [insert brief description of category of waiver].”

14. (SBU) If the applicant does not qualify under one of the listed waiver categories in paragraphs 11 or 12, but the interviewing officer and consular manager believe that the applicant meets the requirements in paragraph 10 above and therefore should qualify for a waiver, then the case should be submitted to the Visa Office for consideration. These cases should be submitted via email to countries-of-concern-inquiries@state.gov. The Visa Office will review these requests and reply to posts within two business days. Consular officers should be able to approve the majority of waiver cases without review by the Visa Office due to the broad authority granted in the new E.O.

Special Visa Issuance Procedures for Nationals of Iraq

15. (SBU) Guidance will be sent septel outlining new issuance procedures for Iraqi nationals.
Refugees

16. (SBU) The U.S. Refugee Admissions Program (USRAP) is suspended for 120 days. This
includes the processing of boarding foils for any V93 cases, regardless of nationality, since those
follow-to-join cases are admitted to the United States as refugees. After receiving cable instructions to implement the new E.O., posts should halt the issuance of these cases immediately and cancel any scheduled V93 appointments. NVC will halt the processing of all V93 cases and will not forward these cases to posts. The Department will notify posts when the suspension is lifted.

V92 Cases

17. (SBU) Guidance on V92 cases will follow.

Revocations or Cancellations Under E.O. 13769

18. (SBU) The new E.O. states that any individual whose visa was marked revoked or marked
canceled as a result of the old E.O. shall be entitled to a travel document confirming that the individual is permitted to travel to the United States and seek entry. CA has already begun working with CBP to issue travel documents for certain individuals whose visas were either cancelled or revoked. Please contact your VO/F post liaison officer for instructions if you are contacted by any individual requesting a travel document under Section 12(d) of the new E.O.

Interview Waiver Program

19. (SBU) The Interview Waiver Program guidance in ref A remains unchanged, except that
posts may now continue waiving interviews using current guidance for TECRO E-1 visa
applicants, in addition to the categories listed in ref A.

in CA/VO/F.
21. (U) Minimize considered.
Signature: Tillerson
by *cassandra.garrison* 3/23/2017 1:12:35 PM March 23 at 6:12 AM
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EXHIBIT 3B

FROM

Live: U.S. Politics

MRN: 17 STATE 24324
Date/DTG: Mar 15, 2017 / 150151Z MAR 17
From: SECSTATE WASHDC
Action: SOMALIA, USMISSION IMMEDIATE ;
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE
E.O.: 13526
TAGS: CMGT, CVIS, PTER, KHLS
Captions: SENSITIVE
Reference: 17 STATE 23338
Subject: (SBU) Implementing Immediate Heightened Screening and Vetting of Visa Applications
1. (SBU) THIS IS AN ACTION REQUEST. Executive Order (E.O.) 13780 on Protecting the Nation from Terrorist Attacks by Foreign Nationals suspends visa issuance to nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days, subject to certain exemptions and exceptions. This guidance supplements the guidance in 17 STATE 23338. The suspension does not go into effect until March 16 and additional implementation authorization will be forthcoming.

2. (U) Simultaneous with the release of the E.O. on March 6, 2017, the President also signed a Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security. Section 2 of the memorandum states: "The Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General, shall, as permitted by law, implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting
of applications for visas and all other immigration benefits, so as to increase the safety and security of the American people. These additional protocols and procedures should focus on:
(a) preventing the entry into the United States of foreign nationals who may aid, support, or commit violent, criminal, or terrorist acts; and
(b) ensuring the proper collection of all information necessary to rigorously evaluate all grounds of inadmissibility or deportability, or grounds for the denial of other immigration benefits."

3. (U) The President also underscored: "[T]his Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country. Moreover, because it is my constitutional duty to 'take Care that the Laws be faithfully executed,' the executive branch is committed to ensuring that all laws related to entry into the United States are enforced rigorously and consistently."

4. (SBU) The E.O. and Presidential Memorandum highlight the critical importance of maintaining extra vigilance in the conduct of our work and continuing to increase scrutiny of visa applicants for potential security and non-security related ineligibilities. Consular officers should not hesitate to refuse any case presenting security concerns under §221(g) of the Immigration and Nationality Act (INA) in order to explore all available local leads and pending the outcome of an SAO as appropriate, or issue any other refusals or take other precautionary actions pursuant to any applicable ground of inadmissibility under the INA. All officers should remember that all visa decisions are national security decisions. Any nonimmigrant visa applicant whom the consular

officer believes may fail to abide by the requirements of the visa category in question should be refused under §214
(b) of the INA.

5. (SBU) As part of our ongoing efforts to refine and improve visa applicant vetting, to supplement the initiatives set out in the E.O. and the concepts undergirding the Presidential Memoranda, the Department instructs posts to implement immediately the following screening processes for all visa applicants. These are preliminary measures. Additional screening measures will be introduced based on the conclusions of the interagency working group mandated by the E.O. Increased

Screening Worldwide of Certain Visa Populations

6. (SBU) Consular Chiefs must immediately convene post's law enforcement and intelligence community partners under the auspices of existing Visa Viper or Law Enforcement Working Groups, as appropriate. These working groups will develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny.

7. (SBU) Once posts have documented these population sets, posts are required to direct adjudicating consular officers to attempt to identify individual applicants that fall within the population set during the course of a consular visa interview. If the applicant is otherwise eligible for a visa (including overcoming INA 214(b) for nonimmigrant visa applicants), the interviewing consular officer should consider sending a discretionary Donkey Security Advisory Opinion (SAO) request. For SAO requests based on this guidance, as for all other SAO requests, officers must ask additional questions directly related to understanding the applicant's answers on application forms, which may include subjects such as those listed below, and should provide applicant responses to the following questions in the "Additional Information Optional" field:
-- The applicant's travel history over the last 15 years;
-- The names of any siblings/children/former spouses not recorded in the DS-160/260 or NIV/IVO case notes;
-- The applicant's addresses during the last 15 years, if different from the applicant's current address;
-- Applicant's prior passport numbers;
-- Applicant's prior occupation(s) and employers (plus a brief description if applicable) looking back 15 years;
-- All phone numbers used by the applicant in the last five years;
-- All email addresses and social media handles used by the applicant in the last five years.

8. (SBU) As part of its working group with post's law enforcement and intelligence community partners, posts may augment these series of seven questions as appropriate. Increased Screening for nationals of Iran, Yemen, Sudan, Syria, Somalia and Libya

(SBU) Mandatory SAOs for non-official travelers

9. (SBU) Effective immediately and until further notice, a Donkey SAO is required for every visa applicant (other than A/G/C-2/C-3/NATO) who:
--is at least 16 years of age and less than 65 years of age; and
--applying with a passport from Iran, Libya, Somalia, Sudan, Syria, or Yemen.
10. (SBU) Post should only submit the Donkey SAO once the consular officer has determined that the applicant:
-- is applying for a visa category other than A/G/C-2/C-3/NATO;
-- is otherwise eligible for the visa (i.e. not ineligible under INA section 214 (b) or other ineligibilities);
-- qualifies for a case-by-case waiver of the suspension of entry under the E.O. in the consular officer's discretion; and,
-- is not/not an applicant for whom post is already required to submit a Donkey, Mantis, or Merlin/Merlin 92 SAO under existing guidance in 9 FAM 304.2, Security Advisory Opinions (SAO) or 9 FAM 304.5, Special

Clearance and Issuance Procedures.

11. (SBU) When the guidance in this ALDAC is the sole reason for submitting an SAO

for an applicant, consular officer:
-- must submit a Donkey SAO and select "Policy" as the reason for submission; and
-- must write "EO 13780" in the "Additional Information Optional" field.

12. (SBU) For SAO requests based on this guidance, as for all other SAO requests, officers must ask additional questions directly related to understanding the applicant's answers on application forms, which may include subjects such as those listed below, and should provide applicant responses to the following questions in the "Additional Information Optional" field:
-- The applicant's travel history over the last 15 years;
-- The names of any siblings/children/former spouses not recorded in the DS-160/260 or NIV/IVO case notes;
-- The applicant's addresses during the last 15 years, if different from the applicant's current address;
-- Applicant's prior passport numbers;
-- Applicant's prior occupation(s) and employers (plus a brief description if applicable) looking back 15 years;
-- All phone numbers used by the applicant in the last five years;
-- All email addresses and social media handles used by the applicant in the last five years.
-- Whether the applicant was ever present in a territory at the time it was under the control of ISIS. Location, dates, and purpose of presence must be thoroughly documented by the consular officer.

13. (SBU) Because applicants without advance notice may be unable to provide this information at the time of the initial interview, posts should give applicants notice, in advance of the visa interview, that they will be asked to provide their addresses during the last 15 years, if different from the applicant's current address; their prior passport numbers; their prior occupation(s) and employers for the past 15 years; all phone numbers used by the applicant in the last five years; and all email addresses and social media handles they have used in the last five years. Posts should determine the best way to communicate this advance notice. If applicants are unable to provide this information at the time of the interview, then, as in any case where additional information is required for an SAO, consular officers may refuse an application under 221(g) in order to solicit the information subsequent to the interview. Posts are reminded not to create standalone forms or questionnaires to solicit this information, but may include a request that applicants bring any previous passport data to the interview on post websites and/or GSS appointment letters.

14. (SBU) All existing SAO requirements for nationals from these six countries remain in effect, including existing SAO guidance in 9 FAM 304.2, Security Advisory Opinions (SAO), for Donkey, Bear, Mantis, and Merlin/Merlin 92 SAOs based on IACT/PATRIOT Red, CLASS Hits, TAL, or Officer Discretion, and the country-specific Policy SAO guidance in 9 FAM 304.5, Special Clearance and Issuance Procedures, among other sections.

(SBU) Mandatory social media check for applicants present in a territory at the time it was controlled by ISIS

15. (SBU) If post determines the applicant may have ties to ISIS or other terrorist organizations or has ever been present in an ISIS-controlled territory, post must/must refer the applicant to the Fraud Prevention Unit for a mandatory social media review, as described in more detail in 7-FAH-1 H-943.5-2. The results of this review should be scanned into the NIV case for consideration during the SAO process. Details on complying with this requirement will be provided via septel. (SBU) Mandatory Donkey SAO for Iraqi nationals with presence in territory at the time it was controlled by ISIS

16. (SBU) While the E.O. exempts nationals of Iraq from the travel suspension provisions of Section 2, the Presidential Memorandum and Sections 1(g) and Section 4 of the E.O. contemplate additional screening for Iraqi nationals in addition to the robust vetting already in place.

17. (SBU) Effective immediately and until further notice, when adjudicating an application from an Iraqi national applying with an Iraqi passport, consular offices must consider whether the applicant was ever present in a territory at the time it was controlled by ISIS. If so, post must submit a Donkey Security Advisory Opinion (SAO)

for these applicants, other than those applying for an A/G/C-2/C- 3/NATO visa. For SAO requests pursuant to this section, posts should follow the guidance in paragraphs 9-13 regarding additional lines of inquiry for submission with the SAO and necessary social media checks.
(SBU) Mandatory review of IV issuances

18. (SBU) Effective immediately and until further notice, consular managers are required to conduct a managerial review of all IV issuances for applicants applying with a passport from of Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen. (SBU) Interview Guidelines

19. (SBU) In order to ensure that proper focus is given to each application, posts should generally not schedule more than 120 visa interviews per consular adjudicator/per day. Please confer with EX and VO if you plan to schedule more than 120 cases per day. CA recognizes that limiting scheduling may cause interview appointment backlogs to rise.

20. (U) Minimize considered.
Signature: Tillerson
by *cassandra.garrison* 3/23/2017 1:12:26 PM March 23 at 6:12 AM
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EXHIBIT 3C

FROM

Live: U.S. Politics

MRN: 17 STATE 24800
Date/DTG: Mar 16, 2017 / 161240Z MAR 17
From: SECSTATE WASHDC
Action: SOMALIA, USMISSION IMMEDIATE ;
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE
E.O.: 13526
TAGS: CMGT, CVIS, KPAO, KHLS, PTER
Captions: SENSITIVE
Reference: A) 17 STATE 23338
B) 17 STATE 24324
Correction Reason: CORRECTED COPY: ADDING SOMALIA
Subject: (SBU) EXECUTIVE ORDER 13780: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES - GUIDANCE TO VISA ISSUING
POSTS: HALT IMPLEMENTATION
1. (SBU) The United States District Court in Honolulu, Hawaii, has issued an order barring the U.S. government from enforcing sections 2 and 6 of Executive Order (E.O.) 13780 on Protecting the Nation from Foreign Terrorist Entry Into the United States; section 2 relates to the suspension of entry to the United States and the issuance of visas. The order took effect immediately, so all enforcement of the visa suspension in the Executive Order must not be implemented and visa processing must continue as normal without processing of waivers or exemptions as outlined in Ref A.

2. (SBU) Posts should continue to follow the guidance in paragraphs 6-8 and 15-17 in Ref B on heightened screening and vetting of populations of visa applicants to be defined by posts in accordance with paragraph 6. Out of an abundance of caution, posts should not implement paragraphs 9-12 and 18 of Ref B pending further review and instructions from the Department. In addition, to the extent that posts implement additional vetting pursuant to paragraph 7 of Ref B, they should notify applicants in advance in accordance with paragraph 13 of Ref B.

3. (U) Minimize considered.
Signature: Tillerson
by *cassandra.garrison* 3/23/2017 1:12:22 PM March 23 at 6:12 AM
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EXHIBIT 3D

FROM

Live: U.S. Politics

MRN: 17 STATE 25814
Date/DTG: Mar 17, 2017 / 172040Z MAR 17
From: SECSTATE WASHDC
Action: SOMALIA, USMISSION IMMEDIATE ;
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE
E.O.: 13526
TAGS: CMGT, CVIS, KPAO, KHLS, PTER
Captions: SENSITIVE
Reference: A) 17 STATE 24324
B) 17 STATE 24800
Subject: SUPERSEDING 17 STATE 24324: IMPLEMENTING IMMEDIATE HEIGHTENED
SCREENING AND VETTING OF VISA APPLICATIONS
1. (SBU) THIS IS AN ACTION REQUEST. This guidance supersedes that provided to the field field in REFTEL A.

2. (U) Simultaneous with the release of Executive Order 13780 on Protecting the Nation from Terrorist Attacks by Foreign Nationals (E.O.) on March 6, 2017, the President signed a Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security. Courts have temporarily barred the Department from enforcing section 2 of the E.O., which relates to the suspension of entry to the United States and the issuance of visas for nationals of designated countries, as well as section 6, which relates to the Refugee Admissions Program. This cable provides guidance for implementing section 2 of the Presidential Memorandum, which states: "The Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General, shall, as permitted by law, implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and all other immigration benefits, so as to increase the safety and security of the American people. These additional protocols and procedures should focus on:
(a) preventing the entry into the United States of foreign nationals who may aid, support, or commit violent, criminal, or terrorist acts; and
(b) ensuring the proper collection of all information necessary to rigorously evaluate all grounds of inadmissibility or deportability, or grounds for the denial of other immigration benefits."

3. (U) The President also underscored: "[T]his Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country. Moreover, because it is my constitutional duty to 'take Care that the Laws be faithfully executed,' the executive branch is committed to ensuring that all laws related to entry into the United States are enforced rigorously and consistently."

4. (SBU) The E.O. and Presidential Memorandum highlight the critical importance of maintaining extra vigilance in the conduct of our work and continuing to increase scrutiny of visa applicants for potential security and non-security related ineligibilities. Consular officers should not hesitate to refuse any case presenting security concerns under §221(g) of the Immigration and Nationality Act (INA) in order to explore all available local leads and pending the outcome of an SAO as appropriate, or issue any other refusals or take other precautionary actions pursuant to any applicable ground of

inadmissibility under the INA. All officers should remember that all visa decisions are national security decisions. A consular officer should refuse under §214(b) of the INA any nonimmigrant visa applicant whom the consular officer believes may fail to abide by the requirements of the visa category in question.

5. (SBU) As part of our ongoing efforts to refine and improve visa applicant vetting, to supplement the initiatives set out in the E.O. (other than section 2) and the concepts undergirding the Presidential Memoranda, the Department instructs posts to implement immediately the following guidance. These are preliminary measures. Additional screening measures will be introduced based on the conclusions of the interagency working groups mandated by the E.O, acting in accordance with applicable court orders. (U) Increased Screening Worldwide of Certain Visa Populations

6. (SBU) If they have not already done so in response to reftel A, Consular Chiefs must immediately convene post's law enforcement and intelligence community partners under the auspices of existing Visa Viper or Law Enforcement Working Groups, as appropriate. These working groups will develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny.

7. (SBU) Once posts have documented these population sets, posts are required to direct adjudicating consular officers to attempt to identify individual applicants that fall within the population set during the course of a consular visa interview. If the applicant is otherwise eligible for a visa (including overcoming INA 214(b) for nonimmigrant visa applicants), the interviewing consular officer should consider sending a discretionary Donkey Security Advisory Opinion (SAO) request.

8. (SBU) In conducting visa interviews, consular officers must disregard the guidance in 17 STATE 24324, to the extent the guidance sets out specific questions to ask of applicants, unless and until notified by septel that the Department has received approval from the Office of Management and Budget (OMB) for those specific questions. Until that time, consular officers should, as always, ask additional questions as necessary to understand the applicant's answers on application forms, should thoroughly pursue any concerns that may arise during the interview, and should provide all relevant information in case notes or, when an SAO is warranted, in the "Additional Information Optional" field.

9. (SBU) Until the Department receives OMB approval for asking specific questions the Department would provide, officers should continue to follow all existing SAO guidance as outlined in 9 FAM 304.2, Security Advisory Opinions (SAO), for Donkey, Bear, Mantis, and Merlin/Merlin 92 SAOs based on IACT/PATRIOT Red, CLASS Hits, TAL, or Officer Discretion, and the country-specific Policy SAO guidance in 9 FAM 304.5, Special Clearance and Issuance Procedures, among other sections. (SBU) Mandatory social media check for applicants present in a territory at the time it was controlled by ISIS

10. (SBU) If post determines the applicant may have ties to ISIS or other terrorist organizations or has ever been present in an ISIS-controlled territory, post must/must refer the applicant to the Fraud Prevention Unit for a mandatory social media review, as described in more detail in 7-FAH-1 H-943.5-2. Post should scan the results of this review into the NIV case for consideration during the SAO process. Details on complying with this requirement will be provided via septel. If any post's Fraud Prevention Unit believes post has such a case, the Fraud Prevention Manager can contact post's CA/FPP and CA/VO/SAC liaison officers with any further questions. (SBU) Mandatory Donkey SAO for Iraqi nationals with presence in territory at the time it was controlled by ISIS

11. (SBU) While the E.O. exempts nationals of Iraq from the travel suspension provisions of Section 2, the Presidential Memorandum and Sections 1(g) and Section 4 of the E.O. contemplate additional screening for Iraqi nationals in addition to the robust vetting already in place.

12. (SBU) Effective immediately and until further notice, when adjudicating an application from
an Iraqi national applying with an Iraqi passport, consular officers must consider whether the applicant was ever present in a territory at the time it was controlled by

ISIS. If so, post must submit a Donkey Security Advisory Opinion (SAO) for these applicants, except those applying for an A/G/C-2/C-3/NATO visa.

(SBU) Interview Guidelines

13. (SBU) In order to ensure that proper focus is given to each application, posts should generally not schedule more than 120 visa interviews per consular adjudicator/per day. Please that limiting scheduling may cause interview appointment backlogs to rise.

14. (U) Minimize considered.

Signature: Tillerson

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EXHIBIT 4

FOURTH DECLARATION OF ASIF CHAUDHRY

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

NO.
FOURTH DECLARATION OF ASIF CHAUDHRY

I, Asif Chaudhry, hereby declare and affirm:

1. I am the Vice President for International Programs at Washington State University (WSU), Washington State's land grant institution and the second largest public research university in the Pacific Northwest. I have held this position since June 2015. Prior to my current role at WSU, I spent my career working for the United States Government as a Senior Foreign Service Officer, holding numerous leadership positions in the Departments of State, Defense, and Agriculture. These positions included Vice President of the Commodity Credit Corporation, Foreign Policy Advisor to the Chief of the United States Navy at the Pentagon, and U.S. Ambassador to the Republic of Moldova.

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2. I am aware of the revised Executive Order issued March 6, 2017, entitled "Protecting The Nation From Foreign Terrorist Entry Into The United States." I have personal knowledge of the facts set forth in this declaration, and I am competent to testify about them.

3. As Vice President for International Programs at WSU, I have responsibility for WSU's international research activities, study abroad programs, international students, and student and faculty exchanges. I am the chief international relations officer at WSU and am responsible for the role of International Programs in carrying out WSU's mission of global engagement, which is "To apply knowledge through local and global engagement that will improve quality of life and enhance the economy of the state, nation, and world." I also manage WSU's programs focusing on establishing strategic partnerships with governments and educational institutions across the globe.

4. WSU's global presence includes active research programs in dozens of countries worldwide and study abroad programs in over 70 countries worldwide. The University also has matriculated undergraduate, graduate, and professional students and visiting scholars from many countries worldwide.

5. WSU has obtained its final enrollment numbers for the spring 2017 semester. The University has 157 students from the six countries targeted in the revised Executive Order. Many of these students are on single-entry visas and could be denied re-entry if they left the United States. As a result of the Executive Order, these students will be unable to have family and colleagues join or visit them this semester and into the summer. In addition, because of the uncertainty surrounding whether they would be allowed back into the country and what will happen after the 90-day period, many of them have decided to forego international travel or conference activities related to their research, or to visit family.

6. As an example, one Iranian graduate student, who is in year two of his Ph.D. program, has decided not to leave the country to visit his family until he finishes his degree, which means he will not see his family for several years. In addition, students who otherwise

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would leave the country to carry out dissertation research fear they may not be permitted to return to the country to defend their dissertations. These students are under constant stress, their research programs are being negatively impacted, and many are having difficulty focusing on their studies.

7. Other students and faculty are impacted as well. WSU has seven (7) visiting scholars from the six affected countries. One Iranian post-doctoral fellow has a husband who is Iranian but currently lives in Germany. He applied for a dependent visa in January to join her in the United States, but it has not yet been issued. The visa likely will not be issued prior to the effective date of the order, which means her husband will not be able to join her. She is afraid to visit her husband in Germany, as well as her mother in Iran, for fear of being denied re-entry into the United States.

8. Another WSU student has a fiancé who is Iranian and lives in Iran. The fiancé was scheduled to be interviewed for permanent residency in May 2017. That interview has now been canceled and she cannot come to the United States.

9. The revised Executive Order, as well as the previous one, have created an atmosphere in which international students and faculty feel unwelcome in the United States. This is directly affecting WSU. For example, after several years of increasing international enrollments, WSU is seeing a significant decline this year. WSU's Department of Teaching and Learning has reported that this year's international application numbers have dropped dramatically. Last year, the Department processed 63 international student applications for its Special Education program, and this year it processed ten. Applications from international students for other programs also are down. These declines have an economic impact on WSU as well as the individual College and Departments.

10. WSU has six (6) undergraduate student applicants for fall 2017 from countries targeted in the Executive Order, compared with 12 for fall of 2016. Two of these students have been offered admission, and one has confirmed intent to enroll. These students now need to

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apply for visas and will not be able to for at least 90 days, which may impact their ability to obtain visas in time to come in the fall semester 2017. These students would pay a minimum of $41,628 per academic year each in tuition and fees to WSU. If the students were unable to obtain visas, were denied entry, or decided that study in the United States was no longer feasible due to the Executive Order, the financial impact to WSU would be substantial.

11. WSU also has a number of graduate student applicants for the 2017 fall semester from the six countries targeted by the Executive Order. If these students were offered admission and accepted, they would pay a minimum of $42,216 each per academic year each in tuition and fees to WSU. If they were unable to obtain visas, were denied entry, or decided that study in the United States was no longer feasible, this would be a significant economic loss to WSU.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and complete to the best of my knowledge.

Dated this 12th day of March, 2017.

Asif Chaudhry

Asif Chaudhry, Ph.D.

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THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of the United States of America; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAlennan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF EMILY CHIANG IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Emily Chiang, declare as follows:

1. I am the Legal Director of the American Civil Liberties Union of Washington Foundation ("ACLU-WA") and co-counsel for Plaintiffs in this case. I have knowledge of the facts set forth herein and could testify competently to them if called upon to do so.

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2. ACLU-WA is the state affiliate of the American Civil Liberties Union Foundation, a national civil rights and civil liberties organization. ACLU-WA has significant experience with complex civil litigation, including class actions in federal and state courts. ACLU-WA has obtained injunctive relief for class clients in a wide variety of matters, including *Fuentes v. Benton County*, No. 15-2-02976-1 (Yakima Sup. Ct. Nov. 14, 2016) (settlement approved in class action challenging unconstitutional system for collecting court-imposed debts); *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016 WL 4268933 (W.D. Wash. Aug. 15, 2016) (judgment in class action finding that Washington's systems for competency restoration violate due process); *Khoury v Asher*, 3 F. Supp. 3d 877 (W.D. Wash. 2014), *aff'd* No. 14-35482, 2016 WL 4137642 (9th Cir. 2016) (judgment in class action finding mandatory detention of certain individuals in removal proceedings unlawful); *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122 (W.D. Wash. 2013) (judgment in class action finding violation of indigent accused Sixth Amendment right to counsel); *Wilson v. Rentgrow, Inc.*, No. 13-2-15514-1 (King Cnty. Super. Ct. 2013) (class action challenging tenant screening company violations of state credit reporting laws resolved by settlement); and *Sanchez v. U.S. Office of Border Patrol*, No. 12-5378BHS (W.D. Wash. Aug. 27, 2012) (class action involving illegal vehicle stops by Border Patrol resolved by settlement).

3. I have devoted the majority of my career to public policy reform through litigation and other advocacy, with a particular focus on equal access to justice. I am admitted to the Washington State Bar Association, the United States District Court for the Western and Eastern Districts of Washington, and the United States Court of Appeals for the Ninth Circuit.

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4. I received a B.A., magna cum laude, from Yale University in 1998. In 2001, I received my J.D., cum laude, from Harvard Law School, where I was a Primary Editor on the *Harvard Law Review*.

5. After law school, I was an associate at Cravath, Swaine, & Moore LLP, where I worked on complex civil litigations including class actions and where I was the lead associate for the firm in the groundbreaking case of *White v. Martz* (Mont.)—the first class action lawsuit ever to be filed against a state for failure to provide adequate public defense representation. That case eventually resulted in statewide public defense reform in Montana.

6. After leaving Cravath, I became Associate Counsel in the Poverty Program at the Brennan Center for Justice at N.Y.U. School of Law. While there, I organized and coordinated a multi-organization approach to public defense reform in the state of Michigan that culminated in the filing of *Duncan v. Michigan* (Mich.), another class action that ultimately resulted in statewide reform.

7. In 2006, I joined the Racial Justice Program of the ACLU's National Legal Department as a Staff Attorney. At ACLU National, I litigated and conducted advocacy to address violations of the United States and state constitutions, primarily in the areas of indigent defense reform and juvenile justice. For example, I was lead counsel in *Harris v. Atlanta Indep. Sch. Dist.* (N.D. Ga.), a class action that succeeded in getting a legal ruling that a private company is a state actor when running a public school.

8. More recently, I was an Associate Professor of Law at the S.J. Quinney College of Law at the University of Utah, where I taught Constitutional Law; a seminar on Equality, Race, and the Law; and created and directed a public policy clinic. While at the law school, I remained involved in civil rights litigation by helping the Utah ACLU affiliate to prepare a

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public defense reform class action and by engaging in advocacy designed to end the state's school-to-prison pipeline. I published a number of law review articles related to public policy reform and received multiple awards from the University in recognition of my civil rights work.

9. Since my arrival at the ACLU-WA in September 2015, I have obtained relief for clients in matters involving due process, discrimination, and access to healthcare, including *Fuentes v. Benton County*, No. 15-2-02976-1 (Yakima Cnty. Super. Ct. Nov. 14, 2016) (approving settlement of class action challenging unconstitutional system for collecting court-imposed debts); *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016 WL 4268933 (W.D. Wash. Aug. 15, 2016) (ordering the state to provide mentally disabled with timely competency evaluation and restoration services); and *Coffey v. Public Hospital Dist. No. 1*, No. 15-2-00217-4 (Skagit Cnty. Super. Ct. June 20, 2016) (holding the Reproductive Privacy Act requires public hospitals to provide abortion services that are the substantial equivalent of the maternity care services provided).

10. La Rond Baker is a Staff Attorney at ACLU-WA and co-counsel for Plaintiffs in this case. Ms. Baker graduated from the University of Washington Law School in 2010 and is admitted to practice in Washington State, the United States District Courts for the Western and Eastern Districts of Washington, and the United States Court of Appeals for the Ninth Circuit.

11. Ms. Baker has worked as a staff attorney at ACLU-WA since 2011, where she has litigated a wide range of civil liberties and civil rights matters in state and federal courts. Ms. Baker has litigated at both the trial and appellate level, and has argued before the Ninth Circuit Court of Appeals. She has advocated for clients in matters involving due process, freedom of speech and expression, religious freedom, and discrimination. *See Aranda Glatt v. City of Pasco*, No. 4:16-cv-05108-LRS, Mem. Opinion & Ord. (E.D. Wash. Jan. 27, 2017) (successfully

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challenged Pasco's City Council election system, securing consent decree admitting liability under Section II of the VRA and redistricting); *Trueblood v. Dep't of Soc. and Health Servs.*, No. C14-1178MJP, 2016 WL 4268933 (W.D. Wash. Aug. 15, 2016) (successfully challenged Washington's systems for competency restoration violate due process); *Montes v. City of Yakima*, No. 2:12-cv-03108-TOR (E.D. Wash. 2012) (successfully challenged City Council election system as violative of Section 2 of the Voting Rights Act); *Ramirez-Martinez v. Immigration & Custody Enforcement*, No. 3:14-cv-05273-RJB (W.D. Wash. 2014) (successfully challenged constitutional violations arising from Immigration and Customs Enforcement's retaliatory placement of immigrant hunger strikers in the Northwest Detention Center in solitary confinement without due process); *Veterans For Peace v. City of Auburn*, No. 2:12-cv-01946-MJP (W.D. Wash. 2012) (successfully challenged City of Auburn's exclusion of Veterans For Peace in the City's Veterans' Day parade); *Tarrer v. Pierce County*, No. 3:10-cv-05670-BHS (W.D. Wash. 2010) (successfully challenged the Pierce County Jail's failure to provide appropriate religious accommodations for Muslim inmates and obtained institutional reforms to ensure that all inmates received meaningful and appropriate religious accommodations regardless of their beliefs); *Ramirez-Rangel v. Kitsap County*, No. 12-2-09594-4 (Pierce Cnty. Super. Ct.) (successfully challenged local law enforcement officers' ability to question individuals about immigration status unless such questioning is directly related to laws that local law enforcement are authorized to enforce).

12. Ms. Baker is the Chair Elect of the Washington State Bar Association's Civil Rights Law Section and has presented at numerous CLEs on various civil liberties and civil rights topics.

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13. All counsel have been involved in the preparation and investigation of this lawsuit and are familiar with the facts. We will zealously represent the Plaintiffs and the proposed Class.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and that this declaration was executed on April 5, 2017, at Seattle, Washington.

By: _____

Emily Chiang, WSBA No. 50517
ACLU OF WASHINGTON FOUNDATION
900 Fifth Avenue, Suite 630
Seattle, Washington 98164
(206) 624-2184
echiang@aclu-wa.org

Attorneys for Plaintiffs

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The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF JACK DOE IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, "Jack Doe," do hereby declare and state:

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TELEPHONE: (206) 624-2184

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (`206) 623-3384

1. I have personal knowledge of the matters contained herein and, where I do not have direct knowledge, I believe them to be true and correct based upon the information available to me.

2. I am originally from Iran. I currently live in Seattle, Washington.

3. I am a post-doctorate researcher at the University of Washington.

4. I am working under my F-1 Optional Practical Training ("OPT") status, and subsequent extension for students with STEM (science, technology, engineering, and mathematics) degrees, which together allow me to work for three years in academia after completing my degree.

5. My OPT status will expire on May 31, 2017. I entered the U.S. on a single-entry visa.

6. On March 22, 2017, the University of Washington filed an application for an academic H1-B work visa for me, which would allow me to continue my work at the University of Washington after my OPT status expires.

7. My understanding is that this H1-B application has been provisionally approved. However, I do not have H1-B status yet; I expect to receive the H1-B visa by June 1, 2017.

8. At this time, I still cannot travel freely outside of the United States.

9. In addition, the academic H1-B is limited to academia, and my prospects for a job with a private employer remain severely curtailed given the likelihood that I will not be able to obtain the non-immigrant status required to work outside of academia.

10. Thus, based on my status and the significant uncertainty regarding the second Executive Order, I am at a significant disadvantage compared to other foreign nationals who are also applying for post-graduate work outside a university setting.

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11. I understand that a class action is a lawsuit brought by individuals on a representative basis, on behalf of others similarly situated, to obtain equitable relief and/or damages for the benefit of the group as a whole.

12. I am serving as a class representative in this matter.

13. I understand that as a class representative I am not only representing my interests, but I am representing the interests of all persons who, like me, are Washington residents, have non-immigrant status, are from one of the six countries targeted in Defendants' Executive Order, and who do not have unexpired multiple-entry visas.

14. I am familiar with the progress of the litigation and the claims that I have made on behalf of myself and the proposed classes.

15. I will not put my personal interests before the interests of the class members, and I have accepted the responsibilities associated with serving as a class representative.

16. As a class representative, I understand that I must consider the interests of the class just as I would consider my interests.

17. I am unaware of any conflicts that I have and/or may have with any other persons who may qualify as class members in this case.

18. As a class representative in this case, I have participated and will continue to actively participate in the lawsuit, will testify at trial if called upon, will answer written discovery, and will continue to keep generally aware of the status and progress of the lawsuit.

19. I wish to proceed anonymously because I am concerned about retaliation against me by Defendants.

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20. As a class representative, I recognize and accept that any resolution of this case, if certified as a class action lawsuit, such as by settlement or dismissal, is subject to Court approval and must be designed to be in the best interests of the class as a whole.

21. As a class representative, I recognize that I am not required to be particularly sophisticated or knowledgeable with respect to the legal framework of the lawsuit. I am not a lawyer and have no legal training. However, I am interested in the progress of the lawsuit, and have and will continue to provide my lawyers and the Court with all relevant facts of which I am aware.

22. As a class representative, I have volunteered to represent other people with similar claims, because I believe that it is important that all benefit from the lawsuit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 5th day of April, 2017, at Seattle, Washington.

Jack Doe

Jack Doe

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The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF JASON DOE IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, "Jason Doe," do hereby declare and state:

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1. I have personal knowledge of the matters contained herein and, where I do not have direct knowledge, I believe them to be true and correct based upon the information available to me.

2. I am originally from Iran. I currently live in Seattle, Washington.

3. I first came to the United States in 2013 with my wife, who was enrolled in a doctorate program.

4. At that time, my wife had F-1 status as a student, and I had F-2 status as her spouse.

5. In 2014, I started a 5-year doctorate program at the Business School of the University of Washington. I am halfway through my program and anticipate graduating in 2019.

6. As a student myself now, I have F-1 non-immigrant status. I entered the United States on a multiple-entry visa, which expired in August 2016, though my F-1 status is valid through at least 2019 pursuant to my Form I-20.

7. With my graduation date a few years away, I should be attending conferences to present papers, expand my contacts, and develop my expertise. However, because most of the conferences that would be appropriate for me to attend are international conferences, which would require travel outside of the United States in the coming months, I am unable to participate in them.

8. Due to the travel ban, I cannot leave the country for fear I will not be permitted to return.

9. I am particularly fearful that any international travel will separate me from my wife, who is still in Seattle.

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10. I understand that a class action is a lawsuit brought by individuals on a representative basis, on behalf of others similarly situated, to obtain equitable relief and/or damages for the benefit of the group as a whole.

11. I am serving as a class representative in this matter.

12. I understand that as a class representative I am not only representing my interests, but I am representing the interests of all persons who, like me, are Washington residents, have non-immigrant status, are from one of the six countries targeted in Defendants' Executive Order, and who do not have unexpired multiple-entry visas.

13. I am familiar with the progress of the litigation and the claims that I have made on behalf of myself and the proposed classes.

14. I will not put my personal interests before the interests of the class members, and I have accepted the responsibilities associated with serving as a class representative.

15. As a class representative, I understand that I must consider the interests of the class just as I would consider my interests.

16. I am unaware of any conflicts that I have and/or may have with any other persons who may qualify as class members in this case.

17. As a class representative in this case, I have participated and will continue to actively participate in the lawsuit, will testify at trial if called upon, will answer written discovery, and will continue to keep generally aware of the status and progress of the lawsuit.

18. I wish to proceed anonymously because I am concerned about retaliation against me and my wife by Defendants.

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19. As a class representative, I recognize and accept that any resolution of this case, if certified as a class action lawsuit, such as by settlement or dismissal, is subject to Court approval and must be designed to be in the best interests of the class as a whole.

20. As a class representative, I recognize that I am not required to be particularly sophisticated or knowledgeable with respect to the legal framework of the lawsuit. I am not a lawyer and have no legal training. However, I am interested in the progress of the lawsuit, and have and will continue to provide my lawyers and the Court with all relevant facts of which I am aware.

21. As a class representative, I have volunteered to represent other people with similar claims, because I believe that it is important that all benefit from the lawsuit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 4th day of April, 2017, at Seattle, Washington

Jason Doe

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The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF JULIA DOE IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, "Julia Doe," do hereby declare and state:

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1. I have personal knowledge of the matters contained herein and, where I do not have direct knowledge, I believe them to be true and correct based upon the information available to me.

2. I am originally from Iran. I currently live in Seattle, Washington.

3. I am a graduate student at the University of Washington working toward my Ph.D.

4. I have three or four years left of my studies before I complete my degree, and am in the United States with F-1 student status. I have a single-entry visa.

5. My immediate and extended family, including grandparents, all live in Iran.

6. Though I had planned on returning to Iran for a visit later this year after I finished my qualifications for my master's degree, and had planned to attend international conferences in connection to my academic work, I cannot make these trips because of the travel ban and the uncertainty regarding my ability to return to the United States.

7. These limits on my ability to participate in international conferences negatively impact my academic growth and my professional development.

8. I understand that a class action is a lawsuit brought by individuals on a representative basis, on behalf of others similarly situated, to obtain equitable relief and/or damages for the benefit of the group as a whole.

9. I am serving as a class representative in this matter.

10. I understand that as a class representative I am not only representing my interests, but I am representing the interests of all persons who, like me, are Washington residents, have non-immigrant status, are from one of the six countries targeted in Defendants' Executive Order, and who do not have unexpired multiple-entry visas.

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11. I am familiar with the progress of the litigation and the claims that I have made on behalf of myself and the proposed classes.

12. I will not put my personal interests before the interests of the class members, and I have accepted the responsibilities associated with serving as a class representative.

13. As a class representative, I understand that I must consider the interests of the class just as I would consider my interests.

14. I am unaware of any conflicts that I have and/or may have with any other persons who may qualify as class members in this case.

15. As a class representative in this case, I have participated and will continue to actively participate in the lawsuit, will testify at trial if called upon, will answer written discovery, and will continue to keep generally aware of the status and progress of the lawsuit.

16. I wish to proceed anonymously because I am concerned about retaliation.

17. As a class representative, I recognize and accept that any resolution of this case, if certified as a class action lawsuit, such as by settlement or dismissal, is subject to Court approval and must be designed to be in the best interests of the class as a whole.

18. As a class representative, I recognize that I am not required to be particularly sophisticated or knowledgeable with respect to the legal framework of the lawsuit. I am not a lawyer and have no legal training. However, I am interested in the progress of the lawsuit, and have and will continue to provide my lawyers and the Court with all relevant facts of which I am aware.

19. As a class representative, I have volunteered to represent other people with similar claims, because I believe that it is important that all benefit from the lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 10th day of April, 2017, at Seattle, WA.

Julia Doe

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EXHIBIT 2

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF JOSEPH DOE IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, "Joseph Doe," do hereby declare and state:

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1. I have personal knowledge of the matters contained herein and, where I do not have direct knowledge, I believe them to be true and correct based upon the information available to me

2. I am originally from Somalia. I currently live in Des Moines, Washington.

3. When I was a child, my family and I fled Somalia because of the violent civil war in our country, to escape persecution and the risk of being killed because of our clan membership.

4. While we were trying to reach safety, we spent weeks in the forest without food. Fighters from one of the warring factions found us in the forest and raped my older sister. My mother tried to stop the rape, but the men clubbed her in the head with the butt of their guns. My sister was pregnant at that time, and she had so much bleeding after the assault that she died.

5. We eventually got to Kenya and began living in a refugee camp. I lived in refugee camps in Kenya for nearly 22 years.

6. I first initially interviewed with the United Nations High Commissioner for Refugees in 2000 with my mother, two brothers, and three surviving sisters. By the time I finally interviewed with USCIS/DHS in 2011, I had met my wife and gotten married. We have three children.

7. I finally arrived in the United States on January 28, 2014, as a refugee, but my refugee status only applies to myself, not my wife and children, as the refugee process was started when we first arrived at a refugee camp when I was young.

8. In June 2015, I filed a Refugee/Asylee Relative Petition, Form I-730, for my wife and for my children, who are now 3, 4, and 9 years old.

9. I became a lawful permanent resident in 2016.

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10. My wife and children had their final interviews in November 2016, which they successfully passed; they have completed the security clearance; they completed their medical clearance on January 31, 2017; and they received their final required injections on March 1, 2017. They are only waiting to be scheduled for travel to the United States.

11. To date, no travel arrangements have been made for them. If travel of refugees to the U.S. is suspended by Defendants' executive order, my family's travel to the United States will be delayed for at least 120 days—and possibly indefinitely if the refugee cap is met before they are admitted, and I will be prevented from being reunited with my wife and children.

12. With this delay, it is likely that my family's medical clearance will expire and they will be required to repeat that part of the process.

13. I understand that a class action is a lawsuit brought by individuals on a representative basis, on behalf of others similarly situated, to obtain equitable relief and/or damages for the benefit of the group as a whole.

14. I am serving as a class representative in this matter.

15. I understand that as a class representative I am not only representing my interests, but I am representing the interests of all persons who, like me, are refugees and asylees who have filed I-730 petitions for their families and whose families have passed all the required screenings.

16. I am familiar with the progress of the litigation and the claims that I have made on behalf of myself and the proposed classes.

17. I will not put my personal interests before the interests of the class members, and I have accepted the responsibilities associated with serving as a class representative.

18. As a class representative, I understand that I must consider the interests of the class just as I would consider my interests.

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19. I am unaware of any conflicts that I have and/or may have with any other persons who may qualify as class members in this case.

20. As a class representative in this case, I have participated and will continue to actively participate in the lawsuit, will testify at trial if called upon, will answer written discovery, and will continue to keep generally aware of the status and progress of the lawsuit.

21. I wish to proceed anonymously because I am concerned about retaliation against me, my wife, and my children by Defendants.

22. As a class representative, I recognize and accept that any resolution of this case, if certified as a class action lawsuit, such as by settlement or dismissal, is subject to Court approval and must be designed to be in the best interests of the class as a whole.

23. As a class representative, I recognize that I am not required to be particularly sophisticated or knowledgeable with respect to the legal framework of the lawsuit. I am not a lawyer and have no legal training. However, I am interested in the progress of the lawsuit, and have and will continue to provide my lawyers and the Court with all relevant facts of which I am aware.

24. As a class representative, I have volunteered to represent other people with similar claims, because I believe that it is important that all benefit from the lawsuit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 3rd day of April, 2017 at Des Moines, Washington.

Joseph Doe

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The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jane Doe, Jack Doe, Jason Doe, Julia Doe, Joseph Doe and James Doe, individually, and on behalf of all others similarly situated; the Episcopal Diocese of Olympia, and the Council on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States; U.S. Department of State; Rex Tillerson, Secretary of State; U.S. Department of Homeland Security; John Kelly, Secretary of Homeland Security; U.S. Customs and Border Protection; Kevin McAleenan, Acting Commissioner of U.S. Customs and Border Protection; and Michele James, Field Director of the Seattle Field Office of U.S. Customs and Border Protection,

Defendants.

No. 2:17-cv-00178-JLR

DECLARATION OF JAMES DOE IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, "James Doe," do hereby declare and state:

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1. I have personal knowledge of the matters contained herein and, where I do not have direct knowledge, I believe them to be true and correct based upon the information available to me.

2. I am originally from Eritrea. I currently live in Seattle, Washington.

3. I fled Eritrea in 2009 after being imprisoned because of my political beliefs.

4. I was imprisoned in Eritrea for five months, but I was eventually able to escape. I fled first to Sudan, then through Egypt, and made it to Israel.

5. Once in Israel, I was finally able to contact my wife and let her know what had happened to me.

6. Although I was unable to get permanent status as a refugee in Israel, I was able to get a visa to travel to Sri Lanka as a refugee. But soon after I arrived there, the Sri Lankan government began detaining Eritrean refugees, and I was imprisoned for another two years.

7. With the help of the United Nations, I worked to obtain refugee status in the United States. In April 2015, I finally made it to America.

8. Once here, I filed a Refugee/Asylee Relative Petition, Form I-730, for my wife and children, who are currently living in Ethiopia. My children, including the daughter whom I have never met, are now 8 and 9 years old.

9. Now a lawful permanent resident in the United States, I am awaiting the arrival of my family.

10. The I-730 petition for my family was approved in September 2016, and I was told that my family would arrive within 4–5 months. They have since passed their security clearances and medical examinations. However, they are still waiting for confirmation of their travel arrangements.

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11. I fear that if Defendants' Executive Order remains in place, my family's travel to the United States will be delayed for at least an additional 120 days.

12. With this delay, it is likely that my family's medical clearances will expire and they will be required to repeat that part of the process.

13. I understand that a class action is a lawsuit brought by individuals on a representative basis, on behalf of others similarly situated, to obtain equitable relief and/or damages for the benefit of the group as a whole.

14. I am serving as a class representative in this matter.

15. I understand that as a class representative I am not only representing my interests, but I am representing the interests of all persons who, like me, are refugees and asylees who have filed I-730 petitions for their families and whose families have passed all the required screenings.

16. I am familiar with the progress of the litigation and the claims that I have made on behalf of myself and the proposed classes.

17. I will not put my personal interests before the interests of the class members, and I have accepted the responsibilities associated with serving as a class representative.

18. As a class representative, I understand that I must consider the interests of the class just as I would consider my own interests.

19. I am unaware of any conflicts that I have and/or may have with any other persons who may qualify as class members in this case.

20. As a class representative in this case, I have participated and will continue to actively participate in the lawsuit, will testify at trial if called upon, will answer written discovery, and will continue to keep generally aware of the status and progress of the lawsuit.

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21. I wish to proceed anonymously because I am concerned about retaliation against me, my wife, and my children by Defendants.

22. As a class representative, I recognize and accept that any resolution of this case, if certified as a class action lawsuit, such as by settlement or dismissal, is subject to Court approval and must be designed to be in the best interests of the class as a whole.

23. As a class representative, I recognize that I am not required to be particularly sophisticated or knowledgeable with respect to the legal framework of the lawsuit. I am not a lawyer and have no legal training. However, I am interested in the progress of the lawsuit, and have and will continue to provide my lawyers and the Court with all relevant facts of which I am aware.

24. As a class representative, I have volunteered to represent other people with similar claims, because I believe that it is important that all benefit from the lawsuit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 4th day of April, 2017, at SEATTLE, WA.

James Doe

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