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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I

STATE OF HAWAI‘I and ISMAIL ELSHIKH,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; U.S.
DEPARTMENT OF HOMELAND SECURITY;
JOHN F. KELLY, in his official capacity as
Secretary of Homeland Security; U.S.
DEPARTMENT OF STATE; REX TILLERSON,
in his official capacity as Acting Secretary of
State; and the UNITED STATES OF AMERICA,

Defendants.

Civil Action No. 1:17-cv-
00050-DKW-KJM

PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER

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PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Rules 7 and 65 of the Federal Rules of Civil Procedure and Local Rule 7.2 for the U.S. District Court for the District of Hawaii, Plaintiffs, the State of Hawai‘i and Ismail Elshikh, by and through counsel, hereby move this Honorable Court for a temporary restraining order prohibiting Defendants from enforcing and implementing key portions of the March 6, 2017 Executive Order issued by Defendant Donald J. Trump (the “Executive Order”), which imposes a nationwide ban on the “entry” of foreign nationals from six Muslim-majority countries.

The State previously moved for a temporary restraining order prohibiting the enforcement of a January 27, 2017 iteration of the Executive Order. Portions of that previous order were enjoined by other courts, leading President Trump to issue the March 6 Executive Order. But despite revisions, the Executive Order violates federal law as well as the Constitution of the United States. Sections 2 and 6 of the Executive Order violate the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, by discriminating on the basis of national origin and by contravening the INA’s finely reticulated system of immigration controls. Sections 2 and 6 of the Executive Order also violate individuals’ Due Process Clause rights under the Fifth Amendment of the U.S. Constitutions, while inflicting state-sanctioned disfavor

toward Muslims in violation of both the Equal Protection Clause of the Fifth Amendment and the Establishment Clause of the First Amendment.

These discriminatory and unlawful provisions of the Executive Order have no place in the State of Hawai‘i, where Defendants’ actions have caused, and continue to cause, irreparable injury to Plaintiffs. As an immediate remedy, and to maintain the status quo while more permanent solutions may be considered, Plaintiffs ask that the Court enter a temporary restraining order enjoining Defendants from enforcing or implementing Sections 2 and 6 of the Executive Order nationwide. Plaintiff further requests that the Court set an expedited hearing to determine whether such order should remain in place.

This motion is supported by the attached Memorandum in Support of Plaintiffs’ Motion for Temporary Restraining Order, accompanying declarations, and the records and files in this action, as well as any additional submissions and oral argument that may be considered by the Court.

DATED: Washington, D.C., March 8, 2017.

Respectfully submitted,

/s/ Neal K. Katyal

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