

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON,

Plaintiff,

v.

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

Defendants.

No. 2:17-cv-00141-JLR

BRIEF OF THE SERVICE EMPLOYEES
INTERNATIONAL UNION AS AMICUS
CURIAE IN SUPPORT OF PLAINTIFF
STATE OF WASHINGTON

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1 The Service Employees International Union (“SEIU”) respectfully submits this amicus
 2 curiae brief in support of Plaintiff State of Washington’s Motion for a Temporary Restraining
 3 Order (“Motion”)¹ seeking to enjoin portions of President Donald J. Trump’s January 27, 2017
 4 Executive Order banning entry into the United States of individuals based on national origin
 5 (“Executive Order”).

6 I. INTRODUCTION

7 The profoundly adverse and discriminatory effects of the Executive Order are already
 8 wreaking havoc on the State of Washington and its residents—including SEIU members.
 9 Because the Executive Order bans individuals from seven predominately Muslim countries from
 10 entering the United States, and is plainly driven by animus against Muslims, the Executive Order
 11 violates the Constitution’s ban on discrimination based on national origin and religion. The
 12 Executive Order cannot satisfy even the deferential rational basis test, as it does nothing to
 13 further its purported goal of protecting the U.S. from terrorist attacks. Heavily-vetted children
 14 fleeing war-torn countries pose no more threat of terrorism to this country than did Jewish people
 15 fleeing Czarist Russia. The Executive Order also violates the Due Process Clause of the
 16 Constitution by denying lawful permanent residents and visa-holders the ability to enter
 17 Washington without notice and the opportunity to be heard, and others of the statutory right to
 18 seek asylum. Finally, the Executive Order violates the Immigration and Nationality Act’s
 19 prohibition on discrimination in the issuance of visas based on nationality, place of birth, or
 20 place of residence.² Consistent with our nation’s laws, the Executive Order cannot stand.

21 The SEIU respectfully urges that the Court grant the State of Washington’s Motion in
 22 order to prevent the ongoing harm to the State, its businesses, and its citizenry. The SEIU writes
 23 to further document the immediate and irreparable harm to its Washington State members and
 24 their families and communities. As the illustrative examples demonstrate, the Executive Order
 25 (if allowed to stand) will impose immediate and irreparable harm to hard-working Washington
 26 residents who have played by the rules and pose no threat to the safety of this country’s citizens.

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¹ ECF No. 3.

² 8 U.S.C. § 1152(a)(1)(A).

1 **II. STATEMENT OF INTEREST OF *AMICUS CURIAE***

2 The Service Employees International Union (“SEIU”) is an international labor
3 organization representing approximately two million working men and women in the United
4 States and Canada employed in the private and public sectors. Many of the SEIU’s members are
5 foreign-born U.S. citizens, lawful permanent residents, or immigrants authorized to work in the
6 United States. Many of SEIU’s members have mixed-status families. SEIU has members who
7 are directly affected by the Executive Order barring entry into the United States based on
8 national origin.

9 **III. ARGUMENT**

10 The impact of the Executive Order on the SEIU and its members is profound and
11 highlights the State’s pressing interest in protecting its citizens and preserving its tax base.³ The
12 SEIU has over 118,000 members in Washington State in five local chapters, including the Public
13 School Employees of Washington (representing over 28,600 public school employees); SEIU
14 Healthcare 1199NW (over 29,000 nurses and healthcare workers across the state); SEIU Local
15 775 (over 40,000 long-term care workers providing in-home and nursing home care in
16 Washington and Montana); SEIU Local 6 (over 4,000 janitors, security officers, stadium and
17 airport workers); and SEIU Local 925 (17,000 education, governmental, and non-profit workers).

18 A large percentage of these workers are immigrants. For example, more than 40% of
19 SEIU Local 6’s members are immigrants. The Executive Order will accordingly have an
20 enormous impact on them. As the SEIU chapter states on its website: “Among the members of
21 SEIU Healthcare 1199NW are countless immigrants and refugees, green card holders and legal
22 permanent residents, who care for our community’s patients and mental health clients every
23 day. [President] Trump’s order means these caregivers face travel bans, could be unable to
24 reunite with families, and will face more hate and discrimination in our community.”⁴

25 SEIU members work in industries that touch Washington residents’ daily lives. They
26 help educate the State’s children, care for the State’s elderly and infirm, keep the schools and

27 ³ See Plaintiff State of Washington’s Supplemental Brief Regarding Standing (ECF No. 17) (“Supp. Brief”) at
2-3.

28 ⁴ See <http://www.seiu1199nw.org/2017/01/29/standing-up-for-immigrants-and-refugees>.

1 buildings clean and secure, and—ironically enough—facilitate air travel in and out of the State.
2 The impact on the State from losing these workers is self-evident, and the Executive Order
3 makes the State less secure and less prosperous as long as it stays in effect—and the State is
4 obliged to protect the safety and prosperity of its residents. The risk and danger to SEIU
5 members posed by the Executive Order, and the corresponding negative impacts on the State, are
6 concrete and immediate. Many of SEIU’s members have recounted their stories to SEIU staff.
7 These individuals are fearful and do not want to reveal their identity. Therefore, the illustrative
8 stories recounted here are verified through the Declaration of Trisha Pande, submitted herewith:

9 1. Sara

10 *Sara is a 33-year-old registered nurse and member of SEIU 1199NW. She lives*
11 *in Seattle with her four children. She came to the U.S. from Somalia when she was 12*
12 *years old. Both Sara and her parents are U.S. citizens; however, almost all of her*
13 *extended family lives in Somalia.*

14 *Sara is adversely impacted by the Executive Order because her legitimate fear*
15 *prevents her from travelling back to Somalia to visit her family. She has spent most of*
16 *her life in the U.S. and considers this her home and her country. Sara is now afraid that*
17 *if she leaves the U.S. she will not be able to get back in. Sara is also worried that her*
18 *relatives will never be able to come to the U.S. and visit her and her children.*

19 *Sara’s father is currently in Somalia visiting her grandmother. Her father is a*
20 *diabetic and while he was in Somalia developed a bad foot infection. His treatment in*
21 *Somalia did not go very well and he needs to return to the U.S. for medical treatment.*
22 *Sara fears that her father, even though a U.S. citizen, will get detained trying to re-enter*
23 *the U.S. He is a senior citizen and in need of immediate medical attention and will face*
24 *serious health risks if he is detained.*

25 2. Dasin

26 *Dasin was born in Iraq and lived there until 2012. He is Muslim. His father and*
27 *uncle both worked for the U.S. Army in Iraq for about four years. Dasin helped his*
28 *father and uncle while they were working for the U.S. Army. When the U.S. Army left*

1 *Iraq it was very dangerous for Dasin and his family. ISIS planted a bomb in front of*
2 *Dasin's home. The bomb exploded, injuring Dasin in the face and neck. After he*
3 *recovered, Dasin and his family went to Turkey as refugees. Dasin had trouble finding*
4 *work in Turkey because he was a refugee and faced discrimination.*

5 *Dasin came to the U.S. in 2013 and now lives in Seattle, Washington with his four*
6 *siblings and his parents. He went to high school and graduated in 2015. He now works*
7 *part-time as a dispatcher for a large company and part-time as a drive. Dasin is*
8 *impacted by the Executive Order because he has many family members in Iraq that he*
9 *can no longer see. Dasin's family hoped to bring over Dasin's grandfather,*
10 *grandmother, and uncle. Dasin fears that if his relatives do not make it to the U.S. they*
11 *will be killed in Iraq. Dasin also has two close friends, also Iraqi refugees, that he met*
12 *while living in Turkey. They waited several years before scheduling flights to come to the*
13 *U.S. this month. However, they had to cancel their flights after the Executive Order.*

14 3. Nadia

15 *Nadia is 21 years old, and Muslim. She was born in the United States and is a*
16 *U.S. citizen. Her parents are both U.S. citizens and originally from Somalia. Her mother*
17 *is a childcare worker and member of the SEIU 925. Nadia is currently studying to*
18 *become a social worker and working part-time as a caregiver for her grandmother. She*
19 *lives at home with her two parents and three siblings in Auburn, Washington. Her father*
20 *is currently in Somalia visiting her extensive family there. She has never visited her*
21 *family in Somalia because it is too expensive.*

22 *Nadia is adversely impacted by the Executive Order because she hopes to be*
23 *married in the U.S. to a Yemeni citizen currently residing in Saudi Arabia. Nadia was*
24 *introduced to her fiancé through her parents. Nadia's parents met her fiancé while on*
25 *pilgrimage in Saudi Arabia. They thought he would be a good match for Nadia and put*
26 *them in touch. Nadia and her fiancé spoke by phone and video chat for several months*
27 *before she decided to visit him in Saudi Arabia. Nadia spent more than a month with her*
28 *fiancé. During the time that she spent in Saudi Arabia with her fiancé, she became*

1 *increasingly drawn to his kindness, thoughtfulness, and great personality, and eventually*
2 *the couple decided to get married. When Nadia returned to the U.S. in March of 2016,*
3 *she filed an immigration application for her fiancé, a K-1 “fiancé” visa. She submitted*
4 *all the paperwork and her fiancé’s application was approved pending a final interview at*
5 *the U.S. Embassy abroad.*

6 *Nadia is scared for both herself and her fiancé. She is “scared that [the Executive*
7 *Order] is something that can happen” in this country. Nadia said she is worried she will*
8 *have to move to Saudi Arabia to be with her fiancé, and leave her home in the U.S.*
9 *because it is too “hard to live our lives separately.” Nadia has been unable to see her*
10 *fiancé, whom she misses dearly, since she was last in Saudi Arabia because the expense*
11 *of flying to Saudi Arabia. Nadia and her fiancé stay in touch mostly through phone and*
12 *video chat. Nadia’s fiancé told her he is really scared he will not be able to see her*
13 *again. He is upset that he is unable to move to the U.S. and start a life with Nadia. Nadia*
14 *says they both try to stay calm by waiting, praying, and hoping things will work out in the*
15 *end.*

16 4. John

17 *John (a pseudonym) lives in a suburb of Seattle with his wife and three children.*
18 *John came to the United States from Iran in 1978 as a student and was recognized as a*
19 *religious refugee in 1982. He became a U.S. citizen in 1990.*

20 *John is adversely impacted by the Executive Order because it affects both his*
21 *family and his business. John has several relatives living in Iran currently facing*
22 *religious persecution because they are of the Baha’i faith. John’s parents fled Iran in*
23 *1982 after three of John’s uncles were killed by an Iranian firing squad. John is now*
24 *worried that his relatives cannot come to the United States or visit him and his family*
25 *because of the immigration ban. John also has relatives who are Iranian citizens but*
26 *reside all over the world. He is also worried that they cannot visit him in the United*
27 *States.*

1 *The Executive Order is also harming John’s business. John and his wife run a*
 2 *small health clinic in Seattle. It is a comprehensive integrative clinic which mixes*
 3 *Western and Eastern medicine. John’s clinic treats about 20 patients from Canada who*
 4 *are Iranian citizens. John sees patients from Canada every Friday at his clinic, and he*
 5 *estimates that those patients comprise about 20 percent of his business. Those patients*
 6 *can no longer come to the clinic from Canada because of the Executive Order. John*
 7 *believes that President Trump put the ban in place “hastily.” As John stated, “everybody*
 8 *has a different story for why they need to come to the U.S . . . it is too simplistic to say*
 9 *that just because you were born in a certain country that you are a terrorist.”*

10 5. Halima

11 *Halima, a Muslim woman, lives in Seattle, Washington with her husband and*
 12 *children. She came to the United States from Somalia in 2001 as a legal resident, and*
 13 *became a U.S. citizen in 2008. Halima is a caregiver for disabled and elderly patients*
 14 *and has been a member of SEIU Local 775 since 2008. Although Halima and two of her*
 15 *children are U.S. citizens, her husband and her other four children are legal residents*
 16 *(green card holders). Her six children range in age from 17 to 24. One child is in*
 17 *school; two of them attend community college; the other three children are working.*

18 *The Executive Order has made Halima very worried. She worries about her*
 19 *children every minute that they are away from home. She worries that they may be*
 20 *attacked because of the hateful environment that this Executive Order has created.*
 21 *Halima’s four daughters all wear a hajib, and she is afraid that people will attack them*
 22 *because of the anti-Muslim feelings the Executive Order has fueled.*

23 *The husband of one of Halima’s friends flew into the Seattle airport on January*
 24 *27, 2017 with an approved visa, but was returned back to Somalia. Her friend, U.S.*
 25 *citizen, was waiting for her husband and couldn’t even see him before he was turned*
 26 *around and sent back to Somalia—even though he was here legally. This incident has*
 27 *terrorized Halima’s entire family. As Halima said, “[i]f they can treat people with green*
 28

1 *cards and visas the way they treated these people, who knows if they will come after*
2 *naturalized citizens next? No one is safe.”*

3 The accounts of these SEIU members demonstrate that the Executive Order has an
4 immediate and concrete impact on the well-being of Washington State citizens and is a matter of
5 State concern.⁵ The Executive Order is separating families for no justifiable reason, causing
6 many of Washington’s citizens—including SEIU members—harm and distress when they face
7 the genuine risk that they will be permanently separated from their loved ones. The State has a
8 singular interest in protecting its citizens from precisely this type of irreparable harm from any
9 source, including the federal government.

10 **IV. CONCLUSION**

11 Woven throughout the accounts set forth above is a deep and genuine connection to this
12 country, and Washington State—a connection based on the opportunities and freedom that our
13 country affords. Recent events have understandably shaken the faith of the aforementioned
14 individuals, their families and their communities in the current Administration. It now falls to
15 the judiciary to ensure that their faith in America was not misplaced, and that this country’s
16 adherence to fairness, due process, and equal treatment under the law shall endure.

17 DATED this 2nd day of February, 2017. Respectfully submitted,

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19
20 By /s/ Steve W. Berman

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28 ⁵ See Supp. Brief, at 5 (“practices of discrimination against any of its inhabitants because of race, color, creed, [or] national origin . . . are a matter of state concern”) (quoting Wash. Rev. Code 49.60.010).

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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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