



March 20, 2017

The Honorable Theodore D. Chuang
United States District Court
District of Maryland
6500 Cherrywood Lane
Greenbelt, MD 20770

Re: *International Refugee Assistance Project v. Trump*, No. 8:17-cv-00361-TDC

Dear Judge Chuang:

We write pursuant to § II.A of the Case Management Order to request a Pre-Motion Conference regarding Plaintiffs' desire to file a motion for a preliminary injunction of § 6 of the now-operative Executive Order, which relate specifically to the U.S Refugee Admissions Program ("USRAP"). In its opinion dated March 16, 2017, the Court held that Plaintiffs did not sufficiently develop the arguments regarding § 6 to warrant an injunction of it at that time. Mem. Op. (Dkt. No. 149) at 40-41. Plaintiffs therefore respectfully request leave to file a motion for preliminary injunction of § 6, principally on Establishment Clause grounds.

Plaintiffs are likely to succeed on their claim that § 6 of the Order, like § 2(c), violates the Establishment Clause and equal protection. There is compelling evidence, including statements by the President—some made even since the Court held argument on March 15—establishing that § 6 is part and parcel of the overall scheme to discriminate against Muslim immigrants, on whom § 6 has a markedly disparate impact, and that a reasonable observer would conclude that the primary purpose of § 6 was to disadvantage Muslims. The balance of hardships and the public interest also clearly favor granting a preliminary injunction.

Plaintiffs are also likely to succeed on their claim that § 6(b) should be enjoined on statutory grounds, as explained in the separate Motion for Preliminary Injunction of the Executive Order (doc. # 64). Given that all of § 6 is currently enjoined by the U.S. District Court for the District of Hawai'i,¹ and in the interest of judicial economy, Plaintiffs propose rescheduling the March 28

¹ See *Hawai'i v. Trump*, ___ F. Supp. 3d. ___, No. 17-00050, 2017 WL 1011673 (D. Haw. Mar. 15, 2017); see also Electronic Order, *Hawai'i v. Trump*, No. 17-00050 (D. Haw. Mar. 19, 2017), ECF No. 229 (denying the federal government's motion to "clarify" the scope of the TRO such that it no longer applied to all of §§ 2 & 6).

hearing on that motion until after briefing on the constitutional claims regarding § 6 is complete, such that the Court can consider all claims applicable to § 6 at the same time.

Plaintiffs note, moreover, that although the federal government's Notice of Appeal (doc. # 160) divests the district court of its control over the preliminary injunction of § 2(c), the Court retains jurisdiction over the balance of the case. *See Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam); Wright & Miller, 16 Fed. Prac. & Proc. § 3921.2 (3d ed.).

Plaintiffs' counsel has consulted with counsel for the federal government, who states that the federal government will be prepared to address the foregoing matters during the status conference already scheduled for 3:00 PM ET on March 21, 2017.

Respectfully submitted,

/s/ Justin B. Cox

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