

The Honorable James L. Robart

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

JOHN DOE, *et al.*,  
  
Plaintiffs,  
  
v.  
  
DONALD TRUMP, in his official  
capacity as President of the United  
States, *et al.*,  
  
Defendants.

No. 2:17-cv-00178 (JLR)

**STIPULATION AND  
[PROPOSED] ORDER TO  
STAY PROCEEDINGS**

Noted for Consideration:  
May 26, 2017

Pursuant to the Court’s May 22, 2017, Order to Show Cause, Dkt. # 32, Plaintiffs and Defendants, through their respective undersigned counsel, hereby stipulate and agree as follows:

1. Plaintiffs challenge Executive Order 13,780, titled “Protecting the Nation from Foreign Terrorist Entry into the United States” (“EO2”). *See* 82 Fed. Reg. 13,209 (Mar. 6, 2017). Plaintiffs have filed a Second Amended Class Action Complaint for Declaratory and Injunctive Relief contesting the legality of EO2, Dkt. # 30, as well as a Motion for Class Certification, Dkt. # 19. Pursuant to earlier Stipulations and Orders, Defendants’ response to the Second Amended Complaint is currently due on June 1, 2017 and their response to Plaintiffs’ class certification

1 motion is currently due fourteen days after the Ninth Circuit's ruling in *Hawai'i v. Trump*, No.  
2 17-50 (D. Haw.). See Dkt. #s 18, 29.

3           2. On May 17, 2017, and May 22, 2017, respectively, the Court entered orders  
4 staying the proceedings in *Washington v. Trump*, No. 17-141JLR (W.D. Wash.), Dkt. # 189, and  
5 *Ali v. Trump*, No. 17-135JLR (W.D. Wash.), Dkt. # 95, pending resolution of the appeal in  
6 *Hawai'i v. Trump (Hawai'i)*, No. 17-15589 (9th Cir.). The Court further ordered the parties to  
7 file a joint status report within ten days of the Ninth Circuit's ruling in *Hawaii* so that the Court  
8 could evaluate the continued appropriateness of the stay at that time. The Court also noted that  
9 any party may move to lift the stay should circumstances change such that lifting the stay is  
10 warranted.  
11

12           3. In light of the Court's orders staying the proceedings in *Washington* and *Ali*,  
13 Plaintiffs and Defendants agree that a similar stay is appropriate in this case. Accordingly, the  
14 parties stipulate and agree as follows:  
15

16           a. Proceedings in this case (including Defendants' deadlines to respond to  
17 the Second Amended Complaint and class certification motion) shall be  
18 stayed pending the Ninth Circuit's resolution of the appeal in *Hawaii v.*  
19 *Trump*.

20           b. The parties shall file a joint status report within ten days of the Ninth  
21 Circuit's ruling in *Hawaii* so that the Court may evaluate the continued  
22 appropriateness of a stay at that time.

23           c. Should circumstances change such that lifting the stay is warranted, any  
24 party may move to lift the stay. For example, if the Ninth Circuit lifts or  
25

1 narrows the preliminary injunction in *Hawaii*, Plaintiffs may seek to lift  
2 the stay for the purpose of filing a motion for temporary restraining order  
3 or preliminary injunction.<sup>1</sup>

4 d. As the Court noted in *Washington*, Dkt. # 189 at 8-9, Plaintiffs may send  
5 preservation letters to third parties to notify them of the litigation and  
6 request that they preserve any potentially relevant evidence. If Plaintiffs  
7 do not believe that sending such letters will resolve the issue of third-party  
8 evidentiary preservation, Plaintiffs may move for a limited modification  
9 of the stay order to allow Plaintiffs to issue subpoenas to third parties. If  
10 any such motion is granted, the Court would then stay any required  
11 production under or response to the subpoenas until such time as the stay  
12 is fully lifted.  
13  
14

15 Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs  
16 and Defendants, subject to the Court’s approval, that:

17 A. Proceedings in this case (including Defendants’ deadlines to respond to the  
18 Second Amended Complaint and class certification motion) are stayed pending the Ninth  
19 Circuit’s resolution of the appeal in *Hawaii v. Trump*.  
20  
21  
22  
23

24 <sup>1</sup> Plaintiffs were preparing to file a motion for preliminary injunction in mid-March when this Court  
25 stayed the temporary restraining order proceedings in *Ali v. Trump*. Order Staying Pls.’ Mot. TRO & Prelim.  
26 Injunctive Relief, *Ali*, No. 17-135JLR (W.D. Wash. Mar. 17, 2017), Dkt. # 79. Using that order as a guide, the  
*Doe* Plaintiffs did not file their motion.

1 B. The parties shall file a joint status report within ten days of the Ninth Circuit's  
2 ruling in *Hawaii* so that the Court may evaluate the continued appropriateness of a stay at that  
3 time.

4 C. Should circumstances change such that lifting the stay is warranted, any party  
5 may move to lift the stay. For example, if the Ninth Circuit lifts or narrows the preliminary  
6 injunction in *Hawaii*, Plaintiffs may seek to lift the stay for the purpose of filing a motion for  
7 temporary restraining order or preliminary injunction.  
8

9 D. Plaintiffs may send preservation letters to third parties to notify them of the  
10 litigation and request that they preserve any potentially relevant evidence. If Plaintiffs do not  
11 believe that sending such letters will resolve the issue of third-party evidentiary preservation,  
12 Plaintiffs may move for a limited modification of the stay order to allow Plaintiffs to issue  
13 subpoenas to third parties. If any such motion is granted, the Court would then stay any required  
14 production under or response to the subpoenas until such time as the stay is fully lifted.  
15  
16

17 DATED this 26<sup>th</sup> day of May, 2017.  
18  
19  
20  
21  
22  
23  
24  
25

**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

Lynn Lincoln Sarko, WSBA # 16569  
Tana Lin, WSBA # 35271  
Amy Williams-Derry, WSBA #28711  
Derek W. Loeser, WSBA # 24274  
Alison S. Gaffney, WSBA #45565  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101  
Telephone: (206) 623-1900  
Facsimile: (206) 623-3384  
Email: lsarko@kellerrohrback.com  
tlin@kellerrohrback.com  
awilliam-derry@kellerrohrback.com  
dloeser@kellerrohrback.com  
agaffney@kellerrohrback.com

By: /s/ Laurie B. Ashton

Laurie B. Ashton (*Pro Hac Vice*)  
3101 North Central Avenue, Suite 1400  
Phoenix, Arizona 85012-2600  
Telephone: (602) 248-0088  
Facsimile: (602) 248-2822  
Email: lashton@kellerrohrback.com

By: /s/ Alison Chase

Alison Chase (*Pro Hac Vice*)  
801 Garden Street, Suite 301  
Santa Barbara, CA 93101  
Telephone: (805) 456-1496  
Facsimile: (805) 456-1497  
Email: achase@kellerrohrback.com

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

CHAD A. READLER  
Acting Assistant Attorney General

JENNIFER D. RICKETTS  
Director, Federal Programs Branch

JOHN R. TYLER  
Assistant Director, Federal Programs  
Branch

/s/ Michelle R. Bennett  
MICHELLE R. BENNETT  
Trial Attorney  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, NW  
Washington, DC 20530  
Tel: (202) 305-8902  
Fax: (202) 616-8470  
Email: michelle.bennett@usdoj.gov

***Attorneys for Defendants***

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

AMERICAN CIVIL LIBERTIES UNION OF  
WASHINGTON FOUNDATION

By: /s/ Emily Chiang

By: /s/ La Rond Baker

Emily Chiang, WSBA # 50517

La Rond Baker WSBA # 43610

901 Fifth Avenue, Suite 630

Seattle, Washington 98164

Telephone: (206) 624-2184

Email: [echiang@aclu-wa.org](mailto:echiang@aclu-wa.org)

[lbaker@aclu-wa.org](mailto:lbaker@aclu-wa.org)

*Attorney for Plaintiffs*

**ORDER**

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Date: \_\_\_\_\_

By: \_\_\_\_\_

JAMES L. ROBART  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 26, 2017, a copy of the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 26th day of May, 2017.

KELLER ROHRBACK L.L.P.

By: /s/ Tana Lin

Tana Lin, WSBA # 35271  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101  
Telephone: (206) 623-1900  
Facsimile: (206) 623-3384  
Email: tlin@kellerrohrback.com

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