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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

STATE OF HAWAII 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
Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

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

**MOTION FOR LEAVE TO FILE
BRIEF OF INTERNATIONAL
REFUGEE ASSISTANCE
PROJECT AND HIAS AS *AMICI
CURIAE* IN SUPPORT OF
PLAINTIFFS' MOTION TO
CLARIFY SCOPE OF
PRELIMINARY INJUNCTION**

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INTEREST OF *AMICI CURIAE* AND REASONS WHY THE MOTION SHOULD BE GRANTED

The International Refugee Assistance Project (“IRAP”) and HIAS (formerly known as the Hebrew Immigrant Aid Society) respectfully move for leave to file an *amici curiae* brief in support of Plaintiffs’ Motion to Clarify Scope of Preliminary Injunction.

A “district court has broad discretion to appoint amici curiae.” *Hotowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). “An amicus brief should normally be allowed when . . . the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Cty. Ass’n for Restoration of the Env. (CARE) v. DeRuyter Bros. Dairy*, 54 Supp. 2d 974, 975 (E.D. Wash. 1999) (citing *N. Sec. Co. U.S.*, 191 U.S. 555, 556 (1902)); *see also In re Roxford Foods Litig.*, 790 F. Supp. 987, 997 (N.D. Cal. 1991) (stating that courts generally “have exercised great liberality in permitting an amicus curiae to file a brief in a pending case”). Here, IRAP and HIAS fulfill “the classic role of amicus curiae by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.” *Miller-Wohl Co. v. Comm’r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982).

Both IRAP and HIAS are intimately involved in the refugee resettlement process and have in-depth knowledge of the United States Resettlement Assistance Program (“USRAP”). Founded in 2008, IRAP’s mission is to provide and facilitate free legal services for vulnerable populations around the world, including refugees, who seek to escape persecution and find safety in the United States and other Western countries. IRAP lawyers provide legal assistance to refugees and other immigrants to the United States throughout the resettlement process, an effort that typically requires hundreds of hours of legal representation over the course of many years navigating USRAP. IRAP’s client base includes refugees from Iraq, Afghanistan, Egypt, Eritrea, Ethiopia, Iran, Jordan, Kuwait, Libya, Pakistan, Palestine, Somalia, Sudan, Syria, Turkey, and Yemen.

HIAS was founded in 1881 as the Hebrew Immigrant Aid Society to assist Jews fleeing pogroms in Russia and Eastern Europe. It is the world’s oldest—and only Jewish—refugee resettlement agency, designated by the federal government to undertake this humanitarian work through cooperative agreements with the U.S. Department of State (“DOS”) and the U.S. Department of Health and Human Services (“DHHS”). HIAS is assigned clients via the Department of State’s allocation process, which determines which refugee clients will be resettled by HIAS. Through its contracts with DOS and DHHS, HIAS is obligated to ensure that each refugee family is placed in a safe and stable environment and receives

training and support to integrate into U.S. society and become financially self-sufficient. These obligations range from ensuring that each refugee family is picked up at the airport upon arrival with appropriate language interpretation to making sure the refugee knows his or her address and how to make a phone call.

Both IRAP and HIAS are plaintiffs in the related litigation challenging the Executive Order at issue here and consolidated with this case for oral argument before the Supreme Court. *See Trump v. Int'l Refugee Assistance Project* (“*IRAP*”), Nos. 16-1436 et al., ___ S. Ct. ___, 2017 WL 2722580 (June 26, 2017). IRAP and HIAS are intimately familiar with the consequences that the Executive Order and its predecessor have had and continue to have on USRAP, their clients, and the many of thousands of refugees seeking to enter the United States. IRAP and HIAS’ *amici* brief, attached hereto, highlights the inadequacies of the government’s interpretation of the scope of the stay ordered by the Supreme Court on June 26, 2017.

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CONCLUSION

For the foregoing reasons, IRAP and HIAS respectfully request that the Court grant its motion for leave to file the *amici curiae* brief attached hereto.

DATED: Honolulu, Hawai`i, June 30, 2017.

/s/ Mateo Caballero
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INTRODUCTION

The government has grossly misconstrued the Supreme Court’s decision in this case as it applies to refugees. The amici—International Refugee Assistance Project (“IRAP”) and HIAS—are respondents in *IRAP v. Trump* who provide legal and resettlement services to refugees. They respectfully ask this Court to clarify that, under the Supreme Court’s order, the injunction of Sections 6(a) and 6(b) of Executive Order 13780 continues to protect their clients, along with clients of similarly situated organizations. By claiming the right to exclude such refugees, the government is threatening to violate the Supreme Court’s clear instructions by excluding thousands of refugees with bona fide connections to U.S. entities. The amici also ask this Court to clarify that certain categories of refugees are categorically exempt from the ban, and that the injunction prevents the government from shutting down any component of the U.S. Refugee Admissions Program (“USRAP”).¹

¹ Amici agree with Hawaii that the government has adopted an improperly narrow interpretation of which individuals have “bona fide relationship[s] with . . . person[s]” in the United States, and that the process set forth in the reported State Department guidance improperly applies a presumption against the applicant. *See* Mem. in Support of Emergency Motion to Clarify, *Hawaii v. Trump*, No. 17-50, at 7-11 (D. Haw. June 29, 2017). *See* Mem. in Support of Emergency Motion to Clarify, *Hawaii v. Trump*, No. 17-50, at 7-11 (D. Haw. June 29, 2017).

BACKGROUND

A. Prior Proceedings

Executive Order 13780, which President Trump issued on March 6, 2017, imposed two restrictions on refugee admissions. Section 6(a) suspended travel and application processing under the U.S. Refugee Assistance Program (“USRAP”) for 120 days. Section 6(b) lowered the annual refugee cap for fiscal year 2017 from 110,000 to 50,000, and suspended entry of any refugees beyond that number.

The day before its effective date, this Court enjoined all of Section 6. *See Hawaii v. Trump*, ___ F. Supp. 3d ___, 2017 WL 1011673, at *17 (D. Haw. Mar. 15, 2017) (temporary restraining order); *Hawaii v. Trump*, ___ F. Supp. 3d ___, 2017 WL 1167383, at *8-9 (D. Haw. Mar. 29, 2017) (preliminary injunction). On appeal, the Ninth Circuit upheld the injunction as it applied to the ban in Section 6(a) and the lowered cap in Section 6(b). *Hawaii v. Trump*, ___ F.3d ___, 2017 WL 2529640, at *17-18, *21-23 (9th Cir. June 12, 2017).

The government filed a petition for certiorari and an application for a stay pending appeal before the Supreme Court. On June 26, 2017, the Supreme Court granted certiorari in this case and consolidated it with its companion case in the Fourth Circuit, in which amici are plaintiffs. *See Trump v. Int’l Refugee Assistance Project (“IRAP”)*, 582 U.S. ___, slip op. at 9 (2017). The Court also partially stayed the injunctions in this case and *IRAP*. It held that the injunctions

appropriately “covered not just respondents, but parties similarly situated to them.” *Id.* at 10. But it stayed the injunctions to the extent they applied to “foreign nationals abroad who have no connection to the United States at all.” *Id.* at 11. The government therefore may not apply Sections 2(c), 6(a), or 6(b) against “foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States.” *Id.* at 12, 13. For entities, the relationship must be “formal, documented, and formed in the ordinary course, rather than for the purpose of evading EO-2.” *Id.* at 12.

B. The Government Plans to Apply the Ban to Refugees with Bona Fide Connections to U.S. Entities

Like the *Hawaii* plaintiffs, the *IRAP* plaintiffs contacted the government numerous times seeking an explanation for how the government would implement the Supreme Court’s partial stay. The government failed to provide any information throughout the days leading up to the June 29 effective date.

Finally, hours before it planned to begin implementing the bans, the government posted a “Q&A” document on DHS’s website that revealed an exceedingly narrow interpretation of the Supreme Court’s ruling. The Q&A stated that clients of resettlement agencies and legal services providers lack a bona fide relationship with a U.S. entity. *See* Dep’t of Homeland Security, FAQs on EO

13780, June 29, 2017 (“Q31”).² Hours later, however, and after implementation of the bans had begun, the Q&A was amended to remove that statement. The next day, the State Department issued guidance confirming that it plans to ban refugees despite a documented relationship with a U.S. resettlement agency.³

C. HIAS and IRAP

Amici are U.S.-based entities that provide a variety of services to refugees seeking to resettle in the United States. Both are plaintiffs in *IRAP* and respondents in the consolidated case before the Supreme Court. HIAS is the world’s oldest refugee resettlement agency. Hetfield Decl. ¶ 2. It is one of nine agencies in the United States that contract with the federal government to assist refugees throughout the resettlement process. *Id.* ¶ 16. IRAP provides direct legal services to refugees and others seeking to escape violence and persecution. Heller Decl. ¶ 2. Its staff and pro bono volunteers work directly with individuals abroad throughout their application, travel, and resettlement processes. *Id.* ¶ 4.

² Available at https://www.aclu.org/files/6.29-faq-homeland-security/2017.06.29v1_Frequently_Asked_Questions_Protecting_the_Nation_from_Foreign_Terrorist_Entry.pdf

³ See Dep’t of State, *Information Regarding the U.S. Refugee Admissions Program*, June 30, 2017, available at <https://www.state.gov/j/prm/releases/factsheets/2017/272316.htm>.

ARGUMENT

Without any explanation, the government seeks to exclude thousands of refugees who are clearly protected by this Court's preliminary injunction. The Supreme Court held that the government may not exclude foreign nationals who can credibly claim a relationship to a U.S. person or entity. And yet the government plans to exclude clients of HIAS, IRAP, and similar U.S. entities, with whom the entities have worked closely for years. Because the government has failed to heed the Supreme Court's instructions, the amici respectfully ask this Court to clarify the scope of its injunction of Sections 6(a) and 6(b). Amici also seek clarification that the government cannot shut down any component of USRAP or apply the refugee ban to the programs that are categorically protected by the injunction.

A. The Injunction Protects Refugees Who Have Bona Fide Relationships to U.S.-Based Refugee Assistance Entities

The government's plan to exclude the clients of entities like IRAP and HIAS ignores the Supreme Court's clear instructions. The Court expressly "[e]ft] the injunctions entered by the lower courts in place *with respect to respondents and those similarly situated.*" Slip Op. at 9 (emphasis added). Both IRAP and HIAS are respondents before the Supreme Court, and both of them "can legitimately claim concrete hardship if [their clients] are excluded." *Id.* at 13. The government cannot apply Sections 6(a) or 6(b) to their clients or clients of similarly situated

entities, because those relationships are “formal, documented, and formed in the ordinary course.” Slip Op. at 12. Indeed, by explaining that such relationships would *not* suffice if they were formed “simply to avoid [the ban],” the Court made clear that a documented relationship *would* suffice if the relationship is “formed in the ordinary course, rather than for the purpose of evading EO-2.” *Id.*

Moreover, both HIAS and IRAP form relationships with their clients that are at least as close as that between “a lecturer” and “an American audience.” Slip op. at 12. Their client relationships illustrate the type of contact that is sufficient to trigger the injunction’s protection. *See id.* (“The facts of these cases illustrate the sort of relationship that qualifies.”).

HIAS forms relationships with its clients long before they reach the United States. Hetfield Decl. ¶ 7-9. Its staff “develop strong bonds” with refugee clients as they provide a host of legal and mental health services. *Id.* ¶ 10. Once a refugee is assigned to HIAS for resettlement, HIAS provides a formal “assurance” to the federal government that it will provide for the refugee’s entire resettlement process. *Id.* ¶ 16. After providing assurances, HIAS and its affiliates identify and rents housing, provide transportation from the airport, arrange for basic necessities like rent, food, utilities, and medical care, facilitate enrollment in school and public benefits programs, and provide ongoing case management services. *Id.* ¶ 17-21. It is preposterous for the government to claim that this extensive, intimate, and

formally documented contact does not constitute a “bona fide relationship.” *IRAP*, slip op. at 12. The Court should clarify that refugees who have documented relationships with HIAS and the other eight resettlement agencies are protected by the injunction.

IRAP’s client relationships are similarly extensive, formal, and documented. It spends multiple weeks, or even months, interviewing prospective clients. Heller Decl. ¶ 32-33. After executing a formal written agreement, *id.* ¶ 33, IRAP and affiliated attorneys help their clients navigate the resettlement process often over the course of multiple years. *Id.* ¶ 33. IRAP and its network of attorneys investigate clients’ claims, draft legal submissions, prepare clients for interviews, help navigate the USRAP, and often provide non-legal forms of practical assistance, such as assisting with medical needs, mental health needs, housing, and safe passage out of immediate danger. *Id.* ¶ 33-36. IRAP’s clients therefore have a clear relationship with a U.S. entity. The Court should clarify that the government cannot apply Section 6(a)’s ban or Section 6(b)’s cap to any clients of IRAP or any other U.S.-based provider of legal services to refugees.

The Supreme Court made clear why these relationships remain protected. Because HIAS, IRAP, and similar entities have “bona fide relationship[s] with [] particular person[s]” entering as refugees, they can “legitimately claim concrete hardship if th[ose] person[s] [are] excluded.” *IRAP*, slip op. at 13. As they have

explained in the attached declarations, their resources would be diverted, their prior efforts would be wasted, and their staffs and budgets would be stretched thin were their clients of many years to be banned from entering the United States through the USRAP. *See* Hetfield Decl. ¶ 22; Heller Decl. ¶ 37-38. The same is true for other entities that assist refugees in the resettlement process, who also continue to be protected. As the Supreme Court made clear, its examples of bona fide relationships were meant only to *illustrate*, not exhaust, the kinds of relationships that the injunction continues to cover. Slip op. at 12 (“The facts of these cases illustrate the *sort* of relationship that qualifies.”) (emphasis added). Notably, these relationships in no way resemble the one example the Supreme Court gave of a relationship that would *not* be bona fide: a non-profit that “contact[s] foreign nationals” and adds them to client lists “simply to avoid” the Executive Order. *Id.*

B. The Injunction Categorically Protects Numerous Categories of Refugees

In its guidance regarding visa applications, the government properly recognized that many categories of visas are categorically exempt under the Supreme Court’s decision. *See* Dep’t of State, *Executive Order on Visas*, June 29, 2017.⁴ The exact same thing is true of many USRAP programs, yet the government has failed to issue corresponding categorical exemptions.

⁴ Available at <https://travel.state.gov/content/travel/en/news/important-announcement.html>.

A number of USRAP programs are only available to refugees who have a verified close relationship to a person or entity in the United States. *IRAP*, slip op. at 12. In each of these programs, the State Department must determine that the relationship is bona fide before the refugee can even *apply*. This Court should therefore clarify that refugees in the following programs are categorically protected from the ban:

- Priority 3 Family Reunification. Refugees who enter through the Priority 3 process *must* be parents, minor unmarried children, and spouses of individuals who were recently admitted into the United States as refugees or asylees. They must file an Affidavit of Relationship and undergo DNA testing to verify the familial relationship.⁵
- I-730 Beneficiaries. The I-730 process is only available to spouses and minor unmarried children of refugees in the United States. *See* DHS Form I-730.⁶
- Syrian Direct Access Program. This program covers Syrian nationals with an approved I-130 petition, which is limited to spouses, children, parents, and siblings of individuals in the United States.⁷

⁵ Dep't of State, *Proposed Refugee Admissions for Fiscal Year 2017*, at 12-13, *available at* <https://www.state.gov/documents/organization/262168.pdf>.

⁶ *Available at* <https://www.uscis.gov/i-730>.

- Iraqi Direct Access Program. This program covers two groups of Iraqis: I-130 petitioners who are necessarily close relatives of U.S. citizens or legal permanent residents (like the Syrian program), and “U.S.-affiliated Iraqis” who are at risk of persecution based on their employment with the U.S. government, a U.S.-based media organization, or a U.S. government-funded entity “closely associated with the U.S. mission in Iraq.”⁸
- Central American Minors Program. This program allows children from El Salvador, Guatemala, and Honduras to petition for refugee status if they have a parent who is lawfully present in the United States. This program also requires DNA testing to verify the family relationship.⁹
- Lautenberg Program. This program covers certain religious minorities from Eurasia and the Baltics who have “close family in the United States.”¹⁰

⁷ See Dep’t of State, *U.S. Refugee Resettlement Processing for Iraqi and Syrian Beneficiaries of an Approved I-130 Petition*, Mar. 11, 2016, available at <https://www.state.gov/j/prm/releases/factsheets/2016/254649.htm>.

⁸ See generally U.S. Dep’t of State, Bureau of Population, Refugees, & Migration, *Fact Sheet: U.S. Refugee Admissions Program (USRAP) Direct Access Program for U.S.-Affiliated Iraqis* (Mar. 11, 2016), <https://www.state.gov/j/prm/releases/factsheets/2016/254650.htm>.

⁹ See Dep’t of State, *Central American Minors (CAM) Program*, available at <https://www.state.gov/j/prm/ra/cam/index.htm>.

¹⁰ See Dep’t of State, *Proposed Refugee Admissions for Fiscal Year 2017*, Sept. 15, 2016, available at <https://www.state.gov/j/prm/releases/docsforcongress/261956.htm>.

C. The Government May Not Suspend Any Component of the U.S. Refugee Admissions Program

Since the Supreme Court’s ruling on June 26, the government has suggested that it plans to suspend certain components of the refugee pipeline in July, including travel bookings. *See* Hetfield Decl. ¶ 25; Heller Decl. ¶ 26; Dep’t of State, *Background Briefing on the Implementation of Executive Order 13780*, June 29, 2017. But because the government has refused to provide official information on this topic, there has been no confirmation as to whether these reports are true.

It would plainly violate this Court’s injunction for the government to shut down interviews or travel under the USRAP based on the Section 6(a) ban or the Section 6(b) cap, because refugees “who can credibly claim a bona fide relationship with a person or entity in the United States” cannot be subject to either provision. *See IRAP*, slip op. at 13. Accordingly, the Court should clarify that all components of the USRAP must remain in operation.

CONCLUSION

The Court should grant Hawaii’s motion to clarify.

DATED: Honolulu, Hawai'i, June 30, 2017.

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**DECLARATION OF REBECCA HELLER,
DIRECTOR OF THE INTERNATIONAL
REFUGEE ASSISTANCE PROJECT**

DECLARATION OF REBECCA HELLER

I, Rebecca Heller, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Director and co-founder of the International Refugee Assistance Project (“IRAP”), a project of the Urban Justice Center, Inc. I have been with IRAP since August 2008.
2. As IRAP’s Director, I oversee all of IRAP’s operations and activities, including programming and development. I am in constant, regular communication with my staff who provide legal representation to vulnerable individuals and consult with pro bono attorneys and law students working on IRAP cases. I also represent a number of refugee and visa cases myself, consult with numerous attorneys working on related cases, monitor field conditions on the ground in the Middle East/North Africa Region, liaise with the U.S. government and the United Nations around refugee and visa processing issues, and coordinate partnerships with numerous NGOs working with and advocating for refugees and immigrants in the U.S. and abroad.

3. Throughout my eight and a half years working on Middle East refugee issues, I have overseen, consulted on and/or represented thousands of cases. I also teach a seminar on refugee law and practice at Yale Law School. Founded in 2008, IRAP's mission is to provide and facilitate free legal services for vulnerable populations around the world, including refugees, who seek to escape persecution and find safety in the United States and other Western countries. IRAP has a staff of over 25 individuals based in offices in New York, Lebanon, and Jordan. IRAP works with 29 law school chapters and over 75 firms to provide pro bono assistance to persecuted individuals around the world. IRAP relies on the volunteer and pro bono assistance to meet the needs of its client base.
4. IRAP lawyers provide legal assistance to refugees and other immigrants to the United States throughout the resettlement process. IRAP also assists many individuals (including refugees, asylees, Lawful Permanent Residents and U.S. Citizens) inside the United States who need assistance filing family reunification petitions for family members overseas. IRAP has provided legal counseling and assistance to nearly 20,000 individuals.
5. Since its inception, IRAP has helped to resettle over 3,200 individuals from 55 countries of origin, with the majority resettled to the United States.
6. IRAP's client base includes refugees from Iraq, Afghanistan, Egypt, Eritrea, Ethiopia, Iran, Jordan, Kuwait, Libya, Pakistan, Palestine, Somalia, Sudan, Syria, Turkey, and Yemen. Of IRAP's current 606 open cases, 421 families are from one of the six countries or are refugees from other countries and targeted in the new Executive Order.

7. Many of IRAP's clients have been referred to the US for resettlement by UNHCR. UNHCR only refers the most vulnerable refugees for resettlement, such as unaccompanied minors, women-at-risk, and individuals with urgent medical or protection concerns. Less than 1% of refugees worldwide are referred for resettlement by UNHCR. If UNHCR refers an individual to USRAP, they are likely extremely vulnerable and have strong, pre-vetted refugee claims. Further, once UNHCR refers a refugee to USRAP, it precludes them from referring the refugee to another country until the USRAP process is completed.
8. IRAP works with some of the most vulnerable individuals in the world, including US.-affiliated refugees, LGBTI refugees, women who have survived trafficking, sexual and gender-based violence, and children with emergency medical needs.
9. As the refugee resettlement process is quite intricate, some background on the various programs will help explain the importance of recognizing the attorney-client relationship between a refugee and a legal services provider as well as how many refugees have a de facto bona fide relationship with a person or entity in the United States.

The U.S government's interpretation of the Supreme Court decision contradicts the basic mechanics of the U.S. Refugee Admissions Program, as all refugees must eventually form a direct relationship to a U.S. entity in order to be resettled to the United States.

10. Refugees are resettled to the United States through three "priority" streams, which are different ways to access the U.S. Refugee Admissions Program ("USRAP"). Though the names of these categories are "Priority 1," "Priority 2," and "Priority 3" (or P-1, P-2, and P-3), these names do not indicate the order of priority.

11. Priority 1 (P-1) referrals are individuals who are referred based on particular, individual needs. These cases may be referred to the U.S. Refugee Assistance Program (“USRAP”) by the United Nations High Commissioner for Refugees (“UNHCR”), or, in much smaller numbers, by a U.S. Embassy or a qualified NGO. Although not required, some refugees referred by UNHCR have close family members in the United States, including grandparents, aunts, uncles, and cousins.
12. Refugees who access USRAP via a U.S. Embassy are often personally known to the embassy. State Department guidance in the Foreign Affairs Manual gives examples of these individuals such as prominent members of a political opposition or religious minority, well-known journalists, or LGBTI individuals. Similarly, NGOs which refer refugees to USRAP must have been trained by the Departments of State and Homeland Security and work with the State Department’s regional refugee coordinator to make the referral.
13. One of IRAP’s P-1 clients is a transgender Sudanese activist who fled to Egypt as a result of severe persecution because of her LGBTI work. She became known to the U.S. Embassy in Sudan which referred her to the State Department and she was given access to USRAP. She has been now waiting in limbo for a USCIS interview to be scheduled and remains in danger in Cairo where transgender individuals are routinely harassed, assaulted, and persecuted.

By definition, refugees in the Central American Minors Program, the Lautenberg religious minorities program, and the Direct Access Program for U.S.-affiliated Iraqis and Syrians must have a direct relationship with a U.S. person or entity to access USRAP.

14. Priority 2 (P-2) referrals are individuals who are eligible for resettlement based on a State Department determination that they belong to a group of “special humanitarian concern” to the United States. Several P-2 groups exist including Refugee Processing for Religious Minorities in the Former Soviet Union and in Iran (known as the Lautenberg Amendment), the Central American Minors Program, and the Direct Access Program for U.S.-affiliated Iraqis and Syrians. All of these P-2 categories require a direct U.S. tie in order to access the U.S. refugee resettlement program.
15. The P-2 group for religious minorities in the Former Soviet Union and in Iran (authorized by the Lautenberg Amendment), requires a U.S.-based resettlement agency to initiate the application for the refugee, thereby immediately establishing a direct relationship between a U.S. entity and the refugee. Religious minorities in the Former Soviet Union include Jews, Evangelical Christians, Ukrainian Orthodox, and Catholics. A spouse, parent, child, sibling, or grandparent can initiate the application through the resettlement agency by filing an Affidavit of Relationship. Those same categories of family members are eligible to apply for refugee status. Religious minorities in Iran include Christians, Jews, Mandeans, Baha’is, and Zorastrians, and a U.S. relative or friend may initiate the application.
16. Another P-2 group, the Central American Minors (“CAM”) program, exists for refugee children from El Salvador, Guatemala, and Honduras who have parents lawfully in the United States. The program was founded to give children an alternative to the dangerous journey that some children had attempted without authorization. The purpose of the program is to reunite families in a safe manner. The

program requires the minors to demonstrate a relationship to their parents via DNA testing and filing an Affidavit of Relationship.

17. One of the larger P-2 groups is known as the Direct Access Program for U.S.-affiliated Iraqis and Syrians (“DAP”). The Direct Access Program allows Iraqis and Syrians who have a U.S. tie, either by family or employment, to come to the United States through the refugee program.
18. In 2008, the bipartisan Refugee Crisis in Iraq Act was signed into law, allowing six categories of Iraqis to access USRAP based on work for the US government or a US-based entity or family connections with individuals in the United States. In order to access USRAP through employment, Iraqis must have either worked as an interpreter for the U.S. Government or Multi-National Forces in Iraq, been employed by the U.S. government in Iraq, been employed by a U.S. funded organization or entity, or been employed by a U.S.-based media organization or NGO. Before being interviewed by USCIS, the State Department must verify the employment relationship through contracts, HR letters, badges of employment, and letters of recommendation from U.S. supervisors.
19. Both Iraqi and Syrian nationals with an approved I-130 petition are also eligible for the DAP. This program allows participants to obtain travel documents before their visa priority date would otherwise become current, thereby allowing them to join their families sooner in the United States. Both groups, in all circumstances, will satisfy the bona fide relationship test because the program requires a direct relationship with a U.S. entity or family member to access the program. At least 50,000 individuals are waiting for interviews in the Iraqi program; we estimate that

60,000 total individuals may be waiting for admission under the Iraqi and Syrian DAP.

20. Our P-2 refugee clients face extreme danger while they wait to be processed. For example, one of our clients completed his pre-screening interview on June 12, 2017 and is awaiting his USCIS interview. As he waits, he hides in his apartment in Baghdad, Iraq, with his wife and children. If they leave their apartment, they are in danger of being killed by radical Shiite militia known as the Mahdi Army. The Mahdi Army already killed one of his brothers and has tortured another because of the family's behalf of the U.S. government. They are intent on killing IRAP's client as well and is only means of true safety is resettlement to the United States.

21. Another P-2 IRAP client is a 36-year-old Syrian refugee who fled to Yemen and then Saudi Arabia with her husband and two young children. Her sister is a U.S. Citizen, living in the United States, who filed an I-130 petition for her to come to the United States. The petition has been proved the client has accessed USRAP through DAP. She cannot return to Syria, where she was persecuted for her religion. Her and her family's lives continue to be in grave danger in Saudi Arabia, where she lives near the Yemeni border and is exposed to frequent rocket attacks and ongoing military conflict.

Refugees in family reunification programs clearly demonstrate their bona fide relationship to a U.S. person because the U.S.-based relative is required to access USRAP.

22. Priority 3 (P-3) referrals are individuals with close relatives—parents, children, and spouses—recently admitted to the United States as a refugee or asylee and require DNA testing to access USRAP. P-3 submissions have four procedural requirements:

(1) affidavit of relationship (AOR); (2) minimum age; (3) five-year filing; and (4) DNA testing. To initiate a P-3 case, a local resettlement agency must submit an Affidavit of Relationship (“AOR”) on behalf of the P-3 applicant. In order to complete the form, the principal relative must upload current digital photographs of all family members, derivatives, and add-ons. Once completed, the local agency will submit the AOR to a Refugee Processing Center, which will then refer it to USCIS for case creation, processing, and adjudication. P-3 applications require DNA relationship testing between the principal relative and their biological parents or biological children. The principal relative bears the initial costs of DNA testing. We estimate that 2,000 individuals are awaiting admission in the P-3 program.

23. Alternatively, an individual who has been granted asylum or refugee status in the United States and who was also the principal applicant for his or her family may petition to have his or her spouse and/or unmarried child(ren) under the age of 21 “follow-to-join” him or her in the United States. A Form I-730 Refugee/Asylee Relative Petition must be filed for each qualifying family member within two years of the principal applicant’s admission as a refugee or grant of asylum.

The U.S. Refugee Admissions Program requires that all refugees have a direct relationship to a U.S. entity in order to be resettled.

24. Refugees who do not have a family member in the U.S. or a relationship with a U.S. entity prior to their referral to USRAP, will necessarily develop a relationship with a U.S. entity at some point in the processing. Two particular points in processing may lead to such a relationship.

25. First, once a refugee has completed multiple interviews assessing their eligibility for refugee status, his or her name is submitted to any one of the nine non-profit agencies that contract with the U.S. government to provide resettlement (specifically reception and placement services) and integration services. These voluntary resettlement agencies, called “volags,” receive names of refugees cleared for travel, and then provide “assurances,” or a guarantee that they will provide their services to that individual when they arrive. Assurances typically happen close to the last stages of the resettlement process, which is the arrival notice. As of June 26, 2017, there were 26,353 assured (but not arrived) individuals in the USRAP pipeline. Some, but not all, of the services volags provide include picking refugees up at the airport, providing them with culturally appropriate meals, securing them with long-term housing, accessing benefits and healthcare, and providing job training.
26. These assurances constitute a direct tie to a U.S. entity. However, the government has indicated that they will not resettle all currently assured refugees after July 6, 2017, despite their direct relationships with U.S. entities. There are assured refugees booked for travel to the United States through July 27, 2017, and resettlement agencies across the United States have been preparing tirelessly for their arrival.
27. Second, an individual may have legal representation from a U.S.-based organization; IRAP is the primary organization that provides legal representation to refugees in the USRAP.
28. Furthermore, many P-1 refugees who do have close family ties in the United States would not qualify for resettlement under the government’s current interpretation of a “bona fide relationship” under the Supreme Court decision.

29. For example, a Ukrainian refugee who is currently scheduled for travel to the United States after July 6, 2017, would no longer be allowed to enter the United States because her the closest family member she has in the United States is her grandmother.
30. As a result of the government's current interpretation of the Supreme Court's decision, many refugees—those who lack any of the family relationships that the government currently recognizes—would have their applications delayed by months or years. These long delays could result from the 120-ban because security and medical checks only line up for a short window, after which the applicant must restart the security check process. Additionally, with a lowered refugee cap of 50,000, there are fewer resettlement slots available this fiscal year, adding to the delays in resettlement. See Ex. __). Yet all of these clients have a strong relationship with IRAP itself.

Representation by legal service providers, such as IRAP, constitute an attorney-client relationship and qualify as a bona fide relationship between a refugee and a U.S. person or entity.

31. Because of the complexity of the refugee resettlement process, IRAP lawyers and *pro bono* legal teams work closely with their clients to bring them to safety. The representation that IRAP provides is intensive and includes multiple forms of assistance. For example, IRAP has offices in Amman, Jordan and Beirut, Lebanon which are staffed with U.S.-barred attorneys where they regularly meet with refugee clients, prep them for and accompany them to interviews, and assist them with psychosocial, educational, and medical referrals to local partner organizations. IRAP

- also has case workers on staff, such as individuals trained in social work, who provide non-legal support to our clients.
32. The intake and screening process itself establishes a strong relationship between the organization and the client. This process can take several weeks to months, with IRAP attorneys or volunteers spending hours each day interviewing a client, establishing the facts underpinning his or her application, and preparing a declaration and application on the basis of those facts.
33. After an intensive and exhaustive intake process, IRAP may take on a refugee's case for representation after signing a formal representation agreement. These cases frequently require two to three years of representation, if not longer. IRAP attorneys assist refugees through the process by conducting extensive fact finding to corroborate their clients' claims, drafting legal submissions before UNHCR and the U.S. government advocating for their client's case, and preparing their clients for the adjudication interviews which can last for hours. Additionally, IRAP attorneys monitor their clients' medical and protection needs and will request the relevant agency to expedite processing if there is urgency in the case. For P-2 DAP employment cases, IRAP attorneys will assist with verifying the client's affiliation with the U.S. government, a U.S.-funded NGO, or a U.S. media organization. For P-2 DAP family cases, IRAP attorneys assist the U.S.-based family member with filing a Form I-130 to USCIS and then continues representing the refugee client once they access USRAP.
34. If an application is denied by UNHCR, IRAP staff will assist clients by submitting an appeal. If the U.S. government denies a client refugee status, IRAP attorneys prepare

a Request for Review (“RFR”) on behalf of the client and also file Freedom of Information Act (“FOIA”) requests to supplement their RFR. They conduct further client interviews to prepare supplemental declarations, draft the request itself, and help the client prepare for the interview.

35. Moreover, IRAP attorneys have provided guidance and advice to their refugee clients entering the United States and have filed habeas petitions for clients who have been unlawfully detained trying to enter the United States.

36. During this process, IRAP also provides other forms of practical assistance. For example, IRAP has worked with partner organizations to provided safe housing for clients whose lives are in immediate danger while they await the outcomes of USRAP. IRAP has also worked with psychologists and psychiatrists to provide counseling and evaluations to refugees who have suffered from severe persecution and trauma and are in need of mental health treatment.

The U.S. government’s interpretation of the Supreme Court decision reflects a fundamental misunderstanding of USRAP and an attempt to dismantle a lifeline for persecuted individuals.

The government’s actions continue to take a toll on IRAP’s clients and resources.

37. The government’s interpretation of the injunction will also continue the significant backlog in the USRAP that resulted from the first Executive Order, delaying the processing of many of IRAP’s clients’ cases. This delay will force IRAP to exhaust more of its resources, as the average lifespan of a case now grows significantly. IRAP has a legal department composed of staff attorneys who advise and provide consultation to its network of pro bono legal volunteers on their casework. Because of delays in processing, IRAP’s attorneys must spend significantly more time on each

case, providing guidance about alternative routes to safety and possible exemptions. In addition to IRAP's staff attorneys' existing and ongoing responsibilities, they must now also draft and review additional submissions to State and to the Department of Homeland Security ("DHS"), such as waiver requests for admission to the United States for their clients, which will be reviewed by a case-by-case basis under the new Executive Order. Further, IRAP's field staff must largely give up their work on refugee case processing and focus primarily on ensuring the local safety of refugees who thought their lives would be saved for resettlement, and who are now caught in life-threatening limbo.

38. As a result of the government's narrow interpretation, IRAP attorneys must also counsel their own clients about the changes in law as well as pursue other resettlement options for them, even though many were already being processed in the U.S. Refugee Admissions Program ("USRAP"). The first Executive Order has already wasted significant resources (typically hundreds of hours of legal representation over the course of many years navigating USRAP), forcing IRAP and our clients to make the Hobson's choice between starting the process over with another country, attempting to shelter in place in spite of life-threatening circumstances, or undertaking dangerous journeys to reach safety across other borders.

39. I am deeply concerned by the U.S. government's interpretation of the Supreme Court decision. In addition to many refugees in USRAP accessing the program through a bona fide relationship to a U.S. person or entity, all refugees develop a bona fide relationship to a U.S.-based entity once a resettlement agency assures their reception

and placement in the United States. Thus, to deny refugees in USRAP admission to the United States based on a lack of bona fide ties is contrary to the functioning of the refugee resettlement program.

40. Moreover, I believe that the government's actions reflect an attempt to dismantle USRAP. For example, in June 2017, I learned of denials of 50 Somali refugee cases out of Kenya even though USCIS had not yet interviewed any of those families. In other words, they were denied before a U.S. immigration officer even looked at their case. Having worked with refugees for nearly a decade, I have never seen this type of denial en masse before, and I fear that the government is seeking to block entire nationalities from coming to the United States through USRAP.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: June 30, 2017

A handwritten signature in black ink, appearing to read "Rebecca Heller", with a long horizontal line extending to the right.

Rebecca Heller

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

STATE OF HAWAII,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

Civil Action No.: 1:17-CV-00050-DKW-KSC

**DECLARATION OF MARK HETFIELD,
PRESIDENT AND CEO OF HIAS, INC.**

DECLARATION OF MARK HETFIELD, PRESIDENT AND CEO OF HIAS, INC.

I, Mark Hetfield, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the President and Chief Executive Officer of HIAS, Inc.
2. HIAS was founded in 1881 as the Hebrew Immigrant Aid Society to assist Jews fleeing pogroms in Russia and Eastern Europe. It is the world's oldest—and only Jewish—national refugee resettlement agency. Today, HIAS serves refugees and persecuted people of all faiths and nationalities around the globe. Since HIAS's founding, the organization has helped more than 4.5 million refugees start new lives. In 2016 alone, HIAS provided services to more than 350,000 refugees and asylum seekers globally.
3. HIAS has offices in twelve countries worldwide, including its headquarters in Silver Spring, Maryland, its principal place of business, and additional domestic offices in New York City and Washington, D.C.
4. HIAS's refugee resettlement work is grounded in, and an expression of, the organization's sincere Jewish beliefs. The Torah, Judaism's central and most holy text, commands followers to welcome, love, and protect the stranger. The Jewish obligation to the stranger is repeated in various ways throughout the Torah, more than any other teaching or commandment.

HIAS believes that this religious commandment demands concern for and protection of persecuted people of all faiths. The Torah also teaches that the Jewish people are to welcome, protect, and love the stranger because “we were strangers in the land of Egypt” (Leviticus 19:34). Throughout their history, violence and persecution have made the Jewish people a refugee people. Thus, both our history and our values lead HIAS to welcome all refugees in need of protection. A refusal to aid persecuted people of any one faith, because of stigma attached to that faith, violates HIAS’s deeply held religious convictions.

5. HIAS’s client base includes refugees and their families abroad and those located in the United States. Hundreds of these clients hail from the six countries singled out in Section 2(c) of the March 6 Executive Order, including Syria, Iran, Sudan, Somalia, and Yemen. Other clients, who will also be affected by the 120-day ban on refugees in Section 6(a) of the Order, hail from countries that include Iraq, Ukraine, Bhutan, the Democratic Republic of the Congo, Afghanistan, Eritrea, Tanzania, Ethiopia, Central African Republic, Burundi, South Sudan, Uganda, Russia, Belarus, Burma, and El Salvador. Its overseas clients are seeking refugee status, and do so precisely because they face a real risk of persecution at home. They remain in precarious situations often in third countries.

6. The refugee resettlement process typically begins with the office of the United Nations High Commissioner for Refugees (“UNHCR”), which interviews and screens the applicant and determines whether the applicant may qualify as a refugee, and where the applicant may resettle. In certain circumstances, specially trained non-governmental organizations will identify the refugee and begin this process. Some refugee-clients of HIAS started the application process without a referral from the UNHCR or entity. Some of these refugees are close relatives of asylees and refugees already in the United States; others belong to specific groups identified in

by statute or the U.S. Department of State as eligible for direct access to the refugee and resettlement program.

7. The U.S. Department of State or U.S. Citizenship and Immigration Services will then assign the refugee to a Resettlement Support Center (“RSC”). HIAS is one of five agencies that operate RSCs. These relationships are formal, documented, and formed in the ordinary course of HIAS’s business. None of these relationships were formed for the purpose of evading the refugee ban.

8. The RSC operated by HIAS in Austria is primarily intended for Iranian refugees who fled religious persecution in Iran. Every one of those Iranian refugees has a relationship with a person in the United States who is the “anchor” for that case, who initiates the resettlement application, and who provides a “Care and Maintenance deposit” to ensure that the applicant will be able to cover his or her living expenses while waiting to be processed in Austria. None of the relationships between the U.S. anchor and the applicant was arranged for the purpose of evading the refugee ban. Under the policy of the U.S. Refugee Admissions Program, the U.S. anchor may or may not be a close relative of the refugee applicant.

9. The RSCs are responsible for organizing the physical processing of refugee applicants, educating the applicant about the process, and preparing the physical case file. The RSC will also interview the applicant and enter the relevant application document into the Department of State’s Worldwide Refugee Admission Processing System (“WRAPS”), cross reference and verify the data, and send information required for a background check to other U.S. agencies.

10. Even before many individuals are referred to an RSC, HIAS provides intensive psychosocial, legal and livelihood assistance to vulnerable refugees around the world. It works

closely with the UN refugee agency to identify cases that cannot secure durable solutions in the countries to which they have fled. HIAS staff develop in-depth relationships with clients who receive psychosocial assistance, including individual counseling and group therapy. Staff also develop bonds with refugees through our legal work which includes asylum preparation and through our livelihoods and employment services. Through HIAS' comprehensive programming, staff come to understand all of the challenges that these individuals experience either because of the persecution they have faced in their countries of origin or because of the issues they deal with in the countries of asylum. HIAS build relationships with individual clients as well as other family members ensuring that they are able to access protection services and durable solutions.

11. HIAS staff involved in referring cases for resettlement are in close contact with the UN refugee agency to determine the progress of clients that are referred through the United States Refugee Admissions Program (USRAP). HIAS staff is often in contact with refugees after they have been resettled to the United States to find out how they are faring and obtain feedback on how we can improve our services. Because of the intensive work that HIAS has done with clients through direct services, HIAS is able to maintain ties after they are no longer in the countries of first asylum.

12. Clients referred to the USRAP must fall into certain categories of vulnerability. As such, HIAS builds up these ties through the close support that we provide to clients particularly by way of the psychosocial and mental health services HIAS offer which help refugees recover from trauma and move on with their lives. For those refugees who simply cannot access the protection that they need to stay safe, HIAS assists them to secure durable solutions, thus developing strong ties with individuals through the provided support.

13. The RSC process can often take 18-24 months or longer, during which time the RSC serves as the primary point of contact as the refugee undergoes the extensive background checks and processing required by U.S. governmental entities. The RSC will also work with the refugee applicant to address any changes related to application that occur in the course of the process, such as whether refugee's application needs to be considered for expedited consideration, or if there is a change to the family composition, such as a birth, death, divorce, or marriage.

14. Should the application proceed, applicants must complete a cultural orientation course and a medical screening, the results of which are also entered into WRAPS.

15. If the case is cleared, resettlement agency representatives, who meet weekly to review WRAPS information, will determine where to resettle the refugee. Should the applicant be assigned to the United States, the applicant will be subject to further screening from United States Customs and Border Protection, and the Transportation Administration's Secure Flight Program.

16. Once all refugee processing is complete, refugee clients are assigned via the State Department's allocation process to one of nine non-profit agencies that contract with the United States government as resettlement agencies. HIAS is one of the nine resettlement agencies. To serve these refugees, HIAS currently holds sub-agreements with 18 local organizations ("affiliates") who operate and oversee 21 resettlement sites across the country. Once a refugee is approved for resettlement, they are matched to a local affiliate, who then provides an "assurance," which is a guarantee that the affiliate will provide services to the individual when he/she arrives.

17. As a resettlement agency, HIAS and its affiliates are required to arrange for the reception and placement of refugees in the United States and offer appropriate assistance during their initial resettlement in the United States; provide refugees with basic necessities and core

services during their initial period of resettlement; and in coordination with publicly supported refugee service and assistance programs, assist refugees in achieving economic self-sufficiency through employment as soon as possible after their arrival in the United States. These relationships are formal, documented, and formed in the ordinary course of HIAS's business. None of these relationships were formed for the purpose of evading the refugee ban.

18. After a refugee has been given an assurance, but before the refugee has been issued a visa, HIAS and its affiliates begin the involved process of arranging for the reception, placement, and appropriate initial resettlement assistance for the refugee. Refugees typically travel 2 to 6 weeks after receiving an assurance by one of the affiliates.

19. As a resettlement agency, HIAS and its affiliates ensure that the arriving refugees assigned to it are met at the airport of final destination and transported to furnished living quarters and provided culturally appropriate, ready-to-eat food and seasonal clothing as necessary to meet immediate needs.

20. HIAS and its affiliates also find housing for the refugee or refugee family, provides them with money for rent and utilities for up to three months, and supplies them with initial food and medical care before government-funded benefits begin. In addition, HIAS and its affiliates' case management services include providing initial safety orientation followed by weeks of extensive cultural orientation to adjust them to life in America, and HIAS and its affiliates assist the refugee or refugee family in enrolling in ESL classes, school, employment services, and benefits programs (including Medicare, food stamps and Supplemental Security Income for the elderly and disabled).

21. During this time, HIAS and its affiliates develop a close relationship with the refugee or refugee family, as they provide critical support during this vulnerable and challenging

time. For example, local affiliates work to provide many of the things the family is likely to need immediately upon their arrival, including finding housing and furnishing it, stocking the pantry, and making the family a welcome meal for their first night. When the refugees arrive, the affiliates often greet them at the airport, along with needed translators and caseworkers. After the refugees arrive, the affiliates will help with transportation and facilitate conversation while the refugees learn English, and even provide babysitting services so that the refugees can undertake the necessary steps to transition to life in America, like taking an English placement test or getting social security cards.

22. If HIAS and its affiliates are not able to resettle individuals who are already approved or assured, they will not only lose the \$950 per capita funding they are allocated through their cooperative agreement with the Department of State, impacting staff capacity, but they will also lose the resources and monies expended securing the necessities they are required to provide by the cooperative agreement.

23. In FFY 2016, HIAS's cooperative agreement with the Department of State provided that HIAS and its affiliates would resettle 3,768 refugees and Special Immigrants Visas ("SIVs") in the United States. However, as the number of refugees and SIV's approved for admission increased, HIAS eventually resettled 4,191 individuals that year. The Department of State, aware that it would significantly increase capacity for refugees in FFY 2017, then requested that HIAS apply for higher numbers of arrivals as the refugee program expanded. As a result, in its cooperative agreement for FFY 2017, HIAS was engaged to resettle 4,794 refugees and SIVs.

24. Of the hundreds of clients worldwide who have been vetted, approved for refugee status, and allocated and assured to a HIAS site, only a small number are currently scheduled for travel. Of those, 2 families of 8 total refugees are from the six banned countries and at least 6

lack a US tie as recognized by the State Department's current guidance. Many of these individuals will be prevented from travel as a direct result of the Executive Order, leaving them in precarious situations.

25. Additionally, the federal government is only committing to allowing refugees to travel through July 6, even though other refugees have travel dates booked beyond that date.

26. As a result of the Federal Government's interpretation of the Supreme Court's stay, many of these individuals will still be prevented or delayed from entering the United States, despite the fact that they have a bona fide relationship with a person or entity in the United States. Because security and medical clearances have expiration dates, it is likely that some refugees would lose their readiness for travel during the suspension period and lengthy checks would need to be repeated. Every day that these individuals' entry is delayed, they remain in precarious situations.

27. Because of the extensive time this interview process takes, stopping interviews can delay refugee admissions for next year since the approval process requires several steps and includes several time limited now it delays admission even next year despite living under the new cap. In order for refugees to be cleared to travel, the refugees need travel documents, medical clearance and current security clearance. Delays can cause any one of these pieces to expire, rendering the refugee unable to travel and requiring renewals. Refugees remain in precarious, stressful situations while waiting for final resettlement and family reunification.

28. Many of HIAS's clients abroad whose refugee status has been approved but have yet to be scheduled for travel, including clients from the six banned countries, belong to a category of refugees who, by definition, have a bona fide relationship with a United States entity or a close family relationship.

29. This includes individuals whose family members have petitioned, applied, or sponsored them for refugee status (often through HIAS and its affiliates as the very first step in initiating a resettlement case.). Refugees seeking entry under Priority 3 or P-3 status have either a parent, child, or spouse who has been recently admitted to the United States as a refugees or asylee. HIAS and its affiliates have pending applications for clients seeking to enter the United States under the P-3 (Priority Three) program.

30. Some HIAS clients have been approved as refugee status through the Central American Minors program, which permits U.S. relatives of persecuted children in Central America to petition for these children to immigrate here. These children remain in vulnerable and dangerous situations in their home countries, despite having been approved for refugee status, and their U.S. family members are forced to endure continued separation from and concern for these children. Other refugee categories are similar in that the characteristics permitting individuals to apply for refugee status under the program guidelines themselves establish a bona fide relationship with a person or entity in the United States, such as for example, the Priority 2 or P-2 program for individuals in Eurasia, the Baltics, El Salvador, Guatemala, and Honduras.

31. Also under the Direct Access Program for Iraqis (DAP for Iraqis) and the Direct Access Program for Syrians (DAP for Syrians), individuals can apply directly with USRAP without the need for a referral from UNHCR. This is based on these individual's current or prior relationship with a U.S. entity. Individuals who are eligible to apply for DAP include those who are at risk of or have experienced serious harm as a result of their association with the U.S. government or a U.S. entity. This includes individuals who have worked in Iraq or Syria for the U.S. government as interpreters or translators, those employed by U.S. media organization or U.S. non-governmental organizations. Refugees applying through DAP have by definition established

a relationship that is “formal, documented, and formed in the ordinary course” because establishing such a relationship is what qualifies them to apply through DAP in the first instance.

32. All beneficiaries of a Form I-730 Refugee/Asylee Relative Petitions have a family member in the United States who has petitioned on their behalf. HIAS represents clients in their family petitions and currently represents at least one client whose family member is from one of the banned countries.

I hereby declare under penalty of perjury that the foregoing is true and correct.



Mark Hetfield

Executed this 30 day of June 2017

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

STATE OF HAWAII 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
Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

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

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of **MOTION FOR LEAVE TO FILE BRIEF OF INTERNATIONAL REFUGEE ASSISTANCE PROJECT AND HIAS AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION TO CLARIFY SCOPE OF PRELIMINARY INJUNCTION** was served on the following at their last known addresses:

Served Electronically through CM/ECF on June 30, 2017, on counsel for all parties of record and the following:

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DATED: Honolulu, Hawai`i, June 30, 2017.

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