

February 6, 2017

Via Email and Overnight Mail

John Roth  
DHS Inspector General  
Office of Inspector General/MAIL STOP 0305  
Department of Homeland Security  
245 Murray Lane SW  
Washington, DC 20528-0305

***Re: Abuses in the Aftermath of the January 27, 2017 Executive Order and  
Important of Access to Counsel in Airport Detention***

Mr. Roth,

The undersigned organizations, the Kathryn O. Greenberg Immigration Justice Clinic and the Center for Constitutional Rights, write to share 26 accounts that document the systemic abuses and violations of the rights of individuals lawfully entering the United States through airports in the days following the issuance of President Trump’s January 27, 2017 executive order (“Executive Order”).<sup>1</sup> Because many of these abuses and rights violations would have been prevented if those detained at airports had been permitted to communicate with the legions of lawyers who were willing to provide free legal counsel, and in order to prevent similar rights violations from occurring in the future, we recommend that the Office of Inspector General develop mechanisms to ensure that individuals detained in airports can communicate with legal counsel.<sup>2</sup>

President Trump’s January 27, 2017 Executive Order brought chaos to our nation’s international airports and the lives of those detained within them. Customs and Border Protection (“CBP”), which is responsible for facilitating the entry of authorized travelers to the

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<sup>1</sup> These declarations were gathered through a collective effort of the Kathryn O. Greenberg Immigration Justice Clinic at the Benjamin N. Cardozo School of Law, the Immigrants’ Rights Project of the American Civil Liberties Union (“ACLU”), a number of ACLU affiliates, and the National Immigration Law Center. Many thanks to all of the individuals listed on page 1 of the Appendix who provided declarations and affidavits while providing critical legal services to individuals affected by the entry ban, and to Immigration Justice Clinic students Javeria Ahmed, Jessica Stertzer, and Elizabeth Wu for their assistance with this submission.

<sup>2</sup> Individuals detained in airports are held in secure inspections facilities within the airport. During that time, they go through “secondary inspection,” which is process in which CBP questions travelers “[i]f there appear to be discrepancies in documents presented or answers given, or if there are any other problems, questions, or suspicions that cannot be resolved within the exceedingly brief period allowed for primary inspection.” 62 Fed. Reg. at 10318.

United States, had no guidance on how to implement the directive when it was issued,<sup>3</sup> but nonetheless began detaining and deporting individuals it believed were covered by the Executive Order, including longtime lawful residents of the United States. Within roughly a day, the Executive Order had been partially enjoined by five courts,<sup>4</sup> and, a day after that, the White House changed its own interpretation of the Executive Order.<sup>5</sup>

Even putting aside the serious constitutional questions raised by the Executive Order, the havoc that it wreaked in our admission system and devastating consequences created a context in which the advice of trained legal counsel was essential to vindicate fundamental rights. This letter, which is based on many discussions and 26 declarations from attorneys and people affected, describes: the turmoil after the Executive Order was issued; the fear and confusion among people detained for long periods of time, pressured to waive rights, and in some cases deported in violation of court orders; and CBP's unlawful policy of preventing lawyers from communicating with the detainees at a moment when legal counsel was critical. These accounts and the analysis below leave no doubt that, to prevent widespread rights violations like this in the future, CBP must implement a system for ensuring that individuals detained in airport inspection facilities can communicate with counsel.

## I. January 27, 2017 Executive Order & Aftermath

On January 27, 2017, President Donald Trump issued an Executive Order entitled "Protecting the Nation from Foreign Terrorist Entry Into the United States" which, among other things, suspended the U.S. Refugee Admissions Program ("USRAP") and prohibited certain individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen from entering the United States.<sup>6</sup> The Executive Order thus imposed a policy of detaining and deporting refugees admitted through the USRAP and visa holders from the seven Muslim-majority countries who arrive at U.S. borders and airports, notwithstanding the U.S. government's previous determination that these individuals passed a rigorous vetting process and could enter the United States.

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<sup>3</sup> Michael D. Shear and Ron Nixon, *How Trump's Rush to Enact an Immigration Ban Unleashed Global Chaos*, N.Y. TIMES, Jan. 30, 2017, at A1, available at <https://www.nytimes.com/2017/01/29/us/politics/donald-trump-rush-immigration-order-chaos.html> (reporting that CBP, the Department of Defense, and other critical implementing agencies were given little notice or instructions to implement the executive order); Evan Perez, Pamela Broen, and Kevin Liptak, *Inside the confusion of the Trump executive order and travel ban*, CNN, <http://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/> (Jan. 20, 2017).

<sup>4</sup> See Temporary Restraining Order, *Tootkaboni v. Trump*, No. 17-cv-10154 (D. Mass. Jan. 29, 2017); Order Granting Emergency Motion for Stay of Removal, *Doe v. Trump*, No. 17-cv-126 (W.D. Wash. Jan. 28, 2017); Order, *Vayeghan v. Trump*, No. 17-cv-0702 (C.D. Cal. Jan. 28, 2017); Temporary Restraining Order, *Aziz v. Trump*, No. 17-cv-116 (E.D. Va. Jan. 28, 2017); Decision and Order, *Darweesh v. Trump*, 17-cv-480 (E.D.N.Y. Jan. 28, 2017).

<sup>5</sup> Compare Evan Perez, Pamela Broen, and Kevin Liptak, *Inside the confusion of the Trump executive order and travel ban*, CNN, <http://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/> (Jan. 20, 2017) (reporting that, late on January 27, 2017, the Department of Homeland Security concluded that the Executive Order applied to lawful permanent residents), with *DHS Statement On Compliance With Court Orders And The President's Executive Order*, Dep't of Homeland Security (Jan. 29, 2017), available at <https://www.dhs.gov/news/2017/01/29/dhs-statement-compliance-court-orders-and-presidents-executive-order> (stating that the Executive Order does not bar the entry of lawful permanent residents).

<sup>6</sup> Exec. Order No. 13769, 82 Fed. Reg. 8977 (Feb. 1, 2017) (providing that the suspension of USRAP will last 120 days and the prohibition on admission for individuals from the seven specified countries will last 90 days).

As soon as the order was issued, CBP began denying entry to noncitizens from the seven Muslim-majority countries targeted by the Executive Order, including those who had boarded airplanes with authorization to enter the United States and who, in mid-air, purportedly became inadmissible because of the Executive Order.<sup>7</sup> When these individuals landed at airports in the United States, CBP prevented them from leaving the airports, detained them in inspection facilities inside the airports, and began deporting them.<sup>8</sup>

Lawyers representing these individuals rushed to airports around the nation, but were categorically prohibited from communicating with the individuals detained inside, even when they presented proof of preexisting attorney-client relationships.<sup>9</sup> As word spread that individuals were being detained and deported and needed legal counsel, large numbers of lawyers arrived at the airports to offer pro bono assistance to the people held inside.<sup>10</sup> Families of the detained individuals remained in the airports for hours, attempting to understand what was happening and hoping that their loved ones were not being deported.<sup>11</sup>

To prevent their clients from being deported, a coalition of lawyers filed *Darweesh v. Trump*, a nationwide class action challenging the Executive Order as it relates to refugees admitted through USRAP and visa holders from seven specified countries, and sought a stay of removal pending resolution of the case, in the Eastern District of New York.<sup>12</sup> Other lawyers around the nation began filing habeas actions to prevent the deportation of various classes of individuals and, in some cases, obtain additional protections such as attorney access to individuals detained in the airports.<sup>13</sup> The evening of January 28, 2017, the District Court for the Eastern District of New York imposed a nationwide order preventing the government from, on the basis of the Executive Order, denying admission to refugees admitted through USRAP, and visa holders and anyone else from seven specified countries who were legally authorized to enter the United States.<sup>14</sup> Shortly thereafter, four other district courts issued similar orders.<sup>15</sup>

Even after those orders were issued, CBP continued to prevent attorneys from accessing clients held in airport inspection facilities, including when prohibiting access violated an order of the District Court for the Eastern District of Virginia.<sup>16</sup> Individuals remained in detention for

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<sup>7</sup> See generally App'x (containing accounts from a sample of the many individuals who left their home countries with authorization to enter the United States and who, upon arrival, were denied entry by CBP solely on account of the Executive Order).

<sup>8</sup> See, e.g., App'x at 7-12 (Abushamma Decl.) (describing her own deportation); App'x at 64-65 (Shebaya Decl.) (describing clients' deportation).

<sup>9</sup> See, e.g., App'x at 52 (Prasad Decl.); App'x at 37 (Kreimer Decl.); App'x at 77-78 (Volko Decl.); see generally App'x.

<sup>10</sup> See generally App'x (containing numerous declarations describing lawyers offering free legal assistance at airports); Elise Viebeck and Michael Laris, *Hundreds of lawyers descend on airports to offer free help after Trump's executive order*, WASH. POST, Jan. 29, 2017, available at [http://wapo.st/2jLJQsX?tid=ss\\_mail](http://wapo.st/2jLJQsX?tid=ss_mail).

<sup>11</sup> See, e.g., App'x at 72-76 (Vafaie Decl.)

<sup>12</sup> Habeas Pet. & Compl., *Darweesh v. Trump*, 17-cv-480 (E.D.N.Y. Jan. 28, 2017).

<sup>13</sup> See, e.g., Habeas Pet., *Tootkaboni v. Trump*, No. 17-cv-10154 (D. Mass. Jan. 29, 2017); Habeas Pet., *Aziz v. Trump*, No. 17-cv-116 (E.D. Va. Jan. 28, 2017).

<sup>14</sup> Order, *Darweesh v. Trump*, 17-cv-480 (E.D.N.Y. Jan. 28, 2017).

<sup>15</sup> See *supra* note 4.

<sup>16</sup> See, e.g., App'x at 14-15 (Calderon Decl.); App'x at 23-30 (Grass Decl.).

many hours after the order was issued, some were deported in violation of court orders,<sup>17</sup> and others were intimidated into waiving their right to enter the United States without ever having an opportunity to consult with the lawyers who were in the same airport and waiting to advise them.<sup>18</sup>

## II. CBP's Prohibition of Attorney Access & Rights Violations

Although CBP has long had a policy of denying attorneys access to individuals held at airports while screening is completed, the crisis that occurred in the days following the Executive Order shows why there must be some mechanism that allows individuals detained in airports to access counsel.

Both before and after courts enjoined the operation of the Executive Order's entry ban, CBP maintained an impenetrable wall between these detained individuals and lawyers notwithstanding the extenuating circumstances. As the attached declarations and brief summaries below make clear, the absence of counsel meant that detainees were alone and often unable to prevent unlawful deportations, arbitrary and unexplained detention, or serious risks to their health. Ironically, the individuals described in these accounts were the fortunate ones, as they or their families ultimately made contact with attorneys. These declarations do not include the accounts of individuals who were detained and deported and have not managed to tell their stories to counsel, or were afraid to do so. They represent only a very small sample of a wide-scale problem.

### Deprivation of Rights

- A Sudanese doctor returning to her residency program in Cleveland, Ohio after a brief trip to Saudi Arabia was prevented from boarding her connecting flight, and detained for over ten hours at John F. Kennedy International Airport. She explains: "Upon my arrival . . . , I was detained by U.S. Customs and Border Protection ("CBP") agents at JFK. I was not permitted to board my connecting flight to Cleveland. CBP agents confiscated my passport and threatened to take away my phone. I was not told why my passport was being held and I received no information about how long I would be detained" until six hours had passed. "I never permitted to speak on the phone with my lawyers while in CBP custody despite my initial and subsequent requests to do so. . . . [CBP] Agent Lam told me that the only way I was going to leave detention was if I signed a form to return to Saudi Arabia—the country I had flown in from. He showed me a document and told me that I should sign it. I was not allowed to call my lawyer or ask questions about what was in the document."

She remembers that Agent Lam also said that, "if I did not sign the form right away, it would mean that I had chosen to be forcibly removed from the United States, and that I would be forced onto the plane anyway, but would then be banned from the United States for five years. . . . I was so scared. Without being allowed to speak to my attorney on the phone despite my repeated requests, and because of all the negative consequences that

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<sup>17</sup> See, e.g., App'x at 33-36 (Inlender Decl.).

<sup>18</sup> See, e.g., App'x at 7-12 (Abushamma Decl.); App'x at 79-82 (Vayghan Decl.).

Agent Lam had told me would occur if I did not sign the form, and feeling like I had no choice, I signed the form.”

It was only after she signed that form that she was given food to eat and permission to use the phone to call a family member or friend. Shortly thereafter, she was deported to Saudi Arabia. As her declaration makes clear, “[h]ad I known that what the CBP agents told me was not true . . . or been allowed to call my lawyer who could better explain what was happening,” she would not have signed the form.<sup>19</sup>

- The niece of a man who was detained at the Los Angeles International Airport (“LAX”) describes how her uncle called her after he was deported from LAX. She explains:

“He . . . said he was not given food or a place to sleep the entire time he was at LAX, more than 18 hours. He said CBP officials in LAX made him sign a piece of paper. He does not speak or read English and said he didn’t not know what the paper was and wouldn’t sign it. He was told that the paper said he was leaving voluntarily. He initially refused because he was not leaving voluntarily, but was told he had to sign, so he did. He told my father that he refused to get on the plane to Dubai and that U.S. officials had to physically carry him on.”

She reports that “he told me he is desperately afraid about being returned to Iran” for fear of government retaliation, and she and her family feared for his safety as well.<sup>20</sup>

- An attorney representing a Syrian lawful permanent resident and her 4 U.S.-citizen children went to the San Francisco International Airport at the request of the woman’s U.S.-citizen husband (who was also the father of the four children being detained). The attorney learned that the woman was being held in the inspection facility at the airport and attempted to get information about what would happen to these children if their mother was deported, but CBP refused to provide it. If the attorney had been able to contact her, he would have helped make the necessary custody arrangements for her children and reviewed her legal options, including any fear of return to Syria. But, because he was unable to communicate with her, he was unable to help protect her right to determine the care/custody of her children, as well as her right to seek relief from any persecution she may fear.<sup>21</sup>
- An attorney representing a couple detained at the Dallas Fort Worth airport described how a couple reported they had been given a choice of withdrawing their applications for admission or being deported and unable to return for five years. They were afraid and signed the form, not even knowing what form they signed. Even after the *Darweesh* order was entered, the daughter and the attorney did not hear from them for

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<sup>19</sup> App’x at 7-12 (Abushamma Decl.).

<sup>20</sup> App’x at 79-82 (Vayghan Decl.); *see also* James Queally & Joel Rubin, *Iranian man barred from entering U.S. lands at LAX; first to return after court order*, L.A. TIMES, Feb. 2, 2017, <http://www.latimes.com/local/lanow/la-me-ln-iran-return-lax-20170201-story.html>.

<sup>21</sup> App’x at 52-56 (Prasad Decl.).

approximately 20 hours, and the couple was ultimately released after having been spent a total of 30 hours in detention.<sup>22</sup>

- Attorneys representing two lawful permanent residents at the Dulles International Airport were repeatedly denied access to their clients by a CBP officer who informed them that there was no right to counsel in the airport. Even after a court order was issued that enjoined the government from removing these clients and required CBP to give the attorneys access to their clients, CBP would not permit the attorneys to contact their clients or give them additional information. The attorneys subsequently learned that, without any opportunity to speak to their attorneys, their clients were coerced into withdrawing their applications for admission and returned to Ethiopia.<sup>23</sup>
- An attorney representing a 64-year-old woman from Sudan arrived to visit her four U.S.-citizen children. She suffers from diabetes and complications that became so serious that she was taken off the plane in a wheelchair before being held in the inspection area. The attorney rushed to the airport with a medical request, but the CBP officer refused to provide him access to his client. He subsequently learned from other detainees who were released pursuant to the *Darweesh* order that CBP had coerced his client and others into withdrawing their applications for admission, and reports that his client did not know the legal ramifications of that choice.<sup>24</sup>
- Two other attorneys volunteering at the Dallas-Fort Worth International Airport described attempting to speak with their clients, one of whom was an eleventh-month-old U.S.-citizen traveling with her lawful permanent resident mother. CBP even prevented the baby's father, a U.S.-citizen, from accessing his infant daughter.<sup>25</sup>

### Violation of Court Orders

- An attorney volunteering at LAX describes how, approximately 90 minutes after hearing that the *Darweesh* order was issued, she learned that CBP was attempting to deport an Iranian woman. She and a colleague attempted to prevent the deportation by contacting CBP and airport staff, but CBP did not receive a response and the Iranian student was deported anyway.<sup>26</sup>
- At the Dulles International Airport, CBP officers refused attorneys access to their clients and threatened them with arrest if they attempted to enter.<sup>27</sup> Multiple attorneys, including Senator Cory Booker,<sup>28</sup> reported that CBP officers continued to refuse them access even after the District Court for the Eastern District of Virginia issued an order requiring CBP

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<sup>22</sup> App'x at 61-63 (Rodriguez Saenz Decl.).

<sup>23</sup> App'x at 14-15 (Calderon Decl.).

<sup>24</sup> App'x at 77-78 (Valko Decl.).

<sup>25</sup> App'x at 83-86 (Dachnisky Decl.).

<sup>26</sup> App'x at 33-35 (Inlender Decl.).

<sup>27</sup> App'x at 23-20 (Grass Decl.).

<sup>28</sup> App'x at 13 (Booker Decl.).

to give attorneys access to lawful permanent residents at that airport.<sup>29</sup> One attorney reported that, when he raised the issue to the Vice President and Airport Manager at Dulles that night, the Manager insisted that, notwithstanding the court order, he would follow CBP's directive to exclude counsel.<sup>30</sup>

- One of the attorneys organizing volunteers at LAX received reports that CBP removed immigrants after the court order was issued, and coerced immigrants and non-immigrants to withdraw their applications for admission.<sup>31</sup>

### **Length and Conditions of Detention**

- Several attorneys describe representing an elderly Iranian couple who arrived with valid visitor's visas and were detained at the San Francisco airport for over 30 hours, including approximately 19 hours after the *Darweesh* order issued, enjoining the government from denying entry on the basis of the Executive Order.<sup>32</sup> When one attorney approached CBP officers with G-28s (notices of attorney appearance) in hand, he was told that the couple may be deported (notwithstanding the court order in place). When another attorney told CBP officers that removal would violate the *Darweesh* order, the officer told her that he "was just following orders."<sup>33</sup> Because the attorney was prevented from communicating with the couple, he could not ascertain their wishes about consequential decisions, like whether they would prefer to be removed to Iran or wished to remain in detention for a period of time that was, at that point, indefinite. Nor could the attorney obtain information about medical conditions or detention conditions, which is often essential to seek release for a client.<sup>34</sup>
- CBP prevented a team of attorneys represented a Syrian couple who had traveled to the United States to visit their children and was detained at the Dallas Fort Worth airport for approximately 30 hours. The attorneys representing this couple made numerous attempts to communicate with their clients and had G-28s proving that they were representing the couple, but CBP officers refused to let them communicate with their clients, who were held in CBP custody for 14 hours after the *Darweesh* order issued.<sup>35</sup>
- An attorney working at O'Hare International Airport spoke to the family member of an elderly Iranian couple who are lawful permanent residents and had been detained upon returning from their son's wedding in Iran. He learned that the couple was detained for ten hours in the airport without food, and that at least one elderly detainee was visibly shaking and close to passing out.<sup>36</sup>

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<sup>29</sup> *Id.*; App'x at 48-51 (Masumi Decl.).

<sup>30</sup> App'x at 23-30 (Grass Decl.).

<sup>31</sup> App'x at 66-68 (Tolchin).

<sup>32</sup> App'x at 52 (Prasad Decl.); App'x at 72-76 (Vafai Decl.).

<sup>33</sup> App's at 37-41 (Kreimer Decl.).

<sup>34</sup> App'x at 52-56 (Prasad Decl.).

<sup>35</sup> App'x at 69 (Treviño Decl.).

<sup>36</sup> App'x at 57-60 (Pryor Decl.).

In sum, these sample accounts reveal circumstances far different than the ordinary inspection process, and far more like executive detention, where people are deprived of critical information, unable to avail themselves of their right to challenge their detention, and coerced into waiving critical rights. Some of these detentions lasted more than thirty hours—*fifteen times* the length that CBP has suggested is typical—and detainees had no idea if or when or how they could obtain their release.<sup>37</sup> Even after attorneys brought medical risks, child custody decisions, and court orders to CBP officers' attention, the officers prevented attorneys from speaking with their clients and rejected detainees' pleas to call their attorneys.<sup>38</sup> During this time, the very harms that the assistance of counsel should prevent came to pass: individuals were detained and deported without the opportunity to present claims that courts have concluded are likely to succeed on the merits,<sup>39</sup> and others were coerced into waiving their right to enter the United States because they did not understand their legal options or that they had rights.

### **III. Prohibiting Individuals Detained in Airport Inspection Facilities Violates the Law**

Access to counsel for individuals detained in airport inspection facilities is not just important to prevent the consequences described above, but it is also required to ensure that noncitizens can avail themselves of their constitutional right to challenge unlawful executive detention.

The writ of habeas corpus is “essential to insure that miscarriages of justices within its reach are surfaced and corrected,”<sup>40</sup> and that access to the courts is “adequate, effective, and meaningful.”<sup>41</sup> As a practical matter, this means “that the privilege of habeas corpus entitles the prisoner to a meaningful opportunity to demonstrate that he is being held”—or may be removed — “pursuant to ‘the erroneous application or interpretation’ of relevant law.”<sup>42</sup> In the immediate wake of the Executive Order, the remedy served its purpose for those who could access its protections: for many, it made the difference between retaining the right to enter the United States and returning to families or much needed safety, and, on the other hand, deportation to a places where some face physical danger. It is for reasons like this that courts have recognized that “[a] meaningful opportunity to challenge detention demands that these individuals have access to counsel because, for them, “access to the Court means nothing without access to

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<sup>37</sup> In addition to vetting processes that occur prior to entry to the United States, travelers are subject to a “primary inspection,” which takes approximately 30 seconds to two minutes per air traveler. If a CBP officer has questions about the travelers' eligibility to enter the United States, the traveler is referred to “secondary inspection,” the length of which varies, but CBP estimates “can take 15 to 120 minutes per air traveler.” U.S. Customs and Border Protection, Preclearance Expansion, Fiscal Year 2015 Guidance for Prospective Applicants, *available at* [https://www.cbp.gov/sites/default/files/documents/Final%20Preclearance%20Guidance\\_092014.pdf](https://www.cbp.gov/sites/default/files/documents/Final%20Preclearance%20Guidance_092014.pdf). During this time, individuals are held in group in an inspection area inside the airport and, as a general rule, lawyers are not permitted to enter that area.

<sup>38</sup> See generally App'x.

<sup>39</sup> See *supra* note 4.

<sup>40</sup> *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

<sup>41</sup> *Bounds v. Smith*, 430 U.S. 817, 822 (1977).

<sup>42</sup> *Boumediene*, 553 U.S. at 779 (quoting *INS v. St. Cyr*, 533 U.S. 289, 302 (2001)).



counsel.”<sup>43</sup> Therefore, in circumstances like these, the right to petition for habeas corpus also includes the right of access to counsel.<sup>44</sup>

\* \* \*

Permitting individuals detained at airports access to legal counsel ensures that their rights will be protected and provides an effective structural check against overzealous and unlawful executive detention. As the events of the past week made clear, situations in which these protections are necessary do arise, and, even in the context of this same Executive Order, could arise again. In light of that and the accounts described above, we urge the OIG to recommend that DHS create a mechanism for individuals detained at airports to communicate with attorneys.

Such a mechanism can serve the government’s interests as well, as CBP and individuals detained in airports have a mutual interest in conducting the process expeditiously. Indeed, detainees’ ability to communicate with counsel can render the process more efficient by providing clarity on complex questions of fact and law in this notoriously arcane field, and allowing them to understand the existence and ramifications of various options.<sup>45</sup> Permitting consultation with counsel need not mean adversarial representation at every moment of inspection or open legal clinics in the inspection area. It could simply mean creating a separate space where individuals can seek pro bono legal counsel or call free legal providers. At a minimum, CBP should ensure that individuals are aware of opportunities to consult with pro bono counsel and provide individuals detained in airports for lengthy periods of time or considering withdrawing an application for admission the opportunity to consult with counsel.

The chaos following the issuance of the Executive Order and CBP’s refusal to permit attorneys to communicate with clients undoubtedly led to many more coerced waivers and unlawful deportations than we describe here. To prevent another rights violation *en masse*, as

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<sup>43</sup> *Al-Joudi v. Bush*, 406 F. Supp. 2d 13, 22 (D.D.C. 2005); see also *Al Odah v. United States*, 346 F. Supp. 2d 1, 8 (D.D.C. 2004); *In re Guantanamo Bay Detainee Continued Access to Counsel*, 892 F. Supp. 2d 8, 23 (D.D.C. 2012); *Goodwin v. Oswald*, 462 F.2d 1237, 1241 (2d Cir. 1972) (holding, in case involving communications between prisoners and counsel regarding formation of a prisoner’s union, “a necessary concomitant to the right of access [to the courts] is the right of access to counsel.”); *Chandler v. Fretag*, 348 U.S. 3, 10 (1954) (same, in criminal context).

<sup>44</sup> Moreover, the deprivation of the right to counsel creates serious due process concerns and may prevent airport detainees from availing themselves of statutory rights and regulatory rights.

<sup>45</sup> At least as late as 2006, the CBP Inspector’s Field Manual recognized that, although 8 C.F.R. § 292.5(b) provides that there is no right to representation during the secondary inspection process, “[t]his does not preclude . . . [a] inspecting officer, to permit a relative, friend, or representative access to the inspectional area to provide assistance when the situation warrants such action.” CBP, INSPECTOR’S FIELD MANUAL ch. 2.9 (2006). The Inspector’s Field Manual has been replaced by the Officer’s Reference Tool (“ORT”) but, so far as the undersigned are aware, the ORT is not publicly available.

we saw last weekend, CBP must end its policy of preventing individuals detained in airports from accessing counsel.

Respectfully,

/s/ \_\_\_\_\_  
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Petitioner,  
-against-  
Respondents.

**DECLARATION OF SUHA AMIN ABDULLAH ABUSHAMMA**

I, Suha Amin Abdullah Abushamma, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that that following is true and correct:

1. My name is Suha Amin Abdullah Abushamma, and I am a citizen of Sudan. I was born in Saudi Arabia, where my family now resides. Since July of last year, I have been employed by the Cleveland Clinic as a doctor of internal medicine. I am currently in a three-year internal medicine residency program at the Cleveland Clinic. I am a holder of a valid H-1B visa that I received on April 28, 2016 for the purpose of treating patients as a doctor of internal medicine at the Cleveland Clinic. I live in Cleveland, Ohio, where the Cleveland Clinic is located.
2. On the morning of January 28, 2017, I applied for admission to the United States at the John F. Kennedy Airport (“JFK”), in Queens, New York, following a short trip abroad to visit my family in Saudi Arabia I applied for admission at JFK as a nonimmigrant on the basis of my

valid H-1B visa, with which I am permitted to travel abroad. As explained in more detail below, I was denied entry and instead was sent back to Saudi Arabia.

3. I have been working as a doctor at the Cleveland Clinic for the last six months. I see about ten patients each day and serve as the primary care physician for a number of patients, who depend on me to prescribe and refill their medications, check their labs, and speak with them about their medical conditions and discuss next steps. I also conduct medical research on inflammatory bowel disease, and perform other duties as part of my residency program.
4. I have lived in Cleveland, Ohio since last summer. My fiancé is a legal permanent resident working as a doctor of internal medicine at Detroit Medical Center in Michigan. We are planning to be married in the United States this summer.
5. On January 23, 2017, I flew from Cleveland, Ohio to Jeddah, Saudi Arabia for a short visit with my family. The United States is my home. My apartment with all my things except what I packed for my vacation, my car, my job, and my fiancé all are in the United States. I packed only a few sets of clothes because I did not expect to be away long from my home in Cleveland.
6. On January 28, 2017, I took a flight from Jeddah, Saudi Arabia with a final destination of Cleveland, Ohio, where I live.
7. Upon my arrival at JFK at approximately 11 a.m., I was detained by U.S. Customs and Border Protection (“CBP”) agents at JFK. I was not permitted to board my connecting flight to Cleveland. CBP agents confiscated my passport and threatened to take away my phone. I was not told why my passport was being held and I received no information about how long I would be detained.

8. I was detained for at least six hours before I was told by a female CBP agent that I was being refused entry. She spoke to me briefly and told me that I was being detained because of the executive order that the President had signed and because I was a visa holder from Sudan. She gave me no further information about why I was not allowed to return home to Cleveland. I asked to speak to my immigration attorney, David Leopold. She told me no and she then left and never returned.
9. As set forth below, I was never permitted to speak on the phone with my lawyers while in CBP custody despite my initial and subsequent requests to do so. I was able to exchange a few text messages with Mr. Leopold, but when I asked to call him, my requests were refused until after, as set forth below, I agreed to sign certain forms.
10. During these texts, Mr. Leopold advised me that lawyers were working on a petition on my behalf to file with the Court so that I could return home to my job at the Cleveland Clinic.
11. After the female CBP agent who denied my initial request to speak with my lawyer left me, I again waited without being told anything. Ultimately, a new CBP agent came to speak with me. His identification tag read "T. Lam" and he told me I would not be permitted to enter the United States. I again asked to speak to my immigration attorney by phone but Agent Lam refused.
12. During this time, Agent Lam's supervisor was nearby. My attorney, Mr. Leopold, told me by text message that he would speak to CBP agents directly to explain the situation. I asked Agent Lam and his supervisor to speak with Mr. Leopold so that Mr. Leopold could confirm that there were attorneys working on my behalf but both Agent Lam and his supervisor refused to speak with him.


13. Agent Lam told me that the only way I was going to leave detention was if I signed a form to return to Saudi Arabia—the country I had flown in from. He showed me a document and told me that I should sign it. I was not allowed to call my lawyer or ask questions about what was in the document. It was also not feasible to discuss the form in detail with Mr. Leopold through text messages. I was being rushed to sign.
14. I was told by Agent Lam that if I did not sign, I would be forcibly removed and then banned from re-entry for five years. This terrified me because I want to finish my residency at the Cleveland Clinic, and because I was afraid of being removed by force.
15. I again told Agent Lam and his supervisor that there were attorneys who were working on my behalf. I repeatedly begged Agent Lam and his supervisor to give me more time. Agent Lam's supervisor then told me that an order that would allow me to stay in the United States would need to come from the Supreme Court, and that this would not happen. They told me that my lawyers could not do anything to help me in my situation and so I should just sign the form. I now know that what they told me was not true.
16. Agent Lam told me that there was a flight back to Saudi Arabia that was leaving at 8:30 p.m. He said that if I did not sign the form right away, it would mean that I had chosen to be forcibly removed from the United States, and that I would be forced onto the plane anyway, but would then be banned from the United States for five years.
17. I was so scared. Without being allowed to speak to my attorney on the phone despite my repeated requests, and because of all the negative consequences that Agent Lam had told me would occur if I did not sign the form, and feeling like I had no choice, I signed the form.
18. Had I known that what the CBP agents told me was not true, or had I been given more time to consider my options, or been allowed to call my lawyer who could better explain what

was happening (which could not be adequately conveyed by text message), I would not have signed the form I was made to sign.

19. At that point, Agent Lam stamped my visa with the words “Cancelled – NYC.” Instead of giving me back my passport or a copy of the form that I was made to sign, Agent Lam gave these documents and my boarding pass to a flight attendant on the flight back to Saudi Arabia. I was told I would not be allowed to have any of my documents back until I had landed in Saudi Arabia.
20. I was detained for a total of nearly ten hours at the airport. During this ordeal, I was not given anything to eat and CBP agents refused to allow me to have my passport or to make any phone calls. Only once I signed the form was I offered food. After I signed the form, I asked to call my attorney but I was told by Agent Lam that it would be pointless to use my one phone call to call my lawyer since he would be unable to help me. I was told I should call a family member or friend and tell them I was going back to Saudi Arabia.
21. After my phone call, I was finger printed and then made to sign another form by CBP. The second form was not explained to me and I still do not know what it was that I signed. I was never given a copy of that second form.
22. I was then escorted onto the airplane by two CBP agents. One stood in front of me and the other stood behind. It felt like they were trying to make sure I didn’t escape as though I was criminal in custody.
23. The plane pulled away from the gate at JFK at approximately 8:30 p.m. We remained on the ground at JFK for around another 25 minutes. We finally took off shortly before 9 p.m. We landed in Saudi Arabia at approximately 4 p.m. local time (8 a.m. EST), January 29, 2017.

24. Later, after I was finally given back my passport and that first form that CBP gave to the flight attendant, I saw that the form, labeled "Notice To Detain, Remove, or Present Alien", states that the reason for my removal is that I was an "Inadmissible Alien". But when I arrived in the United States at JFK I held a valid H-1B visa.
25. The notice also states that I was born in Sudan, which is incorrect. I was born in Saudi Arabia, which is what I told Agent Lam when he asked me where I was born, but when he filled out the notice he put Sudan.
26. I am currently in Saudi Arabia anxiously awaiting an opportunity to return to the United States as soon as possible to resume my life, including to continue my residency and treating my patients at the Cleveland Clinic.
27. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

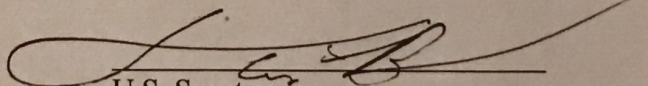
Executed this 31st day of January, 2017, at Yanbu, Saudi Arabia.

  
\_\_\_\_\_  
Suha Amin Abdullah Abushamma

## AFFIDAVIT

I, United States Senator Cory A. Booker, attest that to the best of my knowledge, information, and belief, that the following facts are true and correct.

1. On Saturday, January 28, 2017, I went to Washington Dulles International Airport (IAD) in the evening to inquire as to the status of individuals who were allegedly being detained pursuant to the January 27, 2017 Executive Order.
2. Prior to my arrival at IAD, a CBP employee who was not present at IAD communicated to my staff member, upon receiving the TRO, that "individuals are not entitled to counsel during immigration processing at a port of arrival." When my staff member challenged their assertion in light of the TRO, they responded that "The lawyers are looking at the order."
3. Upon arrival, I met with Metropolitan Washington Airports Authority (MWAA) police in an effort to obtain compliance with a Temporary Restraining Order (TRO) from the Eastern District of Virginia (E.D. Va.) and a nationwide stay issued by the Eastern District of New York (E.D.N.Y.). At my request, the TRO was presented by the MWAA police officer to CBP officials on site. I did not speak directly with Customs and Border Protection (CBP) or any other representative of the Department of Homeland Security (DHS).
4. Acting as the intermediary for CBP, an unnamed individual for MWAA police confirmed that travelers were being detained and stated that CBP would release the remaining individuals being held, but did not elaborate further on what actions would be taken after January 28, 2017.



U.S. Senator  
Cory A. Booker

SUBSCRIBED AND SWORN TO, before me, the undersigned notary public, this  
\_\_\_ day of January, 2017.

My Commission Expires: \_\_\_\_\_





**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

Border Protection (“CBP”) agent in the hallway outside of Deferred Inspection, located in the International Arrivals area.

5. I do not know the name of the CBP agent, but I explained that I believed that my two clients were being held in secondary inspection and that I would like access to them and/or information regarding their situation. The CBP agent brought us into deferred inspection to show us a nonexistent notice explaining that under a nonspecified Privacy Act, he was unable to share any information about any individual who might be held in secondary inspection.
6. He further stated that there is no right to counsel in the airport. He then showed us out of the office and refused to answer any further questions.
7. After the issuance of the Temporary Restraining Order, I personally called Dulles CBP at (703) 661-2800 and asked for access to my two clients. I stated that I had the TRO in my hand along with form G-28 and that a sitting U.S. District Court judge had ordered that my clients be permitted access to me, their attorney. The unknown officer told me that I would not be permitted to come back there and that she could not give me any further information. She also directed me to contact Public Affairs.
8. I have since learned that my clients were detained and handcuffed by CBP, forced to sign form I-407 relinquishing their lawful permanent resident status, and sent to Ethiopia where, upon information and belief, they currently remain. They were not given copies of any of the documents they signed. At no point during their detention were they allowed access to counsel.

I certify under the penalty of perjury that all of the foregoing information is true and correct to the best of my knowledge and belief.

/s/ Ofelia Lee Calderón  
Signature

January 29, 2017  
Date



DY7092; and (2) [REDACTED] [REDACTED] who arrived at 4:15 p.m. on Saturday, January 28, 2017 on flight TK 9. The sister of [REDACTED] had asked assistance to obtain information over her sister. A good friend of Ms. [REDACTED] was seeking assistance to determine information about [REDACTED].

7. At approximately 6:25 a.m. in the morning, I went to the third floor to the CBP office and found no one. I contacted the number on the posted sign and spoke to Officer Gamez. I proceeded to request information about the two individuals and the officer indicated that she could not provide any information. I persisted in seeking to communicate with someone with authority. About two minutes later, I was connected with Section Chief Wendy Watson. I explained who I was, my prior background and informed her that I was merely seeking confirmation of whether the two individuals were presently in the airport and detained. I heard a click on the line and it appeared that Section Chief Watson deliberately hung up the phone on me. I called back and again requested to speak to Section Chief Watson. Section Chief Watson then advised me that she could not provide me with any information because they (I took this to mean "CBP") were awaiting further guidelines for the "higher ups." I then insisted that Section Chief Watson could tell me basic information as she had access to TECS, DACS and several databases that could tell her where an individual was in the admission process. At which point, Section Chief Watson stated that she has been with the government a long time and wants to keep her job. She further stated that given my prior background then I should know that CBP would abide by the injunction and not remove anyone. She then proceeded to say that if CBP hasn't removed anyone and we haven't seen anyone come out from the terminal then the person was probably in secondary. I took Section Chief Watson's statement to imply that both Ms. [REDACTED] [REDACTED] and [REDACTED] were still in CBP custody. Nonetheless, I proceeded to insist that she tell me if these two individuals were detained to which Section Chief Watson advised me that she could not answer any questions until I sent a G-28. Section Chief Watson then proceeded to provide me with her email and suggested that I send her my G-28 for these individuals to her attention and she would get back to me. I then asked Section Chief Watson whether Ms. [REDACTED] and [REDACTED] could use their cell phones to contact their family members as they were worried. Section Chief Watson stated that cell phones are not allowed as they are disruptive. I proceeded to argue with her about this point but she simply stated that she could not provide any information without a G-28.
8. The email Section Chief Watson provided to me was: [Wendy.T.Watson@dhs.gov](mailto:Wendy.T.Watson@dhs.gov) or [Wendy.T.Watson@cbp.dhs.gov](mailto:Wendy.T.Watson@cbp.dhs.gov). Section Chief Watson unequivocally stated that she would get back to me.
9. I proceeded to the first floor, informed the local volunteer coordinator of my conversation with Section Chief Watson and proceeded to fill out two separate G28s. I then had the two G-28s scanned and I emailed both G-28s to Section Chief Watson at approximately 7:15 a.m.

10. After sending the G-28s to Section Chief Watson at the email she directed me to, I left her another message and asked her to return my call. It is now 9:40 p.m. and I still have not received a reply email or call from Section Chief Watson.
11. As I was filling out G-28s, Judy London, Director of Public Counsel, arrived and I let her know the situation concerning the two individuals both of whom were from Iran. Judy proceeded introduce herself to Ms. ██████'s friend. At that moment, the volunteer coordinator indicated that she had just received a call from ██████'s sister, ██████, wherein the sister indicated that ██████ had contacted her parents and informed them that she was removed from LAX.
12. The volunteer coordinator then passed the phone to Judy and I. Judy and I spoke to ██████. ██████ stated to Judy and I that her sister, ██████, an Iranian citizen, was studying on a student visa and that she was in her second year in her Master's program.
13. From the timeline provided about ██████'s initial detention and subsequent removal, it appeared that ██████'s removal was after the injunction was in place.
14. In our conversation with ██████'s sister, ██████, ██████ authorized Judy and I to represent her sister's interests.
15. Judy and I then proceeded to obtain the accurate timeline to make certain that ██████ was removed after the injunction was issued.
16. Later that morning, I was asked to speak with Mr. ██████. Mr. ██████ was the son-in-law of ██████ and ██████. He informed me that his parents-in-law were elderly and were on various medications. He just wanted to know if they were here in LAX or whether CBP removed him. Mr. ██████ was deeply concerned because he told me that his father-in-law had open heart surgery about a year ago and both of them had diabetes.
17. Mr. ██████ did not feel comfortable giving me permission to speak to CBP until his wife arrived.
18. About an hour later, Mr. ██████'s wife arrived. At this point, it was around 11:10 a.m. The wife told me that her parents came on Saturday from Iran to spend time with their granddaughter. She further told me that they are Iranian citizens coming to the US on tourist visas. Mr. ██████'s wife then told me that she was very, very concerned because both her parents had diabetes and her father had two open heart surgeries. Mr. ██████'s wife was extremely emotional and worried as the last contact she had with her parents was a call from her mother at 1:00 a.m that her mother made on a government issued phone.
19. I advised my colleague Judy London of this family's plight.
20. I then proceeded to go with Mr. ██████'s wife to CBP's desk again on the third floor. I spoke with Officer Wu. I advised Officer Wu who I was and the purpose of my request. I was present with Mr. ██████'s wife. I asked to speak to Section Chief Watson about this case to which Officer Wu told me that Section Chief Watson was not in until the afternoon. I asked Office Wu if the parents of Mr. ██████'s wife could use their cell phone to contact their daughter so that their daughter would not be panicked. Office Wu unequivocally stated the following: "cell phones are not being allowed because they can be disruptive and we don't

know what social media cites the individual would access.” Catalin, an attorney with ACLU in Los Angeles, was present with me when I inquired about allowing Mrs. [REDACTED]’s wife to have some contact with her elderly and sick parents. The response was an unequivocally “no.”

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct. Executed at Pasadena, California on January 29, 2017.

By:  /s/ Patricia M. Corrales \_\_\_\_\_  
Patricia M. Corrales

[REDACTED]

[REDACTED]

on behalf of themselves and others similarly situated,

*Petitioners,*

[REDACTED]

v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 30, 2017

*Respondents.*

I, Patricia Freshwater, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that that following is true and correct:

1. My name is Patricia Freshwater, and I have been a member of the State Bar of Texas since 2009. I am employed as a Partner at Schwamkrug, Freshwater & Lopez PLLC. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On January 29, 2017, I volunteered as a pro bono attorney at the Dallas Fort Worth International Airport [hereinafter “DFW”], attempting to assist individuals detained as a result of President Trump’s Executive Order, issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States” [hereinafter “EO”].
3. Two of my clients were [REDACTED] a lawful permanent resident, and [REDACTED] her 11-month-old U.S. citizen child. [REDACTED] became a lawful permanent resident approximately two years ago pursuant to a petition filed by her husband [REDACTED] who is a U.S. citizen. [REDACTED], who is also [REDACTED]’s father, consented to my

representation of [REDACTED] and [REDACTED] before the U.S. Department of Homeland Security, Customs and Border Protection [hereinafter "CBP"], as I was not allowed access to my clients to obtain their consent directly.

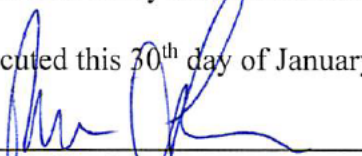
4. [REDACTED] is a citizen of Sudan. [REDACTED] is a citizen of the United States, born in the United States on February 14, 2016. They had traveled to Sudan in order to visit family. They arrived at DFW on flight number 221 on January 29, 2017 at approximately 8:40am and were detained in Terminal D by CBP until approximately 2:00pm.
5. During the time that [REDACTED] and [REDACTED] were detained, [REDACTED] s husband, [REDACTED], consented to my representation of [REDACTED] and [REDACTED] before CBP. He signed a Form G-28 Notice of Entry of Appearance as Attorney or Accredited Representative [hereinafter "Form G-28"] on behalf of his wife and child, since I did not have access to [REDACTED] to obtain her signature.
6. On January 29, 2017, I, along with a group of other attorneys, attempted to file my signed Form G-28s for these clients with CBP Officer Hopkins, who was stationed at the desk in the CBP reception area at DFW. Officer Hopkins first told us that attorneys were not allowed to see or speak with the individuals being detained by CBP. She told us that she would not accept a Form G-28 for any of the detained individuals. We requested to speak with a supervisor, but our request was refused. Officer Hopkins told the attorneys that we needed to leave the reception area. She began responding to all attorney questions with "no comment". Finally, she began to completely ignore all inquiries from attorneys representing detained clients.
7. After being denied access to my clients by CBP, PDFs of the Form G-28s for both [REDACTED] and [REDACTED] were sent electronically to the U.S. Department of Homeland Security, Office of the Chief Counsel in Dallas, Texas. My understanding is that those Form G-28s were then forwarded to CBP by the Office of Chief Counsel.



8. A [REDACTED] and J [REDACTED] were released from detention at approximately 2:00pm on Sunday, January 29, 2017. CBP prevented me from communicating with them regarding their legal representation during the entirety of their detention at the Dallas Fort-Worth International Airport.

Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief.

Executed this 30<sup>th</sup> day of January, 2017, at Dallas, Texas.

  
\_\_\_\_\_  
Patricia Freshwater

[REDACTED]

Petitioners,

v.

DONALD J. TRUMP, *President of the United States*; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, *Secretary of DHS*; KEVIN K. MCALEENAN, *Acting Commissioner of CBP*; JAMES T. MADDED, *New York Field Director, CBP*,

Respondents.

**DECLARATION OF EDWARD J. GRASS, ESO.**

I, Edward J. Grass, upon my personal knowledge, declare under threat of perjury as follows:

1. My name is Edward J. Grass, a retired Hunton & Williams LLP, litigation partner, residing in Burke, VA, with a current business address of 9501 Burke Road #10784, Burke VA 22015, [egrass@me.com](mailto:egrass@me.com), 202-256-2471 cell, and an active attorney license issued by the Commonwealth of Virginia, Bar #48010.

2. This declaration is prepared based on my personal knowledge of attempts by me and fellow attorneys to gain access to individuals detained (“Detainees”) by the United States Customs & Border Protection (“CBP”) at the Metropolitan Washington Airports Authority Dulles International Airport (“Dulles”), as well as repeated, intentional, and knowing refusals by CBP and Dulles to comply with the “lawyers access” paragraph of the Temporary Restraining Order by The

Honorable Judge Leonie M. Brinkema in *Tareq Aziz et al., v. Trump, et al.*, No 1:17-cv-116 (EDVA, Jan. 28, 2017) (“Brinkema Order”).

3. I depose and state the following under oath based on my personal knowledge and recollection, to the best of my knowledge, information and belief, under the pains and penalties of perjury, and subject to my additional obligation of candor and honesty as an officer of the court.

**EVENTS AT DULLES LEADING TO THE ATTORNEY ACCESS DENIAL AND ACCESS MOTION**

4. On or about 4:30 pm on Saturday January 28, 2017, I arrived at Dulles International Airport, Gate 1, International Arrivals (near baggage claim) to provide legal services *pro bono* to any Detainees and/or their families to avoid irreparable harm from deprivation of liberty through detention and loss of due process rights, including through CBP’s new and ongoing deportation activities after the related Executive Order by President Donald J. Trump.

5. Several dozen other lawyers advised me that they were present for similar purposes, and such lawyers, including me, coordinated a variety of efforts to efficiently benefit the Detainees.

6. Starting at approximately 5:00 pm, I personally observed and confirmed with several individual uniformed Officers of the Metropolitan Washington Airports Authority Police Department (“Dulles Police”) that they were legally responsible for and in fact in charge of security in that Gate 1 baggage area and were barring entry on behalf of CBP to areas behind several doors marked “No Entry” where Detainees were being held at that time.

7. I observed and personally confirmed with the Dulles Police that they were being supported by, but had superior jurisdiction to, several uniformed officers from the Loudoun County Sheriff’s Office (“Loudoun Sheriff”).

8. At approximately 5:45 pm, I suggested that a group of lawyers present start work on emergency efforts to seek an order from the United States District Court for the Eastern District of

Virginia compelling lawyers access to the Detainees to prevent immediate and ongoing prejudice to them from waivers or deportations that they could not consider or challenge without legal help.

9. At approximately 6:05 pm, I spoke with Shahin Fallah, Esq., who advised me that he was there to assist individuals with an arriving family member.

10. Mr. Fallah and I learned that an Iranian Detainee had been permitted to leave the detention area and Dulles, and Mr. Fallah spoke with her.

11. I and other attorneys expressed alarm at the released Detainee's reports of CBP demands for information and the apparent likelihood of ongoing waivers of rights and deportations in violation of Detainee rights.

12. The Detainees were reportedly kept in open groups that were not sequestered or otherwise isolated from contact, meaning, in part, that additional lawyer contact should not be an issue for CBP.

13. At 6:11 pm, I emailed Simon Y. Sandoval-Moshenberg, Legal Director of the Legal Aid Justice Center ("Mr. Moshenberg"), with the proposed lawyers access effort, and he subsequently retained Mayer Brown LLP to draft relevant legal paperwork (the "Access Motion").

14. From approximately 6:11 pm to 8 pm, I personally worked at Dulles Airport to help coordinate the production of affidavits and other materials in support of the Access Motion.

15. A working group on matters related to the Access Motion included the efforts of attorney Alfred Robinson, Esq. ("Mr. Robinson"), who had a client who already had landed and was a Detainee or would be shortly based on the client's origin and visa status.

16. As part of this Access Motion project, from approximately 7:30 pm to 7:53 pm, I again tested and again was refused access for me, Mr. Fallah, Mr. Robinson, or any other attorney present to reach the Detainees on threat of being arrested.

17. At approximately 7:50 pm, I asked one Loudoun Sherriff's Deputy Officer Purdue for access for me or any other attorneys into the Detainee area to observe it silently and/or assist anyone who might want representation.

18. Officer Purdue politely declined and advised that she would forcibly prevent me from doing so if I attempted to enter, and I would be arrested.

19. At approximately, 8:05 pm, I met and spoke with Metropolitan Washington Airports Authority Police Deputy Chief Damsky ("DC Damsky") who, cordially and professionally, confirmed that I or any other attorney attempting access on any basis would be arrested immediately by him or his Officers.

20. At the same time, I asked DC Damsky to put me in touch with a representative of the CBP to ask them to agree to access.

21. DC Damsky advised me that he would be glad to do so, but that CBP had ignored his attempts at contact throughout the day and had abandoned their normal positions behind the doors marked "No Entry."

22. DC Damsky advised me that he had been "trying to get CBP officers to give me [i.e. DC Damsky] guidance and I cannot reach them."

23. DC Damsky also advised me that he had had no contact with any CBP personnel "for hours", but would find me and let me know if he did have CBP contact in the future that evening.

24. DC Damsky never advised me that he reached anyone with CBP nor put anyone with CBP in touch with me, though I followed up with DC Damsky several times on this topic and he advised that he remained unable to reach anyone with CBP.

#### **CPB AND DULLES REFUSAL TO COMPLY WITH THE BRINKEMA ORDER**

25. After the Brinkema Order was entered, but before I received a copy, at approximately 9:30 pm, I spoke to DC Damsky to give him a "heads up" that the lawyers access

requirement appearing in the Brinkema Order had been entered and that I hoped and expected to coordinate with him and CBP for that access to help make the process run smoothly.

26. Shortly thereafter, I met and spoke with Interim Vice President and Airport Manager for Dulles International Brian Leuck ("Mr. Leuck"), who advised that he was the person in charge and responsible with Mr. Damsky for coordinating with CBP for access if such an order arrived and CBP directed him to comply.

27. During this discussion, Mr. Leuck advised me that he personally had all electronic keypad access codes to gain entry to the CBP area where the Detainees were located, and that he had personally used them earlier that evening and personally saw the Detainees.

28. During a similar time period, the working group selected an initial team of 8 attorneys with clients and immigration experience to be ready to enter once the Brinkema Order arrived.

29. At 9:56 pm, I received an electronic copy of the Brinkema Order.

30. I immediately walked the Brinkema Order to Mr. Leuck, who read it on my phone.

31. Mr. Leuck advised that he would not grant access unless and until CBP ordered him to do so.

32. I asked him what if any basis he had to decline the Brinkema Order in favor of CBP instructions, and he said that he had none other than that he would follow their instructions.

33. Soon thereafter, I showed the Brinkema Order to DC Damsky, and had a virtually identical conversation to that with Mr. Leuck, including that DC Damsky would not comply with the Brinkema Order unless and until CBP instructed him to do so.

34. At the same time, DC Damsky advised that he still had not and still could not reach anyone at CBP for guidance on anything.

35. At 10:28 pm, I emailed Mr. Moshenberg the following:

I personally showed the Dulles Airport Manager Brian Luke [sic] and his Deputy Chief Damsky the VA access order. They acknowledged it to me, refused to accept a paper copy and are refusing access 'on CBP orders.' Luke [sic] said CBP has seen the va order but no CBP personnel will speak with us.

Edward J Grass, Esq.  
VA Bar 48010

Sent from my iPhone

36. At 10:30 pm, I emailed Mr. Moshenberg the following confirmation that Mr. Leuck had the Brinkema Order in hand, could comply with it, would not comply with it, and that he was aware of the risk of contempt:

Showed this email to Mr. Luke [sic] who confirmed accuracy and now has a paper copy of the Va order from his attorneys. (I saw him holding the copy).

Mr. Luke [sic] also confirmed that he has the door codes that would enable us to get to and see the LRP Individuals in compliance with Judge Brinkema but he will not use them per CBP orders to him.

I warned him that this might be seen as actionable contempt of court to side with CBP orders over Judge Brinkema. He said "so be it".

Sent from my iPhone

On Jan 28, 2017, at 10:28 PM, Edward Grass <[egrass@mac.com](mailto:egrass@mac.com)> wrote:

I personally showed the Dulles Airport Manager Brian Luke [sic] and his Deputy Chief Damsky the VA access order. They acknowledged it to me, refused to accept a paper copy and are refusing access 'on CBP orders.' Luke [sic] said CBP has seen the va order but no CBP personnel will speak with us.

Edward J Grass, Esq.  
VA Bar 48010

Sent from my iPhone

37. At 10:44 pm, Mr. Leuck began to state to me that he had handed a copy of the Brinkema Order to "Wayne Bond . . .", who I understood to be Wayne Bondi, Port Director of the Area Port of Washington Dulles, U.S. Customs & Border Protection. Mr. Leuck cut himself off and then said that he personally "handed" a copy of the Brinkema Order to the "CPB 'duty officer'" behind the doors marked "No Entry" and "was told by CBP they will not comply to allow any access."

38. During this same conversation, I again asked why Mr. Leuck would not comply with the access codes in his possession to follow the Brinkema Order, and he responded that he would follow CBP's instructions over the order.

39. During another conversation, moments later, Mr. Leuck advised me that CBP told him they were at that time "going through the waiver process with everybody [Detainees] still inside". Mr. Leuck told me he had no idea what this entailed, what process or standards were being used, and whether irreparable harm or prejudice might result.

40. I explained that this was one reason exactly why the attorneys sought and obtained the Brinkema Order and why he and CBP needed to comply, but Mr. Leuck again rejected compliance. I explained to Mr. Leuck "the importance of them having counsel per the Judge's order so that their rights are not lost and that due process is followed" for every Detainee, not just arbitrarily selected individuals.

41. In fact, two elderly Iranian Detainees, a husband and wife in their late 80s or older, were allowed through and to leave the airport while other Detainees, for unknowable reasons, were not similarly cleared or allowed lawyers to access them .

42. Mr. Leuck then spoke to the released Iranian Detainees' granddaughter in front of me who thanked him, and then Mr. Leuck spoke with me directly to confirm that Mr. Leuck had personally interceded with CBP on the released Detainees' behalf to "get them out" because of their precarious health and because CBP reportedly had discarded their medications. I asked Mr. Leuck if he could or would do the same to help others be released on any basis, and he declined to answer.

43. Several times, until approximately 11:45 pm, I politely reminded Mr. Leuck that he did not have the option to refuse a federal court order in favor of CBP instructions, but he repeatedly declined compliance.



44. I also spoke with DC Damsky to advise him during the same time frame of his own obligation to comply, and he politely declined, saying he would follow CBP instructions.

45. Shortly before midnight Senator Cory Booker arrived at Dulles, and I observed as he walked with a copy of the Brinkema Order to speak with Dulles representatives.

46. Around midnight, I observed as Senator Booker spoke to the assembled crowd.

47. After the speech, I personally spoke with Senator Booker, who confirmed that he had spoken with Dulles representatives who refused access in a way similar to the refusal I and other attorneys had faced earlier.

48. Mr. Leuck advised me that all Detainees had been or would shortly likely be released that evening, which Mr. Booker similarly stated publicly he had been told.

49. Before I left Dulles, Mr. Robinson advised me that he had still not been provided the access to his Detainee client required by the Brinkema Order and did not know where she was or would be held the remainder of the evening.

50. At approximately 12:30 am, on January 29, 2017, I left Dulles.

FURTHER AFFIANT SAYETH NAUGHT.



---

BY: Edward J. Grass, Esq.  
VA Bar # 48010  
9501 Burke Road #10784  
Burke, VA 22015  
[egrass@me.com](mailto:egrass@me.com)  
202-256-2471 cell

Dated: January 30, 2017

████████████████████ and  
████████████████████  
██████████,

on behalf of themselves and others similarly  
situated,

*Petitioners,*

Case No. ██████████

v.

DONALD TRUMP, President of the United  
States; U.S. DEPARTMENT OF  
HOMELAND SECURITY (“DHS”); U.S.  
CUSTOMS AND BORDER PROTECTION  
(“CBP”); JOHN KELLY, Secretary of  
DHS; KEVIN K. MCALEENAN, Acting  
Commissioner of CBP; and JAMES T.  
MADDEN, New York Field Director, CBP.

Date: January 31, 2017

*Respondents.*

I, Mary Huber, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that the  
following is true and correct:

1. My name is Mary Huber, and I am a member of the Pennsylvania Bar. I have personal  
knowledge of the events described herein, and could testify to them if called to do so.
2. On Sunday, January 29, 2017, I went to Philadelphia International Airport (PHL) as part of a  
group of volunteer attorneys attempting to assist individuals denied entry to the United States as  
a result of President Trump’s Executive Order, issued on January 27, 2017, entitled “Protecting  
the Nation from Foreign Terrorist Entry to the United States” [hereinafter “EO”].
3. I arrived at PHL at approximately 9:00 A.M. and went to the international arrivals area. I  
remained physically present in the international arrivals area at PHL until approximately 2:00  
P.M.
4. Before arriving at PHL, I learned that two individuals had been detained on Saturday, January  
28, 2017, as a result of the EO.

5. I also learned before arriving at PHL that a nationwide injunction had been entered [REDACTED]  
[REDACTED], staying removals pursuant to the EO.
6. When I arrived at PHL, a colleague told me that she had been able to speak earlier to someone in CBP but the person had refused to provide information, and the CBP section had then shut down. I also attempted to speak to someone in CBP, but the section was closed, and the intercom was turned off.
7. Because CBP would not speak to us, my colleagues and I could not determine (1) the status of the two detainees from January 28, 2017, or (2) whether any new arrivals had been denied entry on January 29, 2017.
8. Eventually, we heard from outside sources that the passengers detained on Saturday were being released and that new passengers arriving on Sunday would be treated as they would have been prior to the EO.
9. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 31st day of January, 2017, at Philadelphia, PA.

/s/

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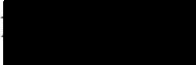
Mary Huber

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK



*Petitioners,*

v.

Case No. 

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 30, 2017

*Respondents.*

**DECLARATION OF TALIA INLENDER**

I, Talia Inlender, upon my personal knowledge, declare under threat of perjury as follows:

1. I am a member of the State Bar of California. I am employed as a Senior Staff Attorney in the Immigrants’ Rights Project at Public Counsel in Los Angeles, California. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On Saturday January 28, 2017, I arrived at Los Angeles International Airport (LAX) at approximately 11:30 AM. I remained physically present at LAX until Sunday January 29, 2017 at approximately 1:30 AM. During that period, I was attempting to assist individuals denied entry to the United States as a result of President Trump’s Executive Order, issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States” [hereinafter “EO”].
3. During the approximately 14 hours that I was at LAX, I witnessed repeated abuses by U.S. Customs and Border Patrol (CBP), including: (1) CBP officials refusal to provide information to attorneys and family members of individuals detained; (2) denial of attorney access to clients who were detained; (3) deportation of an individual pursuant to the EO prior to this Court’s temporary order barring such removals, but after a habeas petition was filed in the Central District of California on behalf of that individual; and (4) deportation of one individual pursuant to the EO after this Court’s temporary order barring the removal of individuals pursuant to the EO was in place.

4. After arriving at LAX on Saturday morning, I went to the CBP information desk located on the departures level of the Tom Bradley International Terminal. I witnessed several family members of individuals being detained attempt to get information about their loved ones from the representatives at the CBP information desk, and being turned away without information.
5. I conducted intakes with family members and loved ones of individuals who were detained upon arrival at LAX. Three family members and loved ones provided me with permission to represent their loved ones in seeking release from CBP custody. I filled out Form G-28s (Notice of Entry of Appearance as Attorney or Accredited Representative) on their behalf, although I was not able to fully complete the forms without access to the clients.
6. At around 6 PM on Saturday evening, I learned that a nationwide temporary stay of removals pursuant to the EO had been issued in *Darweesh v. Trump*, a case in the Eastern District of New York.
7. I learned shortly thereafter that CBP was attempting to return an Iranian young woman who entered on a student visa on a Norwegian Airlines flight to Copenhagen, departing at approximately 7:30 PM PST. My understanding was that she was being returned pursuant to the EO, despite the fact that the nationwide stay order was in place.
8. My colleague Kristen Jackson and I went to the Norwegian Airlines counter to request that the young woman be removed from the plane. The airline staff informed us that only CBP could assist. By that time, the CBP information desk was closed. I was able to obtain the cell and office phone numbers of Wendy Watson, who I was informed is the Section Chief of Passenger Operations for CBP at LAX. I left messages for Ms. Watson at both her cell and office phone numbers explaining the urgency of the situation and requesting a call back. Until the present time, I have not received a call back. I also received email addresses for three CBP officials, Ms. Watson, Shannon Chaney, and Anna White. I observed my colleague, Kristen Jackson, write emails to these individuals regarding the imminent departure of this young woman. On information and belief, no CBP officer has responded to these emails.
9. Despite the attempts to intervene with CBP, the Iranian student was placed on the Norwegian Airlines flight that departed for Copenhagen at approximately 7:30 PM PST on Saturday evening, approximately an hour and a half after the nationwide stay order was imposed.

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10. On Sunday January 29, 2017, at approximately 1 AM, I witnessed a volunteer attorney, whom I believe is named Morgan Pietz, contact CBP Officer Watson by telephone. I heard him request access to his clients being detained by CBP at LAX. I also heard him ask Ms. Watson for the number of individuals detained at LAX. I heard Ms. Watson inform the attorney that she could not assist him or provide him with the information he requested, and that he should contact Jaime Ruiz at the email address my colleague and I had previously been provided.
11. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 30th day of January, 2017, at Los Angeles, CA.



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Talia Inlender

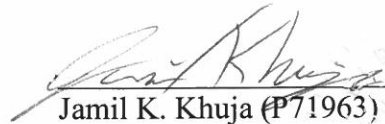
**AFFIDAVIT**

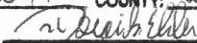
STATE OF MICHIGAN     )  
  )ss  
COUNTY OF WAYNE     )

The undersigned deposes and states as follows:

1. That I am over 18 years of age, base this affidavit upon my own personal knowledge of the facts contained herein, and am otherwise competent to make this affidavit.
2. That I am an attorney licensed to practice in the State of Michigan.
3. That on Saturday, January 28, 2017, I was asked to assist Mr. [REDACTED] a green card holder, who was detained at the Detroit Metropolitan Airport by Customs and Border Patrol (CBP) agents and I went along with Attorney Amir Makled.
4. That Mr. Makled and I demanded to be admitted access to meet and/or speak to Mr. [REDACTED] to CBP agents and that request was denied. At some point, Mr. [REDACTED] was allowed to place a phone call to his wife and I was able to have a brief conversation with him.
5. That Mr. [REDACTED] was ultimately admitted entry and he indicated to me that at least two other individuals were being detained at the time he was being detained by CBP agents and those two individuals were being denied entry. He also indicated he was subjected to a search of his phone including social media accounts, e-mails, and other contents. He signed a document he believes was a consent to search but was not provided a copy of whatever document he signed.

I do affirm that the above statements are true to the best of my knowledge, information, and belief.

 1-30-2017  
Jamil K. Khuja (P71963)

**DORAD B. ELDER** NOTARY PUBLIC  
Sworn to and Subscribed before me and did acknowledge the execution of this instrument as HIS/HER free act and deed.  
DATE: 1-30-17 COUNTY: WAYNE  
SIGNATURE:   
My Commission expires May 1, 2018

### Declaration of Frances Kreimer

I, Frances Kreimer, declare as follows:

1. I am an attorney at Dolores Street Community Services in San Francisco, California. I am a member of the California Bar and I practice primarily immigration law.
2. On January 28, 2017, I went to the San Francisco International Airport to assist travelers who were subject to the Executive Order issued the previous day that bans the citizens of certain countries from entering the United States, even after they have been screened and approved for a visa.
3. I arrived around 9:00 p.m. and went to the arrivals area of the international terminal, where family members and supporters were awaiting the release of travelers. During the time I was there, there was no public desk or other posted means for contacting Customs and Border Protection (CBP) in this area of the airport. There are only closed doors that people sometimes exit. The only way to speak to a CBP officer was to wait for the doors to open and ask the CBP officers inside to bring a supervisor out.
4. In the very early morning of January 29, Anoop Prasad left the area and I took over from him in trying to advocate on behalf of an elderly couple who had come to visit their lawful permanent resident daughter and the daughter's family. I filled out a Form G-28 and flagged down a CBP officer at the first opportunity and asked to speak to a supervisor. Two supervisors came out to speak with me. I tried to give them my G-28 form, to get information about their status and whether the couple were scheduled to be removed as we suspected the following morning, and to advocate against removal on the ground that it would violate the emergency stay issued in this case. The two supervisors with whom I spoke repeatedly told me that



- they could not give me any information, that they were awaiting instructions from headquarters, and that they were “just following orders.”
5. My repeated attempts to communicate with CBP were all the same—I received no information or opportunity to speak with my detained clients. On my third attempt, I was not even able to speak to a supervisor. Instead, the officer gave me a phone number. When I called it, no one answered.
  6. The only additional suggestion I received from CBP officers at SFO was to look at the public affairs website of CBP. I looked at the website and could not find even a northern California point person for CBP public affairs.
  7. I also attempted to gain information and advocate for these clients by emailing the CBP Field Office Director. A true and correct copy of my email correspondence with Brian Humphrey is attached hereto as Exhibit A.
  8. Pursuant to 28 U.S.C. § 24.201(f), I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 29th day of January, 2017, at San Francisco, CA.

/s/ Frances Kreimer  
Frances Kreimer

**Subject:** (none)

**Date:** Sunday, January 29, 2017 at 11:12:04 PM Pacific Standard Time

**From:** Nicholas Espiritu

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**From:** HUMPHREY, BRIAN J (DFO) [BRIAN.J.HUMPHREY@CBP.DHS.GOV]

**Sent:** Sunday, January 29, 2017 12:20 AM

**To:** Frances Kreimer; Anoop Prasad

**Cc:** EVANITSKY, JENNIFER L

**Subject:** RE: detention in violation of the stay order

We are working through the latest guidance from HQ received within the last hour. As you can appreciate, much of this guidance is evolving rapidly. I have already exercised maximum discretion in personally approving waivers for every LPR arriving in this AOR subject to the EO. Together, we will work through the remaining matters of the six arriving aliens not normally entitled to representation or court review of decisions related to their application for admission who were originally subject to withdrawal or expedited removal under the EO. In balancing the interests of these six individuals, I was on site all day

I have provided the latest guidance to my Port Directors.

Brian J. Humphrey  
Director, Field Operations  
San Francisco/Portland  
33 New Montgomery St., Suite 1620  
San Francisco, California 94105  
(415) 744-1530

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**From:** Frances Kreimer

**Sent:** Sunday, January 29, 2017 2:53:25 AM

**To:** Anoop Prasad

**Cc:** HUMPHREY, BRIAN J (DFO); EVANITSKY, JENNIFER L

**Subject:** Re: detention in violation of the stay order

Dear FOD Humphrey and Chief Evanitsky

I am writing to follow up on my colleague Anoop Prasad's email regarding the detention of two individuals at SFO, and to reiterate that their removal would both violate the stay issued by the Eastern District and the underlying statutory and constitutional protections on which the stay is based.

I just spoke to CBP Supervisors Vallejo and Bowman at SFO and attempted to give them G 28s for these individuals, but they refused to accept them or tell me where to file them. They directed me to the CBP public affairs website and I am CCing the Headquarters Branch Chief as well. I attach my g 28.

We urgently request information about the status of these clients and reiterate the unlawful nature of their removal.

My cell phone is 267 808 3637.

Frances Miriam Kreimer  
Senior Attorney  
Deportation Defense and Legal Advocacy Program  
Dolores Street Community Services  
[938 Valencia St., San Francisco, CA 94110](#)  
T: [\(415\) 282-6209](tel:(415)282-6209) x \*123 | F: [\(415\) 282-2826](tel:(415)282-2826)  
E-mail: [fkreimer@dscs.org](mailto:fkreimer@dscs.org)

Please Note: The information in this email message may be legally privileged and confidential information intended only for the use of the individual(s) named above. If you are not the intended recipient of this email, you should not further disseminate, distribute or forward this email message. If you have received this email in error, please notify the sender and promptly delete the original message. Thank you.

On Jan 28, 2017, at 11:09 PM, Anoop Prasad <[anoopp@advancingjustice-alc.org](mailto:anoopp@advancingjustice-alc.org)> wrote:

Dear FOD Humphrey,

The two individuals below are detained at SFO. They had B-2 visas and were denied entry this morning. They are Iranian citizens. I believe they are awaiting a departing flight but that the denial of entry was in violation of the subsequently issued stay by the Eastern District of New York.

[REDACTED]

[REDACTED]

They arrived on flight [REDACTED]

I have G-28s for them.

My cell is [REDACTED]

Thanks,

Anoop

--

Anoop Prasad  
Staff Attorney, Immigrant Rights Program  
Asian Law Caucus  
55 Columbus Avenue  
San Francisco, California 94111  
Telephone: (415) 848-7722  
Fax: (415) 896-1702

[REDACTED]

[REDACTED]

[REDACTED],

Petitioner,

-against-

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP,

Respondents.

No. [REDACTED]

**DECLARATION OF DAVID WOLFE LEOPOLD**

I, David Wolfe Leopold, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that that following is true and correct:

1. My name is David Wolfe Leopold, and I am a member of the State Bar of Ohio. I am the principal of Leopold & Associates Co., LPA. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. My practice focus is immigration, visa and citizenship law and in that capacity I represent Health Care Institutions including the Cleveland Clinic.
3. On Saturday January 28, 2017, at 5:33 pm Eastern Time I received a text to my iPhone from an individual who identified herself as [REDACTED], a Sudanese physician at the Cleveland Clinic.
4. I was expecting [REDACTED] to contact me. Several times prior to that I had been contacted by individuals on her behalf including two Cleveland Clinic employees who


[REDACTED]

were concerned about [REDACTED] and wanted me to represent her which I was prepared to do.

5. I was able to text with [REDACTED] sporadically while she was being held but I was never able to speak with her.
6. [REDACTED] texted me that she wanted to stay in the U.S. but that CBP officials had told her that:
  1. It not possible;
  2. She must depart the U.S. that night; and
  3. That her only option was to withdraw her application for admission or depart subject to an order of Expedited Removal (she did not use these words but as an immigration lawyer, I understood that to be the substance of what she was being told) .
7. I became alarmed that CBP officers appeared to be coercing [REDACTED] into withdrawing her application for admission by threatening her with an order of Expedited Removal pursuant to INA § 235 thereby subjecting her to a 5 year ground of inadmissibility pursuant to INA § 212(a)(9)(A)(i); 8 U.S.C. § 1182(a)(9)(A)(i).
8. It was further clear to me that [REDACTED] was confused as to the nature of the options being presented to her by CBP; at one point expressing apparent fear that if she did not voluntarily depart the U.S. that evening CBP officers would use force;
9. I advised [REDACTED] via text to tell the CBP officers that:
  1. She was represented by counsel;
  2. Counsel were were working to file a habeas corpus petition on her behalf;
  3. [REDACTED]  
[REDACTED] and

- [REDACTED]
4. Her lawyer advises that they should not place her on the flight to Saudi Arabia scheduled to depart at 8:30 PM;
  10. I advised [REDACTED] to give the CBP officers my name and telephone number.
  11. At 6:48 PM [REDACTED] texted me "I'm going. I don't have a choice" to which I responded "You have a choice. They can't do this to you. [REDACTED]"
  12. At 6:52 PM [REDACTED] texted, referring to CBP officers, "They said you have till 7:30." This was untrue, however.
  13. At 6:58 PM I asked [REDACTED] to offer the CBP officer, whom she identified as Officer T. Lam, her cell phone and ask him to speak with me directly.
  14. At 7:02 PM she responded "He doesn't want too."
  15. At 7:17 PM [REDACTED] texted "I do not have the option to stay. They are NOT giving me that option. It's leave voluntarily or by force that's all".
  16. At no time did any CBP officer call me, speak to me or in any way initiate communications with me. Nor was I allowed to speak with [REDACTED]. We were communicating only through text.
  17. At 8:25 PM [REDACTED] texted, "I'm on the plane. Thanks David."
  18. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief.

Executed this 31st day of January, 2017, at Shaker Heights, Ohio.

  
David W. Leopold  
1-31-2017

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

[REDACTED]

[REDACTED]

[REDACTED],

v.

Case No. [REDACTED]

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 30, 2017

*Respondents.*

**DECLARATION OF JUDY LONDON**

I, Judy London, upon my personal knowledge, declare under threat of perjury as follows:

1. I am an attorney, and am employed by Public Counsel, a pro bono law firm located in Los Angeles, California.
2. I am the Directing Attorney of Public Counsel’s Immigrants’ Rights Project. I supervise a staff of 20, including 10 immigration attorneys. My office address is 610 S. Ardmore Ave., Los Angeles, California 90005.
3. I volunteered to monitor compliance with a federal court stay in the case *Darweesh et al.*, and to provide legal advocacy on behalf of individuals traveling to Los Angeles International Airport (“LAX”) on January 29, 2017.
4. I was at LAX from approximately 7 a.m. to 5 p.m. and observed attorney interactions with Customs and Border Patrol (“CBP”).
5. At approximately 8 a.m. this morning, I spoke by telephone with a woman named [REDACTED] who was speaking to me from Canada. She told me that her sister [REDACTED] an Iranian citizen, has been residing and studying in the United States on a student visa. [REDACTED] traveled abroad, and returned to LAX in the evening of January 28, 2017. On information and belief, [REDACTED] was denied entry and detained pursuant to the January 27, 2017 Executive Order. According to the sister, [REDACTED] was put on a plane at LAX at approximately 7:30 p.m. PST, which was about an hour and a half after the court in



*Darweesh v. Trump*, 1:17-cv-00480, granted a nationwide stay of removal for class members. [REDACTED] was not allowed to use her telephone while in CBP custody at LAX, and was ultimately returned to Europe.

6. My colleague Patricia Corrales is also an attorney. She submitted to CBP a G-28 to represent a different young woman who is a citizen of Iran. The woman's friend, who is a refugee residing in California, authorized Ms. Corrales to serve as her attorney. Ms. Corrales and I reviewed the woman's documents provided by her friend. These documents indicated that the woman has a pending application for adjustment of status, and traveled abroad with advance parole.
7. We also learned that this woman had arrived to LAX at approximately 4 p.m. on Saturday, January 28th 2017. She had phone contact with her friend until around 3 a.m. on January 29, 2017. At that point, her friend was no longer was able to reach her by phone and was very panicked.
8. Ms. Corrales went with this man to the CBP booth on the third floor of LAX. Ms. Corrales told me immediately after her conversation with the CBP officer that she and the man asked CBP to verify that this woman was detained by CBP, asked that she be allowed to make a phone call, and asked that she, acting as an attorney, be provided the opportunity to speak with [REDACTED]. The CBP officer refused to verify that the woman named [REDACTED] was detained by CBP, and refused to allow her attorney to have contact, and refused to grant the request to allow [REDACTED] to use a telephone to make contact with anyone.
9. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 29th day of January, 2017, at Los Angeles, CA.
10. I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct. Executed at Santa Monica, California on January 29, 2017.

s/ Judy London \_\_\_\_\_

Judy London

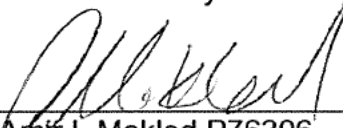
**AFFIDAVIT**

STATE OF MICHIGAN     )  
  )ss  
COUNTY OF WAYNE     )


The undersigned deposes and states as follows:

1. That I am over 18 years of age, base this affidavit upon my own personal knowledge of the facts contained herein, and am otherwise competent to make this affidavit.
2. That I am an attorney licensed to practice in the State of Michigan.
3. That on Saturday, January 28, 2017, I was requested to assist Mr. [REDACTED] a green card holder, who was detained at the Detroit Metropolitan Airport by Customs and Border Patrol (CBP) agents.
4. That I demanded to be admitted access to meet and/or speak to Mr. [REDACTED] to CBP agents and that request was denied.
5. That I informed CBP agents that I was present to assist any individuals being detained or denied entry to the US and my demands were not acknowledge by CBP agents and was ignored.
6. That Mr. [REDACTED] was ultimately admitted entry and he indicated to me that at least two other individuals were being detained at the time he was being detained by CBP agents and those two individuals were being denied entry.

I do affirm that the above statements are true to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Amir I. Makled P76306

Subscribed and sworn to before me  
this 30th day of January 2017, by:

  
\_\_\_\_\_

Notary Public, Wayne County, MI  
My commission expires 10.26.2023

**LETICIA GRECO**  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires Oct. 26, 2023  
Acting in the County of Wayne

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\_\_\_\_\_ )  
 [REDACTED] and )  
 [REDACTED] )  
 [REDACTED], *on behalf of themselves and others* )  
*similarly situated,* )  
 )  
 Petitioners, )  
 )  
 v. )  
 )  
 DONALD J. TRUMP, *President of the United* )  
*States; U.S. DEPARTMENT OF* )  
*HOMELAND SECURITY (“DHS”); U.S.* )  
*CUSTOMS AND BORDER PROTECTION* )  
*(“CBP”); JOHN KELLY, Secretary of DHS;* )  
*KEVIN K. MCALEENAN, Acting* )  
*Commissioner of CBP; JAMES T.* )  
*MADDED, New York Field Director, CBP,* )  
 )  
 Respondents. )

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**DECLARATION OF MARIAM MASUMI**

I, Mariam Masumi, upon my personal knowledge, declare under threat of perjury as follows:

1. My name is Mariam Masumi. I am an Immigration Attorney employed at Johnson & Associates, P.C., located at 2000 Clarendon Blvd., Suite 201, Arlington, VA 22201. I am active member of the Maryland state bar and in good standing with the Court of Appeals in Maryland. I am over 18 years old.
2. On January 29, 2017, I arrived at Washington/Dulles International Airport (“IAD”) to join a group of lawyers who were volunteering their time to provide free legal assistance to various individuals and their family members who were seeking to enter the United States, but were having difficulties pursuant to President Trump’s Executive Order. The Executive Order banned immigration from the seven Muslim-majority countries of Iran, Iraq, Yemen, Sudan, Somalia, Libya, and Syria.
3. Several hours prior to my arrival at IAD, I became aware of three federal courts that issued stays on the Executive Order, including the U.S. District Court for the Eastern District of Virginia (“U.S. Ed. Va.”). The stay that was issued by the U.S.

Ed. Va. ordered that the Department of Homeland Security (“DHS”) permit lawyers’ access to all lawful permanent residents being detained at IAD.

4. When I arrived at IAD, I was approached by a U.S. citizen of Iraqi descent who requested my assistance on behalf of his seven lawful permanent resident family members. His mother and father, both lawful permanent residents of Iraqi citizenship, were denied entry onto their international flight to the United States. His other relatives were permitted to board their flight to the United States; nonetheless, I was worried as to whether they would be admitted upon their arrival.
5. At approximately 9:00 A.M., I went to the Customs and Border Protection (“CBP”) Office with my colleague, Naima Said, to discuss this matter and another case that had been brought to Naima and myself. We knocked on the door; however, no one responded.
6. At approximately 10:00 A.M., I went to the CBP with another colleague, Sharifa Abbasi, and approximately two other attorneys. We knocked on the door and a woman in CBP uniform with a name tag of “Johnson” came out to speak to us.
7. My colleague, Sharifa Abbasi, asked if there were any detained individuals in the airport. Officer Johnson indicated that she could not give us any information and referred us to their Office of Public Affairs. She gave me a piece of paper with the name of Steve Sapp, his telephone number, and his email address.
8. I then indicated to Officer Johnson that I have lawful permanent residents en route to the United States and I wanted to know who I could speak to about their case. Officer Johnson again said that she had no information for me and to contact Steve Sapp at their Public Affairs Office. I asked if I would be able to reach him and she told me that “he’s 24/7.” I asked again whether we would be given access to detained lawful permanent residents and Officer Johnson again referred me to Steve Sapp.
9. I contacted Steve Sapp via telephone on two to three occasions throughout the day but I only reached his voicemail. As of the date and time of this affidavit, I have not received a call back.
10. At approximately 11:10 a.m., I heard that the U.S. government stated that the Executive Order would not apply to lawful permanent residents. Soon after that, I went back to CBP with a group of colleagues. I knocked on the door and another officer came out. I did not obtain the name of the officer that I spoke with; however, she asked us to speak with her outside of the CBP office in the hallway.
11. When we went out in the hallway, I asked the CBP officer if there was anyone who was detained and she said that she could not provide us with that

- information. I told her that I was given the contact information for Steve Sapp and that despite my call to him and being told he was 24/7, he had not answered. The Officer said that she had no other contact information for any other individual and that she had been advised to inform us that Steve Sapp was the person to contact.
12. I asked the Officer how we were supposed to know if there were lawful permanent residents who need access to a lawyer if CBP would not inform us of detained individuals. She indicated she could not provide me with that information. I asked her if there were any direct supervisors on site at IAD that could speak to me and the other lawyers. She said that she had tried to reach these direct supervisors two to three times, but was told to continue telling the lawyers to speak with Steve Sapp.
  13. Again, I asked the Officer if the direct supervisors could come to speak with us and she said no. I indicated to her that I had lawful permanent residents en route to the United States and wanted to know what would happen if they were to arrive at IAD. I informed her of the recent news I heard about the Executive Order not applying to lawful permanent residents. She again referred me to Steve Sapp and apologized for not being able to provide me more information.
  14. At approximately 7:00 P.M., the flight of lawful permanent residents that I was waiting for had already landed. The airport screens indicated that Turkish Airlines flight TK 7 was in customs. I immediately approached the Airport Police, requesting to go back to CBP to simply provide my G-28, Notice of Entry of Appearance, for these individuals. I was told that I could not do this.
  15. I expressed that the family consisted of lawful permanent residents and I wanted CBP to have my information on hand so that I could have access to my clients in the event they were detained and pursuant to the U.S. Ed. Va. stay order. I had a copy of that order with me while I spoke with the Airport Police. I was again told that I could not do so.
  16. I then approached three different police officers, who were guarding the entry way to CBP at this time. All three of them told me that I was not permitted to go back to CBP. I asked the Airport Police to hand my documents to CBP. They told me that they could not do this. I became very worried about how this family would have access to me if they were detained. They were en route to the United States when their family member approached me for help, so they would not have been aware of my contact information.
  17. Fortunately, at approximately 7:55 P.M., the family entered the airport and reunited with their other family members.

18. I certify under the penalty of perjury that all of the foregoing information is true and correct to the best of my knowledge and belief.

/s/ Mariam Masumi  
Signature

January 29, 2017  
Date

## **Declaration of Anoop Prasad**

I, Anoop Prasad, declare as follows:

1. I am a senior staff attorney at Asian Americans Advancing Justice-Asian Law Caucus. I am a member of the California Bar and I have practiced immigration law for almost ten years.
2. The facts described below are based on my personal knowledge.
3. Around 2:00 p.m. on December 27, 2017, we learned that President Trump had issued an Executive Order barring the entry of immigrant and non-immigrant visa holders from seven majority-Muslim countries. Within about an hour, my office began to receive calls from community members seeking advice and assistance about their family members who were traveling to the United States and were citizens of the banned countries.
4. I went to the San Francisco International Airport (“SFO”) around 2:00 p.m. on January 28, 2017 in order to provide assistance and representation to the Syrian American family, who were due to arrive around 4:30 p.m. The father/husband of this family is a U.S. citizen. He also came to the airport to greet his family: his wife, a lawful permanent resident from Syria, and their four children—all U.S. citizens.
5. I also expected there would be other travelers with family members who needed legal assistance, and I stayed at SFO until about 12:30 a.m.—over 10 hours.
6. I had already attempted to contact Customs and Border Protection (“CBP”) in advance of the Syrian family’s arrival by emailing the Field Office Director (“FOD”) and calling the telephone numbers for CBP supervisors at SFO. The purpose of my communication was to discover whether the Executive Order would be applied to lawful permanent residents,

in order to understand what our clients would likely experience when they arrived. I did not reach anyone on the phone. The FOD responded to my email and said that the Executive Order applied to lawful permanent residents and that a limited number of travelers would be considered for a waiver.

7. I emailed the FOD again around 3:00 p.m., specifically about the Syrian family. I asked: (1) if the U.S. citizen children would be released to the father pending review of the mother's secondary inspection, (2) what documentation we could provide to allow CBP to adjudicate the waiver, and (3) what documentation we could provide for access to the mother of the family before or during her secondary inspection interview. I did not get any response to this email.
8. Between 3:00 and 7:00 p.m., I tried calling the three CBP telephone numbers for supervisors at SFO, but no one answered the telephones.
9. The flight my clients were on landed around 4:15 p.m.
10. Around 5:00 or 6:00 p.m., state and local government officials were pressuring CBP to allow attorney access to the travelers, I gave my bar card to someone in the Mayor's office. She took a photo of it in order to seek access to my clients for me. I never heard back from the Mayor or CBP about gaining access to the travelers, including my clients.
11. Around 7:00 p.m., I went to the international arrivals area and waved down a CBP officer standing at the door. I asked to speak to a supervisor. A supervisor came out. He was polite and apologetic, but indicated that he could not give any specific information about cases. I asked what the process was for my Syrian client, but he could not give me any information about her. He told me that it would probably be a few hours, but did not say how I could assist my client in applying for a waiver. Neither I nor my client's husband,



who was present at the airport, ever received information about when my Syrian clients would be released. Late in the evening, around 10:00 or 11:00 p.m., they came out.

12. If I had been able to communicate with this client, I would have sought information about her that could help me advise her about next steps and legal options. For example, I would have asked her whether she preferred to keep the children with her in anticipation of the possibility that she would be excluded under the Executive Order. I would have reviewed whether she had any fear of returning to Syria and other equities that could have been presented in advocating for a waiver or other relief from removal. This information would help me explain possible legal options facing her depending on the government's adjudication of her waiver.
13. While I was at the international arrivals area, I observed several family members and attorneys asking to speak to or meet with travelers who were detained. None of them were given access. I observed four or five families waiting. There were few CBP officers in the area, but when one walked through, people repeatedly asked for information and did not receive any.
14. At some point during the evening, I learned of an older couple—parents of a lawful permanent resident from Iran—who had been detained. My colleague was assisting their waiting family members. I spoke to their son-in-law and learned that the parents had been detained since around 6:30 a.m. and that the family could not get any information.
15. Around 10:30 p.m., I flagged down an officer who was at the door. He refused to summon a supervisor for me to speak to. About 15 minutes later, the supervisor appeared but said he would not give me any information about the family. I told the supervisor that I represented the family and had a Form G-28 that I could provide him. The supervisor

told me that it was possible the couple had been put on a flight to Dubai or that they would be on the next flight to Dubai. We checked flight schedule and realized the next flight would be at 8:55 a.m. the following day.

16. Soon after that, other Iranian travelers came out of the gate and told us that the parents we were trying to help were still in detention. Realizing that they were still in detention and that CBP seemed to intend to remove them, I emailed the Field Office Director to let him know that I represented the family, that I had a G-28 Form, and that their pending removal was in violation of the stay issued [REDACTED].

17. I received a very general response from the Field Office Director, but nothing specific about this couple. The lack of information I received from CBP [REDACTED]

[REDACTED]

[REDACTED] made it difficult for me to advise the couple's daughter and son-in-law about what they could expect.

18. My inability to speak to the parents also made it very difficult to advise their daughter and son-in-law about how best to protect their parents' interests. We could not evaluate whether the parents would prefer to return to Iran if the alternative included additional days of detention. We did not know their medical condition or detention conditions [REDACTED]

[REDACTED]

[REDACTED]

19. After I received this response from the Field Office Director, and having not received useful information from CBP staff on site for the entire day, I left the airport around 12:30 or 1:00 a.m. I asked another immigration lawyer I am familiar with, Frances Kreimer, to take over for me in terms of advocating to CBP and attempting to learn of our

client's status. Another colleague of mine, Elica Vafaie, continued to work closely with the daughter and son-in-law to attempt to influence the government by engaging other advocates and public officials throughout the night and morning of January 29th.

20. Pursuant to 28 U.S.C. § 24.201(f), I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 29th day of January, 2017, at San Francisco, CA.

/s/ Anoop Prasad

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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X

[REDACTED]

Petitioners,

- against-

DONALD J. TRUMP, *President of the United States*; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, *Secretary of DHS*; KEVIN K. MCALEENAN, *Acting Commissioner of CBP*; JAMES T. MADDED, *New York Field Director, CBP*,

Respondents.

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X

**DECLARATION OF MATTHEW D. PRYOR**

I, Matthew D. Pryor, upon my personal knowledge, declare under threat of perjury as follows:

1. I am an attorney licensed to practice law in Illinois.
2. On January 27, 2017, I began volunteering with the International Refugee Assistance Program (IRAP) to be a team leader for lawyers at O’Hare International Airport (O’Hare Airport) assisting individuals from nations subject to the January 27, 2017 Executive Order.
3. I have been at O’Hare Airport for approximately 24 hours during the last 36-hour period. I have been in communication with several attorneys representing individuals arriving at

O'Hare Airport subject to the January 27, 2017 Executive Order, as well as with families of individuals subject to the order who have been either processed or detained.

4. On January 28, 2017, I was made aware of the case of [REDACTED], a Syrian woman who resides in Saudi Arabia, who had a valid non-immigrant B1/B2 visa to the United States. According to her attorney, she came to visit her lawful permanent resident mother who on Friday, January 27, 2017 underwent a mastectomy due to breast cancer. According to her attorney, [REDACTED] arrived on Etihad Airways flight 151 at 8:48 a.m. on January 28, 2017 from Abu Dhabi. According to her attorney, Ms. [REDACTED] was admitted at the U.S. Customs and Border Protection ("CBP") pre-clearance inspection post in Abu Dhabi before boarding the flight to Chicago, Illinois, but was then subjected to inspection again upon arrival in Chicago and told that on account of the January 27, 2017 Executive Order she could not be admitted to the United States. Her attorney contacted a CBP officer at O'Hare Airport by email at approximately 11:30 a.m. asking that she be admitted under her visa or otherwise paroled into the United States in order to visit her mother. Her attorney provided the CBP officer with a copy of the medical letter she was carrying verifying her mother's surgery, hospitalization, and medical condition. Her attorney also provided the CBP officer with a form G-28, Notice of Entry as an Attorney. A Withdrawal of Application for Admission/Consular Notification document issued to her states that she was referred to CBP under the Executive Order, and that her visa was cancelled per 22 C.F.R. 41.122. According to her attorney, Ms. [REDACTED] was faced with a choice of either being removed under expedited removal or signing a withdrawal of her application for admission. She signed a withdrawal of her application for admission and was then placed on a flight back to Abu

Dhabi at 12:10 p.m. According to her sister, Ms. [REDACTED] was held in Abu Dhabi for over 10 hours and was returned to Riyadh in the early evening of January 29, 2017.

According to her attorney, Ms. [REDACTED] wishes to return to the United States to visit her mother.

5. On January 29, 2017, I spoke to a family member of a married Iranian couple who are [REDACTED] and [REDACTED] years old, respectively and who are lawful permanent residents of the United States and residents of Nevada for five years. According to the family member, on January 28, 2017, the couple was returning from a trip to Iran for their son's wedding, and their flight to Chicago departed Doha, Qatar at around the same time the Executive Order took effect. According to their family member, when they arrived in Chicago, they were told that CBP had received an order to detain them. According to their family member, they were questioned extensively about their ties to the Iranian government for approximately 45 minutes before being returned to the general detention area. According to their family member, CBP refused to provide food to them and other detainees, and at least one elderly detainee was visibly shaking and appeared to be close to passing out. According to their family member, their family was not allowed to contact them while they were being detained, and CBP would only confirm that they were being detained and would not confirm that the couple had access to their medications. According to their family member, an attorney in Chicago contacted the family's daughter-in-law and the attorney went to the airport and asked the CBP to forward the couple a note stating that their family was working on trying to resolve the situation. According to their family member, they were ultimately released a few hours after the stay in the present matter was issued after enduring 9 hours of being held in secondary inspection.

6. On January 28, 2017, at approximately 8:20 p.m. Central Time, lawyers at O'Hare Airport made Customs and Border Protection officers aware of a Stay of Removal issued in the present matter.
7. Since I arrived at the O'Hare Airport on January 27, 2017, at no time before or after the Stay of Removal was issued in the present case have attorneys at O'Hare Airport been permitted to meet with individuals from nations subject to the January 27, 2017 Executive Order who have been placed in secondary inspection or otherwise processed or detained by Customs and Border Enforcement.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Matthew D. Pryor  
Matthew D. Pryor

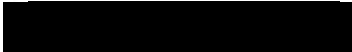
Executed on January 29, 2017

Chicago, Illinois

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK



*Petitioners,*



v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 30, 2017

*Respondents.*

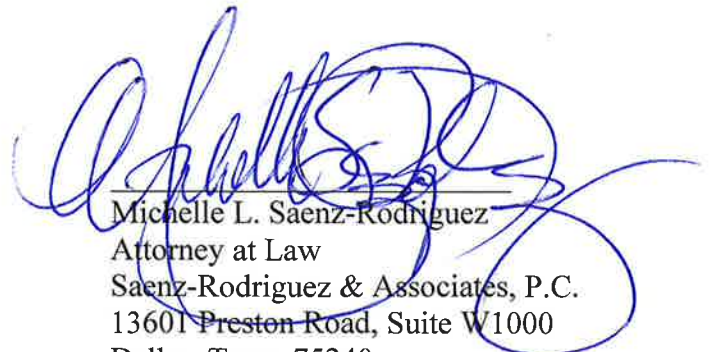
I, Michelle L. Saenz-Rodriguez , declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that that following is true and correct:

1. My name is Michelle L. Saenz-Rodriguez, and I am a member of the State Bar of Texas. I am employed as Senior Partner at Saenz-Rodriguez & Associates, P.C. . I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On Saturday January 28, 2017, I arrived at Dallas Fort Worth International Airport (DFW) at approximately 4:45 PM. I remained physically present at DFW until Sunday January 29, 2017 at approximately at 2:00 AM and again returned to DFW at 9:30 AM until 4PM. During that period, I volunteered as part of the American Immigration Lawyers Association Dallas Chapter, to participate in a pro-bono effort to assist individuals denied entry to the United States as a result of President Trump’s Executive Order, issued on January 27, 2017, entitled ““Protecting the Nation from Foreign Terrorist Entry Into the United States” [hereinafter “EO”].



3. During the time that I was at DFW, I witnessed repeated violations of the nationwide injunction entered in *Darweesh v. Trump*, 17-cv-480, a case in the Eastern District of New York.
4. After arriving at DFW on January 28, 2017, I conducted intakes with family members and loved ones of individuals who were detained upon arrival at DFW. Specifically, I worked on the cases of [REDACTED] several family members provided me with permission to represent their loved ones in seeking release from CBP custody. I filled out Form G-28s (Notice of Entry of Appearance as Attorney or Accredited Representative) on their behalf, although I was not able to fully complete the forms without access to the clients.
5. At around 8 PM on Saturday evening, I learned that the nationwide temporary stay of removals pursuant to the EO had been issued in *Darweesh v. Trump*.
6. As soon as we heard that the stay applied nationwide, several lawyers tried to establish communication with CBP officials who would not come out of the secured area and would not speak to anyone, including lawyers and family members.
7. We last communicated with the detained family members by text at approximately 8 PM. At that time, they told their daughter that they were given two options- first they could voluntarily request to withdraw their admission into the United States or if they were not willing to do that, then they would be given a deportation and not be able to come back for 5 years. They expressed their fear and ultimately they each signed some form but they are not sure which form. They were told that they would be sent back on the first flight back to Iran which departed at 11:14 am.
8. Several family members were frantic that they would be aboard the plane since they had signed the paperwork. The airline desk did confirm that they were still on the passenger manifest and the family requested that they be removed from the list. The airline said that only CBP could tell them to do that. It was later discovered that they were not on the plane and that they were still at the airport.

9. There was no further communication with them until approximately 4:30 PM when they were reunited at an offsite location where they had been dropped off by CBP.
10. The family was detained from 8:41 AM on Saturday January 28, 2017 until Sunday at approximately 4:00 PM. They stated that they did not have any idea what was happening and it was not until they arrived at the drop off point that they were told they were being released.
11. They were was terrified and they would not let them call anyone to seek their assistance, so they acquiesced and signed the papers they asked them to sign. They were not given a single piece of paper upon release from custody and we cannot confirm whether the documents they signed were voluntary withdrawal of request for admission or expedited removals.
12. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 31st day of January, 2017, at Dallas, Texas.



Michelle L. Saez-Rodriguez  
Attorney at Law  
Saez-Rodriguez & Associates, P.C.  
13601 Preston Road, Suite W1000  
Dallas, Texas 75240  
214-637-5700



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

5. After some unsuccessful attempts to make contact with a CBP officer, we were finally able to speak with an officer who stated only that we would not be allowed to access any clients in secondary inspection despite having the appropriate attorney representation form (G-28). I do not know the officer's name.
6. At around 8:45pm, we learned that Judge Brinkema of the Eastern District of Virginia had granted a Temporary Restraining Order requiring, *inter alia*, that CBP allow attorneys to access lawful permanent resident clients detained at Dulles Airport.
7. We attempted to enter again and were told by police officers that nobody from CBP was available to speak with us and that we would not be able to gain access to our clients. We explained that we had an order from a judge ordering CBP to grant us access but were told that CBP officers were not available to speak with us.
8. I then witnessed Ofelia Calderon make a telephone call to CBP and explain that a judge had issued an order that should allow us access to our clients. We were nonetheless not given access to our clients.
9. Later that night, a staff member working for Senator Cory Booker attempted to help us obtain access to our clients based on the court order but was informed that individuals in secondary inspection are not allowed access to legal representation despite the court order. Senator Cory Booker himself then arrived and attempted to help us gain access, but was told that nobody remained in detention at Dulles at that time.
10. I have since learned that my clients were detained and handcuffed by CBP, forced to sign form I-407 relinquishing their lawful permanent resident status, and sent to Ethiopia where, upon information and belief, they currently remain. They were not given copies of any of the documents they signed. At no point during their detention were they allowed access to counsel.

I, Sirine Shebaya, declare under the penalties and pains of perjury and under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

/s/ Sirine Shebaya  
Signature

January 29, 2017  
Date

**DECLARATION OF STACY TOLCHIN**

I, Stacy Tolchin, declare under penalty of perjury as follows:

1. I am an attorney licensed to practice by the State of California, and am admitted to practice before the United States Supreme Court; the United States Court of Appeals for the Ninth, Tenth, Fifth, and Second Circuits; and the United States District Court for the Northern District of California, Eastern District of California, Central District of California, Southern District of California, and District of New Mexico. I received my Juris Doctorate from the University of California at Los Angeles in 2001, and have been practicing law for over 15 years. My business address is Law Offices of Stacy Tolchin, 634 S. Spring St. Suite 500A, Los Angeles, California. I practice throughout the state of California. I specialize in immigration-related litigation before the federal courts.
2. I have personal knowledge of the facts set forth in this declaration.
3. Since Saturday, January 28, 2017 at about 8:00 a.m., I have been in regular contact with attorneys and activists on the ground inside the Tom Bradley International Terminal at Los Angeles International Airport (“LAX”), coordinating with them in an attempt to assist individuals denied entry and detained as a result of President Trump’s January 27, 2017 executive order entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States,” (“EO”).
4. I helped to organize volunteer attorneys to appear at LAX to assist noncitizens arriving from international flights who were subject to the January 27, 2017 EO. I spoke with these attorneys regularly on January 28 and January 29 throughout the day in organized conference calls.
5. During the time that I was in contact with attorneys and others on the ground at LAX, I received numerous reports of abuses by U.S. Customs and Border Patrol (“CBP”) agents, including (1) consistent refusal to provide any information on

1 individuals being detained pursuant to the EO to both family members and  
2 attorneys present at the terminal; (2) refusal to allow access by attorneys who  
3 were representing individuals detained; (3) removal of individuals pursuant to  
4 the EO *after* a temporary restraining order barring the removal of individuals  
5 pursuant to the EO was in place; and (4) and coercion of nonimmigrants and  
6 immigrants at LAX to withdraw their visas and permanent residency. In the  
7 evening of January 29, 2017, I also began to hear reports of individuals on  
8 planes being coerced into withdrawing their applications for admission and to  
9 sign immigration forms abandoning their permanent residency.

- 10 6. [REDACTED]  
11 [REDACTED]  
12 [REDACTED]
- 13 7. Throughout the weekend of January 28/29, 2017, I was informed by attorneys  
14 that CBP refused to provide information regarding the numbers of individuals  
15 being detained.
- 16 8. Throughout the weekend of January 28/29, 2017, I learned repeatedly from  
17 multiple attorneys at LAX that CBP refused to allow attorneys representing  
18 detained individuals to access their clients.
- 19 9. On January 29, 2017, I learned from volunteer attorneys at LAX that noncitizens  
20 on student visas were removed pursuant to the EO [REDACTED]  
21 [REDACTED]
- 22 10. At around 8:00 (EST) on Sunday January 29, 2017, I learned from other  
23 attorneys that noncitizens subject to the EO were being coerced while in the  
24 airplane to withdraw their application for admission, and abandon permanent  
25 resident status.
- 26 11. I also was informed that CBP refused to speak with public officials who were at  
27 LAX about the detainees.  
28

1 Pursuant to 28 U.S.C. § 24.201(f), I hereby verify that the foregoing is true and  
2 correct to the best of my information and belief. Executed in Los Angeles,  
3 California on January 29, 2017.



4  
5  
6 By:

7 Stacy Tolchin  
8 Declarant  
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[REDACTED]

[REDACTED]

on behalf of themselves and others similarly situated,

*Petitioners,*

Case No [REDACTED]

v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 31, 2017

*Respondents.*

I, Jaime Treviño Jr., declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that the following is true and correct:

1. My name is Jaime Treviño Jr., and I have been a member of the State Bar of New York and Texas since 2013. I am an attorney practicing immigration law in Dallas, Texas. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On January 29, 2017, I volunteered as a pro bono attorney at the Dallas Fort Worth International Airport [hereinafter “DFW”], attempting to assist individuals detained as a result of President Trump’s Executive Order, issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States” [hereinafter “EO”].
3. My client, [REDACTED], and his wife [REDACTED], traveled to the United States on a B1/B2 tourist visa on January 28, 2017. He is a 54-year-old citizen of Syria. [REDACTED] and his wife have been lawfully residing in Saudi Arabia since around 1998. [REDACTED] was granted a



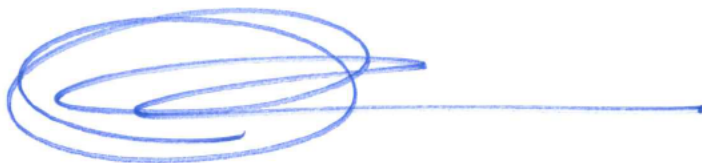
work visa in Saudi Arabia. and his wife, [REDACTED], was granted an investor's visa in Saudi Arabia.

4. O [REDACTED], DOB [REDACTED], consented to my representation of his father, [REDACTED] [REDACTED] before the U.S. Department of Homeland Security, Customs and Border Protection [hereinafter "CBP"], as I was not allowed access to my client to obtain his consent directly. Immigration attorney Daniele Volfe represented [REDACTED] [REDACTED]'s wife.
5. [REDACTED] traveled to the United States with his wife to visit his two sons who are currently living in the United States. [REDACTED] and his wife arrived at DFW airport on flight number EK 221 on January 28, 2017 at approximately 8:40 AM and were detained in Terminal D by CBP until January 29, 2017 approximately 3:30 PM. They were detained for approximately 30 hours by CBP at DFW airport before being released.
6. During the time that [REDACTED] was detained, his son, [REDACTED] consented to my representation of [REDACTED] before CBP. He signed a Form G-28 Notice of Entry of Appearance as Attorney or Accredited Representative [hereinafter "Form G-28"] on behalf of his father, since I did not have access to [REDACTED] to obtain his signature.
7. On January 29, 2017, I, along with a group of other attorneys, attempted to file my signed Form G-28s for these clients with a CBP Officer. I was later informed from another attorney that the officer stationed at the desk in the CBP reception area at DFW was Officer Hopkins. By the time that I arrived, Officer Hopkins left the reception area, and I was informed by the other attorneys that she was not responding to attorney requests to file a G-28. She was not present at the filing window when I tried to file my G-28.
8. [REDACTED] and his brother [REDACTED] were contacted by CBP about their parents' release from detention on January 29, 2017 at approximately 3:30 PM. [REDACTED] and [REDACTED] were finally reunited with their father and mother around 5:00 PM on Sunday, January 29, 2017. CBP prevented me from

communicating with [REDACTED] regarding his legal representation during his detention at the Dallas Fort-Worth International Airport.

Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief.

Executed this 31<sup>st</sup> day of January, 2017, at Dallas, Texas.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

---

JAIME TREVIÑO JR.  
Texas Bar no. 24085621  
New York Bar no. 5136411

[REDACTED],

on behalf of themselves and others similarly situated,

*Petitioners,*

v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; JAMES T. MADDEN, New York Field Director, CBP,

*Respondents.*

**Declaration of Elica Sara Vafaie  
Regarding Officer Interactions at  
Airport and County Jails**

Case No. [REDACTED]

Date: January 30, 2017

**DECLARATION OF ELICA SARA VAFSAIE REGARDING  
OFFICER INTERACTIONS AT AIRPORT AND COUNTY JAILS**

I, Elica Sara Vafaie, upon my personal knowledge and in accordance with 28 U.S.C. § 1746, declare as follows:

1. I am a Staff Attorney at Asian Americans Advancing Justice–Asian Law Caucus. I was at San Francisco International Airport (“SFO”) for almost the entire day on Saturday, January 28, 2017, overnight that evening, and through the following afternoon. I represented multiple detainees and their families.

2. Throughout the events described in this declaration, I worked with my colleague Anoop Prasad, Senior Staff Attorney at Asian Americans Advancing Justice–Asian

Law Caucus. I also worked with Frances Miriam Kreimer, Senior Attorney, Delores Street Community Services.

3. A United States-based Iranian woman engaged my organization to assist as her parents came to the United States from Iran on Saturday, January 28, 2017. The Iranian woman has a green card and lives in the United States with her husband and their [REDACTED]-old daughter. Her parents had a valid visitor VISA to come to the United States. I started working with the family at 7:30 or 8 pm on Saturday evening.

4. The woman's parents (the "detainees") are an elderly Iranian couple. The father is [REDACTED] and the mother is [REDACTED]. They both have physical health ailments.

5. The detainees arrived at SFO on Saturday, January 28, 2017, between 6 and 6:30 AM. The detainees' family told me that they got a call at approximately 8:45 AM from Customs & Border Protection ("CBP") saying that the parents would be detained, but that they could go pick up their bags. At approximately 9:04 AM, I understand that the detainees' family called CBP back and asked to speak with the detainees; a CBP official told the Iranian woman that she could not speak with her parents. At approximately 11 AM, I understand that the family called again and got through to someone who told them that her parents would be on a flight out of the United States the next morning (Sunday) at 8:55 AM. At approximately 1:17 PM, the family called again and a CBP official told them that her parents were safe and had food. The official told her not to worry.

6. I observed the detainees' family trying to get more information from CBP throughout the evening. At 9 PM, the family called CBP three more times and got no answer. Between 11:10 and 11:15 PM, the family called again three times and got no answer.

7. The family, including the [REDACTED] stayed in the SFO international

arrivals terminal the whole evening, as did I. There was no comfortable place for them to sleep; the daughter had to sleep on the floor. The family expressed to me their deep concern that the parents would be returned on an 8:55 AM flight on Sunday morning, and in the absence of information from CBP to the contrary, and their belief that they had to stay at the airport to try to prevent that from happening.

8. Later that evening and into the following morning, I was aware that my colleagues Anoop and Frances continued to attempt to contact CBP. Between 11 PM and 12:20 AM, Anoop and Frances emailed the Field Office Director (“FOD”) providing information about the detainees and asking for their status. At approximately 12:20 AM, FOD responded to say that they had six remaining matters, but offered nothing about the parents. At approximately 12:33 AM, Frances emailed FOD a G-28 form and made an urgent request for information about the location of the detainees and their current status. At one point, the doors to the detainee-area opened up and Francis physically offered a CBP officer a G-28 form. He refused to take it. My team got no other responses from CBP throughout the rest of the night.

9. The following morning, Sunday, January 29, between 6 AM and 8:22 AM, I tried to draw attention to this case and get publicity for the family in order to see if anyone could get through to CBP to learn more about what was happening to them. By that time, nearly 24 hours had passed since the parents had landed, yet neither their family nor their attorneys had been permitted to see or communicate with them. I could see that the family was increasingly anxious as the 8:55 AM hour approached, worried that the detainees would be sent back to Iran. The detainees’ daughter was crying and shaking with worry and concern for her parents.

10. At 7 AM, I called CBP and a male officer answered. I asked if the detainees were there, and he said that they were, but that he could not give me any other

information. I asked to speak to a supervisor, and he said a supervisor was not available. He said he could not give me any information. I told him I had the detainees' family with me, but he still refused. At this point, the temporary stay order had already been issued, but the officer still refused to give me information about whether the original plan to remove the detainees on the 8:55 AM flight was still in place or had been suspended. I told him that he was in violation of the stay. He responded, "Okay." He would not give me any other information other than confirming that the detainees were still physically there.

11. At approximately 8:25 AM, CBP called the family and I answered the phone. The officer would not give me any information. I offered to send a G-28 and she said that that would not be possible. I put the phone on speaker for her to talk with the family, and I listened to the rest of the conversation. The detainees' daughter was crying and shaking. The officer told her to calm down, said that she had her parents in front of her, and that she had some questions for her. He asked her for her name, her job, and her date of entry. He asked multiple times how she got her green card. After these questions, she said she would call back and hung up. At no point did she tell her that the plan to put her parents on the 8:55 AM flight had changed in any way.

12. At approximately 10:19 AM, the detainee's daughter called CBP again and asked for an update. At this point, we still do not know whether the detainees were still in the airport or on a plane out of the country. Again, I listened to this conversation. He would not provide any information besides confirming that the detainees were still there.

13. At approximately 11:23 AM, we called again and asked for a supervisor. They refused. My team and I placed regular calls for the next few hours, roughly every sixty to ninety minutes.

14. At no point did CBP provide me or my team with any additional information about the detainees nor could we speak with them. Likewise, CBP would not provide the family with any additional information. From approximately 11:30 AM until 1:00 PM we continued to ask several local, statewide, and national elected officials to call CBP in order to determine the status of this case as we had no other mechanism to communicate with CBP.

15. At approximately 1:00 PM, with no prior warning to my team or to the family, the detainees were released.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 30, 2017.

/s/ Elica Sara Vafaie  
Elica Sara Vafaie

## DECLARATION OF MARTIN VALKO

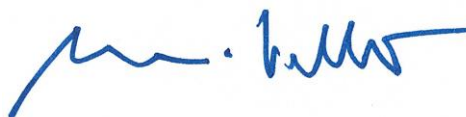
I, Martin Valko, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that the following is true and correct:

1. My name is Martin Valko, and I am a member of the State Bar of Texas. I am employed as a Partner at Chavez & Valko, LLP, an immigration law firm in Dallas, Texas. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On Saturday, January 28, 2017, at or about 1:30 PM I was contacted by the family of [REDACTED], a [REDACTED] year-old Sudanese woman, who was expected to land in Dallas earlier that day on an international flight from Dubai on Emirates Airlines.
3. She was planning to enter the U.S. for a period of two months to visit her three (3) U.S. citizen children and their families, using her valid B-2 visitor's visa.
4. The family received a call from [REDACTED] who informed them that she is being detained by the Customs and Border Protection officers at the Dallas-Fort Worth International Airport (DFW Airport) as a result of President Trump's Executive Order, issued on January 27, 2017, entitled "Protecting the Nation from Foreign Terrorist Entry Into the United States" [hereinafter "EO"].
5. [REDACTED] family informed that she was suffering from diabetes and was required to use insulin, high blood pressure, severe kidney stones, and that both of her legs were swollen as a result of a medication she was taking for her kidney stones. She was assisted by the airport personnel off the flight by using a wheel chair. Moreover, [REDACTED] did not speak English.
6. I immediately drafted a request for [REDACTED] release based on her medical conditions addressed to the CBP Port Director Cleatus Hunt, Jr., at the DFW Airport. I then made numerous attempts to send the request along with a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative (used by USCIS) to Director Hunt by using the facsimile number 972-870-7553 from the [www.cbp.gov](http://www.cbp.gov) website, however unsuccessfully.
7. I then drove to and arrived at the DFW Airport at around 6:30 PM to hand-deliver the request for Ms. [REDACTED] release. The duty officer at the Arrivals area of Terminal D refused to accept the request



documents, and refused to answer any questions about Ms. [REDACTED] condition or whereabouts despite me identifying myself to her as Ms. [REDACTED] s attorney.

8. After repeated requests, the duty officer allowed me to speak to a Shift Supervisor who similarly provided me with no additional information, refused me to see my client, and assured me that Ms. [REDACTED] was cared for, and that she would be provided with any medical attention or medication.
9. During the time that I was at the DFW Airport, I learned that as many as nine (9) foreign nationals were being held at the CBP office. I also learned that a nationwide injunction was granted in *Darweesh v. Trump*, 17-cv-480, a case in the Eastern District of New York which resulted in a nationwide temporary stay of removals pursuant to the EO in the same case.
10. When I returned to the CBP office speak to the Shift Supervisor, the doors were locked. There was no answer after my numerous attempts to loudly knock on the door.
11. I learned shortly thereafter from persons that were admitted into the U.S. that CBP was coercing my client as well as others detainees to withdraw their requests for admission. My client told her family that she was told by CBP that she would be deported from the U.S. and returned if she did not sign the withdrawal, and that she would barred from entering the U.S. for a period of five years. My client, without knowing the legal ramifications of her actions, signed the presented document.
12. Her children and family relatives at the airport were devastated that they would not see their elderly, ailing mother, and that she would have to endure the more than 25+ hour trip back to Sudan. They were distraught because they did not receive any official update about her whereabouts and condition.
13. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief. Executed this 31st day of January, 2017, in Dallas, Texas.



---

Martin Valko, Esq.

1 Carmen Iguina (CA SBN #277369)  
2 Jennifer Pasquarella (CA SBN #263241)  
3 Ahilan Arulanantham (CA SBN# 237841)  
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7 Los Angeles, CA 90017  
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10 Email: [ciguina@aclusocal.org](mailto:ciguina@aclusocal.org)

11 Stacy Tolchin (CA SBN #217431)  
12 Megan Brewer (CA SBN#268248)  
13 Law Offices of Stacy Tolchin  
14 634 S. Spring St., Suite 500A  
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17 Facsimile: (213) 622-7233  
18 Email: [Stacy@Tolchinimmigration.com](mailto:Stacy@Tolchinimmigration.com)  
19 Email: [Megan@Tolchinimmigration.com](mailto:Megan@Tolchinimmigration.com)

20 [REDACTED]  
21 [REDACTED]

22 [REDACTED],

23 *Petitioner,*

24 v.

25 [REDACTED]

26 *Respondents.*

27 Case No. [REDACTED]

28 **Declaration of Marjan Vayghan  
in Support of Petitioner's  
Amended Application for Ex  
Parte Temporary Restraining  
Order**

1  
2 I, Marjan Vayghan, hereby declare and state the following:

3 1. I make this declaration based on my own personal knowledge, and if  
4 called on could testify to the following facts.

5 2. My uncle, [REDACTED], is the Petitioner in this action.

6 3. I moved to the U.S. from Iran when I was in third grade. My father  
7 emigrated in 1991, and my mother and I came in 1994. We have lived in West Los  
8 Angeles ever since. I still live in the same apartment building we moved into when  
9 I arrived. My father works as a plumber. My mother teaches pre-school in a  
10 Christian church. I am an artist and a curator.

11 4. My uncle is an Iranian citizen. He has had a visa for permanent legal  
12 residence approved by the U.S. last year, based on his son, a U.S. citizen who lives  
13 in Indiana. His son is a nurse, but has been attending medical school. He has not  
14 seen his father in twelve years. My uncle's wife has already immigrated -- she  
15 arrived about four months ago and is in Indiana.

16 5. My uncle left for the United States on January 27, 2017, intending to  
17 immigrate pursuant to his previously approved visa. Upon arriving at Los Angeles  
18 International airport ("LAX") at about 7:15 p.m., he was detained and informed that  
19 his visa was cancelled, and that he would be returned to Iran. He was put on a flight  
20 yesterday afternoon to Dubai scheduled to depart at about 3:35 pm. I believe that at  
21 the time this case was filed, he was still on the ground in Los Angeles.

22 6. My uncle arrived in Dubai at about 7 a.m. on Sunday, Dubai time. My  
23 father spoke with him soon after he arrived. He said that United States officials and  
24 airport police were working together and had confiscated his passport. He said that  
25 he asked for repeatedly for his passport and was told they did not understand, as my  
26 uncle speaks Farsi and does not speak Arabic. When he asked for a translator, the  
27 police slapped him, and then proceeded to beat him.

1           7. I called various offices in the Dubai airport trying to find information about  
2 my uncle's situation. I eventually spoke with a woman who told me she worked in  
3 the office in the airport responsible for deportations. She knew my uncle's case as  
4 soon as I spoke with her, and said he was right there with her, although she told me  
5 I could not speak with him. She told me they were under orders from U.S.  
6 government not to allow my uncle to board a flight back to Los Angeles or the United  
7 States. She said that he must be sent back to Tehran and that his passport won't be  
8 given back to him until he is back in Iran.

9           8. Sometime later, I spoke with my uncle. He was crying. I have never heard  
10 him cry before. He told me about being beaten in Dubai. He also said he was not  
11 given food or a place to sleep the entire time he was at LAX, more than 18 hours.  
12 He said CBP officials in LAX made him sign a piece of paper. He does not speak or  
13 read English and said he didn't not know what the paper was and wouldn't sign it.  
14 He was told that the paper said he was leaving voluntarily. He initially refused  
15 because he was not leaving voluntarily, but was told he had to sign, so he did. He  
16 told my father that he refused to get on the plane to Dubai and that U.S. officials had  
17 to physically carry him on.

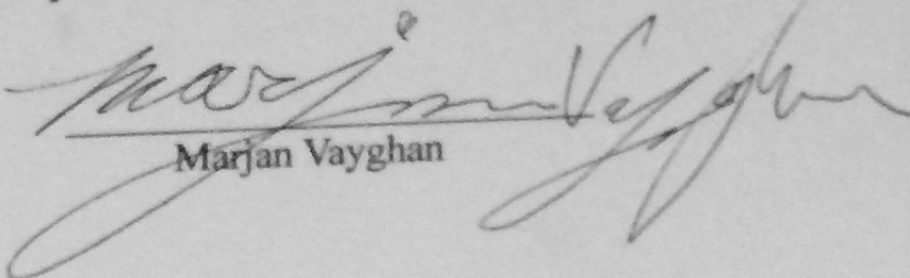
18           9. He told me he is desperately afraid about being returned to Iran. He said  
19 he asked to be sent anywhere but Iran, but was told that the U.S. government said he  
20 had to go to Iran. After the Executive Orders, Iran has passed laws to retaliate against  
21 the U.S., such as barring U.S. citizens for entering. We fear that because my uncle  
22 tried to emigrate to the U.S., the Iranian government will retaliate against him  
23 because of the anti-U.S. sentiment. We are also afraid because my father and I gave  
24 a number of media interviews with Reuters and other news agencies comparing the  
25 new U.S. policies to oppressive policies in Iran, saying that the new policies are what  
26 we expected of oppressive government in Iran.  
27  
28

Iran, saying that the new policies are what we expected of oppressive government in Iran.

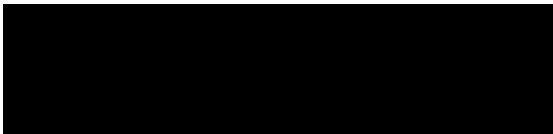
10. I am afraid for my uncle's safety in the custody of airport police and CBP in Dubai. I am also afraid that if he is sent to Tehran, the Iranian government will imprison him or worse.

I hereby swear under the laws of the United States and California that the foregoing is true and correct to the best of my knowledge.

Executed on this 29th day of January in Los Angeles, California.

  
Marjan Vayghan

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK



on behalf of themselves and others similarly situated,

*Petitioners,*

v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; JAMES T. MADDEN, New York Field Director, CBP,

*Respondents.*

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Case No. 

**DECLARATION OF CHRISTOPHER O. DACHNIWSKY**

1. My name is Christopher O. Dachniwsky. I am of legal age and otherwise competent to make this declaration. All of the facts stated in this declaration are true and correct and are of my personal knowledge.

2. I graduated from Columbia Law School in 2015, and was first licensed to practice law in the State of Texas in 2015. I remain licensed in Texas, and have been admitted to practice in the United States District Court for the Northern District of Texas.

3. On January 29, 2017, I volunteered my time and services at the Dallas Fort Worth International Airport (“DFW”), seeking to aid the individuals detained by DHS and CBP

pursuant to the executive order signed by President Trump at 4:42 p.m. EST on Friday, January 27, 2017.

4. While volunteering at DFW, I accompanied a team of immigration attorneys to the CBP office to observe their attempts to contact their clients, and to assist in any way that I could. I observed the attorneys, including Patricia Freshwater and Carrie Nguyen, attempt to file G-28 Notices of Entry of Appearance as Attorney or Accredited Representative on behalf of three detainees with whom they had pre-existing attorney-client relationships. One of these three detainees was an eleven-month old U.S. Citizen traveling with her mother, who has lawful permanent resident status in the U.S..

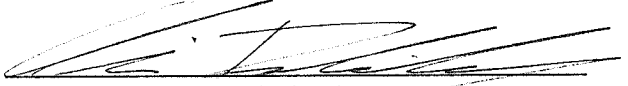
5. I observed Officer Hopkins of the CBP, who declined to give her first name, refuse to accept the G-28 forms from any of the attorneys present. I observed Officer Hopkins refuse to summon a supervisor to explain the situation, and I observed Officer Hopkins pull a non-uniform sweater over her uniform after it became clear that she was being recorded on video. Officer Hopkins refused to give substantive answers to any questions submitted by the attorneys, eventually refusing to say anything other than “no comment.”

6. The father of the eleven-month old U.S. Citizen was present in the CBP office when attempts were made to reach the child, and his presence was not acknowledged by CBP officers. He was not allowed to see or speak to his infant child.

7. I took a video of the attorneys’ attempt to reach their clients, and the CBP’s refusal to accept the same, on my cellphone and broadcast it live via my personal Facebook page. A copy of that video is attached hereto in a CD marked **Exhibit A**.

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

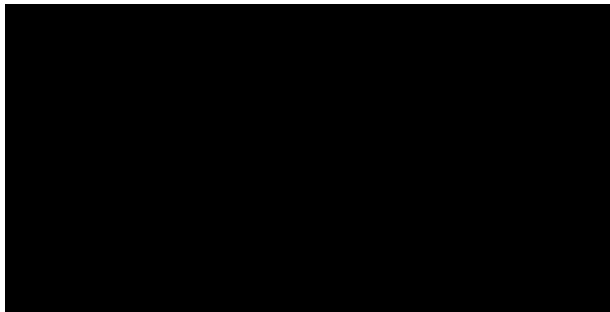
Executed: January 30, 2017.



Christopher O. Dachniwsky



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK



Case No. 

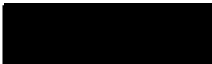


v.

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP.

Date: January 31, 2017

*Respondents.*

I, Daniele Flavia Chagas Volfe, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that the following is true and correct:

1. My name is Daniele Flavia Chagas Volfe, and I have been a member of the State Bar of New York since 2012. I am employed as an Associate Attorney at Schwamkrug, Freshwater & Lopez PLLC. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. On January 29, 2017, I volunteered as a pro bono attorney at the Dallas Fort Worth International Airport [hereinafter “DFW”], attempting to assist individuals detained as a result of President Trump’s Executive Order, issued on January 27, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States” [hereinafter “EO”].
3. My client,  traveled to the United States on a B1/B2, tourist visa on January 28, 2017. She is a -year-old citizen of Syria.  and her husband have been lawfully residing


in Saudi Arabia since around 1998. [REDACTED] was granted an investor's visa in Saudi Arabia and her husband, [REDACTED], was granted a work visa in Saudi Arabia.

4. T [REDACTED], DOB [REDACTED], consented to my representation of his mother, [REDACTED] before the U.S. Department of Homeland Security, Customs and Border Protection [hereinafter "CBP"], as I was not allowed access to my client to obtain her consent directly. Immigration attorney Jaime Trevino represented [REDACTED]'s husband.
5. [REDACTED] traveled to the United States with her husband to visit her two sons who are currently living in the United States. [REDACTED] and her husband arrived at DFW airport on flight number EK 221 on January 28, 2017 at approximately 8:40am and were detained in Terminal D by CBP until January 29, 2017 approximately 3:30pm. They were detained for approximately 30 hours by CBP at DFW airport before being released.
6. During the time that [REDACTED] was detained, her son, [REDACTED], consented to my representation of [REDACTED] before CBP. He signed a Form G-28 Notice of Entry of Appearance as Attorney or Accredited Representative [hereinafter "Form G-28"] on behalf of his mother, since I did not have access to [REDACTED] to obtain her signature.
7. On January 29, 2017, I, along with a group of other attorneys, attempted to file my signed Form G-28s for these clients with CBP Officer Hopkins, who was stationed at the desk in the CBP reception area at DFW. Officer Hopkins first told us that attorneys were not allowed to see or speak with the individuals being detained by CBP. She told us that she would not accept a Form G-28 for any of the detained individuals. We requested to speak with a supervisor, but our request was refused. Officer Hopkins told the attorneys that we needed to leave the reception area. She began responding to all attorney questions with "no comment". Finally, she began to completely ignore all inquiries from attorneys representing detained clients.
8. [REDACTED] was contacted by CBP about his mother's release from detention on January 29, 2017 at approximately 3:30pm. He was finally reunited with his mother around 5pm on Sunday,

January 29, 2017. CBP prevented me from communicating with [REDACTED] regarding her legal representation during her detention at the Dallas Fort-Worth International Airport.

Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief.

Executed this 31<sup>st</sup> day of January, 2017, at Dallas, Texas.



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Daniele Flavia Chagas Volfe