

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

HAMEED KHALID DARWEESH, et al.,

Petitioners,

and

PEOPLE OF THE STATE OF NEW YORK, by
ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL OF
THE STATE OF NEW YORK,

Intervenor-Plaintiff,

v.

DONALD TRUMP, President of the United States, et al.,

Respondents.

Civil Action No.
1:17-cv-00480

(Amon, J.)

**BRIEF OF BROWN UNIVERSITY, CARNEGIE MELLON UNIVERSITY,
UNIVERSITY OF CHICAGO, COLUMBIA UNIVERSITY, CORNELL UNIVERSITY,
DARTMOUTH COLLEGE, DUKE UNIVERSITY, EMORY UNIVERSITY, HARVARD
UNIVERSITY, JOHNS HOPKINS UNIVERSITY, MASSACHUSETTS INSTITUTE OF
TECHNOLOGY, NORTHWESTERN UNIVERSITY, UNIVERSITY OF
PENNSYLVANIA, PRINCETON UNIVERSITY, STANFORD UNIVERSITY,
VANDERBILT UNIVERSITY, AND YALE UNIVERSITY
AS *AMICI CURIAE* IN SUPPORT OF THE RELIEF SOUGHT BY PLAINTIFFS**

TABLE OF CONTENTS

INTERESTS OF *AMICI*1

INTRODUCTION AND SUMMARY OF ARGUMENT5

ARGUMENT7

I. International Students, Faculty, and Scholars Are Vitaly Important to *Amici*, the United States, and the World More Generally.....7

 A. Each *Amicus* is Home to a Significant Number of Students, Faculty, and Scholars who are Citizens of Other Nations.8

 B. These International Students, Faculty, and Scholars Contribute to *Amici*'s Campuses in a Variety of Ways.....14

 C. The Enrollment and Employment of International Students, Faculty, and Scholars at *Amici* Universities Benefits the United States and the World More Generally.16

 D. *Amici* Endeavor to Attract the Best Students, Faculty, and Scholars from Around the World.20

II. The Executive Order Harms Students, Faculty, Scholars, and Universities.....23

CONCLUSION.....30

INTERESTS OF *AMICI*

Amici are Brown University, Carnegie Mellon University, University of Chicago, Columbia University, Cornell University, Dartmouth College, Duke University, Emory University, Harvard University, Johns Hopkins University, Massachusetts Institute of Technology, Northwestern University, University of Pennsylvania, Princeton University, Stanford University, Vanderbilt University, and Yale University. Each *amicus* has a global mission, and each derives immeasurable benefit from the contributions of diverse students, faculty, and scholars from around the world. Because *amici* seek to educate future leaders from nearly every continent, attract the world's best scholars, faculty, and students, and work across international borders, they rely on the ability to welcome international students, faculty, and scholars into their communities. The Executive Order at issue in this case threatens that ability, and creates significant hardship for *amici*'s valued international students, faculty, and scholars.

Amici highly value the contributions of international students, faculty, and scholars, as well as cross-border engagement:

Brown University has undertaken, as its mission, service to “the community, the nation, and the world by discovering, communicating, and preserving knowledge and understanding in a spirit of free inquiry, and by educating and preparing students to discharge the offices of life with usefulness and reputation.”

Carnegie Mellon University seeks to “build on leadership in world-class education and research outside the borders of a traditional university campus; focus on continued international engagement, and deeper and broader incorporation of the full CMU experience around the world.”

The University of Chicago states that “[d]iversity for the University is . . . particularly germane to our core perspective. We must ensure that our scholarly community is composed of a

rich mix of individuals who, through their own distinctive viewpoints, contribute to the intellectually challenging culture of the University.”

Columbia University “seeks to attract a diverse and international faculty and student body, to support research and teaching on global issues, and to create academic relationships with many countries and regions. It expects all areas of the university to advance knowledge and learning at the highest level and to convey the products of its efforts to the world.”

Cornell University “aims, through public service, to enhance the lives and livelihoods of [its] students, the people of New York, and others around the world,” and promotes “a culture that encourages global engagement—to expand multicultural knowledge and international understanding across the entire Cornell community: in Ithaca, New York City, and the world.”

Dartmouth College counts among its core values “embrac[ing] diversity with the knowledge that it significantly enhances the quality of a Dartmouth education,” as well as “foster[ing] lasting bonds among faculty, staff, and students, which encourage a culture of integrity, self-reliance, and collegiality and instill a sense of responsibility for each other and for the broader world.”

Duke University “promotes acquisition of knowledge in the service of society through an expansive view of global citizenship, which embraces freedom of inquiry, innovation without boundaries, and strength through diversity. . . . Duke is committed . . . to find solutions to global challenges and the education of leaders to understand and address those challenges.” Duke further states that “[s]ince talent pools are now transnational, a university must draw the most powerful and creative minds from around the world to stay at the forefront of discovery.”

Emory University’s “mission is to create, preserve, teach, and apply knowledge in the service of humanity,” and Emory “welcomes a diversity of ethnic, cultural, socioeconomic,

religious, national, and international backgrounds, believing that the intellectual and social energy that results from such diversity is critical to advancing knowledge.”

Harvard University “is devoted to excellence in teaching, learning, and research, and to developing leaders in many disciplines who make a difference globally.”

Johns Hopkins University’s mission is “[t]o educate its students and cultivate their capacity for lifelong learning, to foster independent and original research, and to bring the benefits of discovery to the world.”

Massachusetts Institute of Technology sets as its mission to “advance knowledge and educate students in science, technology, and other areas of scholarship that will best serve the nation and the world in the 21st century” and it is “committed to generating, disseminating, and preserving knowledge, and to working with others to bring this knowledge to bear on the world’s greatest challenges.”

Northwestern University “is committed to excellent teaching, innovative research and the personal and intellectual growth of its students in a diverse academic community.”

Princeton University “advances learning through scholarship, research, and teaching of unsurpassed quality, with an emphasis on undergraduate and doctoral education that is distinctive among the world’s great universities, and with a pervasive commitment to serve the nation and the world.”

The University of Pennsylvania states that its “roots are in Philadelphia, the birthplace of American democracy. But Penn’s reach spans the globe. . . . Penn research and teaching encourage lifelong learning relevant to a changing global society.”

Stanford University “welcomes and embraces students and scholars from around the world who contribute immeasurably to our mission of education and discovery.”

Vanderbilt University “is a center for scholarly research, informed and creative teaching, and service to the community and society at large. . . . In pursuit of these goals, Vanderbilt values most highly intellectual freedom that supports open inquiry, equality, compassion, and excellence in all endeavors.”

Yale University “is committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice. Yale educates aspiring leaders worldwide who serve all sectors of society. We carry out this mission through the free exchange of ideas in an ethical, interdependent, and diverse community of faculty, staff, students, and alumni.”

In light of the importance of international students, faculty, and scholars to *amici* and their educational missions, *amici* have a strong interest in ensuring that individuals from around the globe can continue to enter the United States and become members of *amici*’s academic communities who share their unique skills and perspectives with *amici*’s other students, faculty, and scholars. *Amici* similarly have a strong interest in the ability of their students, faculty, and scholars to travel abroad to enhance their research and studies. *Amici* therefore submit this brief in support of the relief sought by Plaintiffs.

INTRODUCTION AND SUMMARY OF ARGUMENT

While each *amicus* is located in the United States, *amici*'s missions and reach are truly global: they educate, employ, conduct research, and collaborate with students, faculty, and scholars from all over the world—individuals who speak different languages, practice different religions, and have wide-ranging life experiences that illuminate *amici*'s campuses and support their academic missions. These international students, faculty, and scholars, make significant contributions to their fields of study and to campus life by bringing their unique perspectives and talents to *amici*'s classrooms, laboratories, and performance spaces. These individuals also contribute to the United States and the world more generally by making scientific discoveries, starting businesses, and creating works of literature and art that redound to the benefit of others far beyond *amici*'s campuses. So too, by studying in the United States, these international students, faculty, and scholars gain a greater understanding of and appreciation for the values we hold dear, including democratic principles, respect for the rule of law, and the values of tolerance and human rights, which they may then bring to their home countries. Recognizing the invaluable contributions of international students, faculty, and scholars, *amici* make significant efforts to attract the most outstanding and talented individuals from around the globe.

The Executive Order at issue here threatens *amici*'s continuing ability to attract these individuals and thus to meet their goals of educating tomorrow's leaders from around the world. On January 27, 2017, President Donald J. Trump signed Executive Order 13769, entitled "Protecting the Nation from Foreign Terrorist Entry Into the United States." See 82 Fed. Reg. 8977 (2017). Among other things, the Order "suspend[s]" for a period of 90 days "immigrant and nonimmigrant entry into the United States of aliens" from seven countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Executive Order § 3(c). Although the Order excludes certain

visa-holders, it applies to individuals with the categories of visas most commonly relied upon by *amici*'s students, faculty, and scholars from around the world. *Id.* The Order also suspends for a period of 120 days the Refugee Admissions Program, and suspends indefinitely the admission of refugees from Syria. *Id.* § 5(a), (c).

While the Executive Order is currently limited to seven countries, its damaging effects have already been widely felt by American universities. When the Executive Order went into effect, the 90-day suspension of entry left some of *amici*'s students, faculty, and scholars stranded abroad, while others were unable to leave the United States to travel to their home countries or elsewhere for field research, academic meetings, and family and personal obligations. Prospectively, the Order threatens *amici*'s ability to attract the best students, faculty, and scholars from throughout the globe, who depend on the ability to leave and return to this country. The uncertainty generated by the Order and its implementation is already having negative impacts well beyond persons from the seven affected countries. People from all over the world are understandably anxious about having their visas prematurely canceled through no fault of their own. Individuals scheduled to attend academic conferences are uncertain whether they can attend, and many may have to cancel. Comments by high-ranking Executive Branch officials have suggested that the Order could be extended to other countries, heightening institutional anxiety.¹ This casts doubt on the prospect and value of studying and working here for everyone.

These costs are significant and directly affect *amici*'s ability to pursue their missions. And they are being experienced absent any evidence that *amici*'s lawfully-present students, faculty, and

¹ See Face the Nation Transcript, January 29, 2017: Priebus, McCain, Ellison, CBS News (Jan. 29, 3:21PM), <http://www.cbsnews.com/news/face-the-nation-transcript-january-29-2017-priebus-mccain-ellison/> (White House Chief of Staff Reince Priebus: "Now, you can point to other countries that have similar problems, like Pakistan and others. Perhaps we need to take it further.").

scholars—all of whom have already undergone significant vetting by the government—pose any threat to the safety or security of the United States or *amici*'s campuses.

For these reasons, the presidents of 48 leading American colleges and universities recently explained that the Executive Order “threatens both American higher education and the defining principles of our country.”² Accordingly, *amici* respectfully submit this brief in support of the relief sought by Plaintiffs.

ARGUMENT

I. International Students, Faculty, and Scholars Are Vitally Important to *Amici*, the United States, and the World More Generally.

Amici's ability to foster rich educational environments depends in large part on their ability to attract students, faculty, and scholars from around the globe. The international members of *amici*'s communities contribute to the vibrant campus life, world-class educational offerings, and research and discoveries for which *amici* are well known. The contributions of these individuals redound to the benefit not only of the other members of *amici*'s campus communities, but also to the United States, and the world, more generally.

² See Letter from College and University Presidents to President Trump (Feb. 2, 2017), <http://www.princeton.edu/president/eisgruber/docs/Presidents-Letter-Immigration.pdf>.

A. Each *Amicus* is Home to a Significant Number of Students, Faculty, and Scholars who are Citizens of Other Nations.

In the 2015-16 academic year, United States universities welcomed more than one million international students.³ Such students now account for more than 5% of enrollment at United States institutions of higher learning.⁴

Amici's campuses reflect this trend. Each is home to a large number of international undergraduates, graduate students, faculty, and scholars—including nationals of the seven countries affected by the Executive Order.⁵ For example, in fall 2016, Columbia University enrolled 1,416 international undergraduates; this number makes up 16% of Columbia's undergraduate population.⁶ Also last fall, Columbia had 19,549 students enrolled in its graduate and professional schools, of whom 7,571 (38.7%) are non-resident aliens. At Duke, out of 6,449 undergraduate students, 10% are international, and out of 8,383 graduate students, 47% of students

³ Sara Custer, *Open Doors: U.S. Surpasses 1 Million International Students*, The Pie News (Nov. 14, 2016), <https://thepienews.com/news/open-doors-us-surpasses-1-million-international-students/?platform=hootsuite>; see also Molly Land & Kathryn Libal, *Trump is Undermining Higher Education as a Global Enterprise*, The Chronicle of Higher Education (Jan. 31, 2017), http://www.chronicle.com/article/Trump-Is-Undermining-Higher/239060?cid=cr&utm_source=cr&utm_medium=en&elqTrackId=9f54cb64fc4f4628b3c5646ff18edfae&elq=671fb5560b2445c49756cfe8e9c9de0b&elqaid=12459&elqat=1&elqCampaignId=5067.

⁴ Sara Custer, *Open Doors*, *supra*.

⁵ A significant number of *amici*'s students, faculty, and scholars are lawful permanent residents ("LPRs"), including LPRs from the seven countries affected by the Executive Order. Although some LPRs initially were detained under the Executive Order, the government subsequently clarified that the Order's 90-day suspension of entry does not apply to LPRs. See Memorandum From Donald F. McGahn II, Counsel to the President, the Acting Secretary of State, the Acting Attorney General, and the Secretary of Homeland Security Re: Authoritative Guidance on Executive Order Entitled "Protecting the Nation from Foreign Terrorist Entry into the United States," (Feb. 1, 2017), <https://assets.documentcloud.org/documents/3443352/Aziz-v-Trump-Exhibit-McGahn-Memo.pdf>. But see *Washington v. Trump*, No. 17-35105, ___ F.3d ___, 2017 WL 526470, at *8 (9th Cir. Feb. 9, 2017) (questioning whether this guidance is binding).

⁶ http://www.columbia.edu/cu/opir/abstract/opir_enrollment_ethnicity_1.htm.

are international.⁷ The numbers at Princeton are similar: in the 2016-17 academic year, 640 or 12.2% of Princeton's undergraduates are international, as are 1,168, or 42%, of its graduate students.⁸ So too for the University of Pennsylvania: there, 4,859 international students were enrolled at all levels in fall 2016, including 13% of the incoming freshman class⁹ and more than a quarter of the university's graduate students.¹⁰ Of particular note, 11% of Penn's undergraduate international students are from the Middle East or Africa.¹¹ As of October 2016, Stanford University enrolled 4,164 international students, comprising 24% of the student population. This includes 37 undergraduates and 198 graduate students from the Middle East and North Africa.¹² The numbers for the other *amici* are similar.¹³

⁷https://visaservices.duke.edu/forms_and_documents/document_files/statistics/scholars/Scholars_OpenDoors2015-2016.pdf; *see also* https://duke.edu/about/duke_at_glance.pdf

⁸ https://registrar.princeton.edu/university_enrollment_sta/opening_enrollment.pdf

⁹ <http://www.upenn.edu/about/facts>

¹⁰ http://diversity.upenn.edu/diversity_at_penn/facts_figures/

¹¹ <http://www.upenn.edu/about/facts>

¹² <http://facts.stanford.edu/academics/undergraduate-profile>;
<http://facts.stanford.edu/academics/graduate-profile>

¹³ In fall 2016, more than 12% of Brown's undergraduate students and 36% of graduate students identified as international. *See* <https://www.brown.edu/about/administration/institutional-research/factbook/enrollment>. Carnegie Mellon's student enrollment in the United States was 41% international during the same time period, with 136 students hailing from the Middle East. So too, 12% of the University of Chicago's undergraduate students were international, as were 31% of the University's graduate and professional school students. https://registrar.uchicago.edu/sites/registrar.uchicago.edu/files/uploads/Autumn%202016%20Census_2016_1103.pdf. At Cornell, international students comprised 10% of undergraduates, 48% of graduate students, and 30% of professional school students in fall 2015. <http://www.cornell.edu/about/facts.cfm>. Dartmouth counts 9% of its undergraduate students and 29.4% of its graduate students as international. <http://dartmouth.edu/dartmouth-glance>. Northwestern University is home to 5,363 international students. <https://issuu.com/interoff/docs/2016iostatsfinal>. In the 2014-15 academic year, more than 10% of Harvard college graduates were non-resident aliens, as were 35% of graduates of the Graduate School of Arts and Sciences. <http://oir.harvard.edu/fact-book/degrees-awarded-demographics>. At MIT, 40% of graduate students and 10% of undergraduate students are international. <http://web.mit.edu/facts/enrollment.html>. In the fall of 2016, 3,289 international students were enrolled in MIT degree programs. <http://web.mit.edu/facts/international.html>. At Stanford, nearly 9% of undergraduates and 33.5% of graduate students are international.

Amici also benefit from the contributions of a significant number of international faculty, and scholars. For example, at Princeton, an astonishing 343 (or 30%) of 1,152 faculty appointees are international (including 245 lawful permanent residents). In addition, 50% of Princeton's academic professionals (550 of 1,102 professional researchers, postdoctoral fellows, specialists, and professional librarians), and 50% of Princeton's visiting faculty and researchers (221 of 441) are international (again including lawful permanent residents). The University of Chicago counts as international (including lawful permanent residents) 24% of its faculty and other academic appointees, as well as 65% of its postdoctoral researchers and 10% of its staff members. Columbia employs nearly 4,000 full-time faculty, of whom 188 (4.7%) are non-resident aliens;¹⁴ at Penn, that proportion is 1.3%.¹⁵ Almost 1,000 members of Columbia's non-instructional staff, or approximately 8%, are non-resident aliens.¹⁶ At Cornell, 5.1% of faculty are international, as are 26.4% of other academic employees and postdocs.¹⁷ Brown counts more than 3% of its faculty as international.¹⁸ Yale's faculty is 10% international, and approximately 65% of its postdoctoral research community is from outside of the United States. Northwestern is home to 1,534 international scholars, in positions from postdoctoral scholars to researchers and faculty.¹⁹

<http://facts.stanford.edu/academics/undergraduate-profile>;
<http://facts.stanford.edu/academics/graduate-profile>. In the fall of 2016, Vanderbilt University's undergraduate student population was 7.6% international students, <https://protect-us.mimecast.com/s/wXYXBKCKWw8ZCn?domain=vanderbilt.edu>, and its graduate school population was 23.2% international students, <https://protect-us.mimecast.com/s/ar9rBAFA2x7vFD?domain=gradschool.vanderbilt.edu>. 4,462 international students, faculty, and scholars call Yale their home—including 11% of undergraduates, and 20% of the overall student population. <http://www.yale.edu/about-yale/yale-facts>.

¹⁴ http://www.columbia.edu/cu/opir/abstract/opir_faculty_ethnicity_1.htm

¹⁵ http://diversity.upenn.edu/diversity_at_penn/facts_figures/

¹⁶ http://www.columbia.edu/cu/opir/abstract/opir_fulltime_employee_1.htm

¹⁷ http://irp.dpb.cornell.edu/tableau_visual/diversity-composition-dashboard

¹⁸ <https://www.brown.edu/about/administration/institutional-diversity/progress-and-data-analysis/data-and-analysis/representation-faculty-color>

¹⁹ <https://issuu.com/interoff/docs/2016iostatsfinal>

Carnegie Mellon counts a full 14.8% of its faculty as international, with 20 faculty members from the Middle East. Emory employs over 2,000 full-time instructional staff, of whom 5% are non-resident aliens; in addition, 34% of Emory's 944 full-time research staff are nonresident aliens. Finally, at Duke, 8% of the faculty are international.²⁰

Moreover, *amici's* international students, faculty, and scholars include persons from the seven countries affected by the Executive Order. For example, Princeton had six affected students and scholars outside of the country when the Order was issued, and has an additional 45 students and employees unable to, or discouraged from, leaving the U.S. because the Order may prevent them from returning. Princeton's graduate school received approximately 150 applications for fall 2017 alone (and more than 700 applications in the past five years) from students from the seven affected countries. Brown has 22 students and scholars affected by the Order, including individuals from five of the seven affected countries. Penn has three undergraduate students and two students admitted for the Class of 2021 from the countries covered by the Executive Order. Fifteen students, scholars, and staff at Dartmouth are nationals of Iran or Iraq. The University of Chicago has 23 students from Iran, as well as one student from Syria and a recent graduate from Syria who is employed under Optional Practical Training and University sponsorship.²¹ Northwestern is home to 45 students and 22 scholars from Iran, as well as two students from Syria, one from Sudan, and one from Yemen. Carnegie Mellon has 26 students and 7 faculty and scholars

²⁰https://visaservices.duke.edu/forms_and_documents/document_files/statistics/scholars/Scholars_OpenDoors2015-2016.pdf

²¹ "Optional Practical Training (OPT) is temporary employment that is directly related to an F-1 student's major area of study. Eligible students can apply to receive up to 12 months of OPT employment authorization before completing their academic studies (pre-completion) and/or after completing their academic studies (post-completion)." U.S. Customs & Immigration Enforcement, *Optional Practical Training (OPT) for F-1 Students* (last updated Feb. 1, 2017), <https://www.uscis.gov/working-united-states/students-and-exchange-visitors/students-and-employment/optional-practical-training>.

at its Pittsburgh campus from the seven affected countries. And Duke currently has 41 individuals—enrolled as students or employed as postdoctoral fellows or faculty—from the seven countries affected by the Order. At the time the Order was issued, two were abroad. These are just a few of the universities where students, faculty, and scholars from the seven affected countries make invaluable contributions to *amici*'s communities.

Many of the international students who study at the *amici* universities, and the faculty and scholars who teach and conduct research there, are present on J-1 visas. This longstanding special non-immigrant visa program is meant to “foster[] global understanding through educational and cultural exchanges.”²² The J-1 Visa Program thus recognizes that by permitting international students, faculty, and scholars to study, conduct research, and teach in the United States, the U.S. can promote the exchange of ideas and stimulate international understanding and collaboration. To this end, the State Department’s website regarding the J-1 Visa Program expressly instructs visa recipients to “return to their home country . . . to share their exchange experiences.”²³ As discussed below, many do so—and the United States and the world reap benefits in a wide range of fields, including advances in medicine and science, equal treatment for women and religious minorities, and respect for democracy and the rule of law.

The United States makes other types of visas available to international students, faculty, and scholars as well. Many students attending full-time degree programs at universities rely on F-1 visas, which allow students to remain in the United States for as long as it takes to complete their

²² <https://j1visa.state.gov/basics/common-questions/>

²³ *Id.* The importance of the J-1 Visa Program is underscored by the existence of J-2 visas, which permit “spouses and dependents . . . of J-1 exchange visitors [to] accompany or later join the J-1 holder in the United States.” <https://j1visa.state.gov/basics/j2-visa/>

course of study, as well as to work on campus (and in some situations, off campus as well).²⁴ In addition, some university faculty, research scholars, and staff participate in the H-1B Visa Program, which permits U.S. employers to fill gaps in the existing labor force with highly skilled temporary workers from other countries.²⁵ A significant number of researchers are employed through H1-B visas, most notably for positions in technology and the sciences.²⁶ Some universities also use the O-1 Visa Program, which permits universities (among other employers) to petition for professors or researchers with extraordinary and demonstrated ability in the arts, sciences, education, business or athletics to come to the United States temporarily to continue work in their specified field.²⁷

Through these visa programs, the many international students, faculty, and scholars who make *amici*'s campuses their homes have been thoroughly vetted by the United States using existing procedures. As ten former high-ranking national security, foreign policy, and intelligence officials recently explained, “[s]ince the 9/11 attacks, the United States has developed a rigorous system of security vetting, leveraging the full capabilities of the law enforcement and intelligence communities”; “[t]his vetting is applied to travelers not once, but multiple times.”²⁸

²⁴<https://travel.state.gov/content/visas/en/study-exchange/student.html>;
<https://www.ice.gov/sevis/employment>

²⁵ <https://travel.state.gov/content/visas/en/employment/temporary.html>

²⁶ See, e.g., American Immigration Council, *Fact Sheet: The H-1B Visa Program: A Primer on the Program and Its Impact on Jobs, Wages, and the Economy* (Apr. 1, 2016), <https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet> (noting that “[n]early two-thirds of requests for H-1B workers are for STEM occupations. There is also high demand for workers in healthcare, business, finance, and life sciences industries.”).

²⁷ <https://travel.state.gov/content/visas/en/employment/temporary.htm>

²⁸ Joint Decl. of Madeline K. Albright, Avril D. Haines, Michael V. Hayden, John F. Kerry, John E. McLaughlin, Lisa O. Monaco, Michael J. Morell, Janet A. Napolitano, Leon E. Panetta, and Susan E. Rice ¶ 6, *Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 6, 2017), ECF No. 28-2 (hereinafter “Government Officials Declaration”).

Yet, despite this extensive vetting—and even though the Executive Order exempts certain narrow categories of visa holders (such as those with diplomatic visas)—the Order fully applies to the visa programs that permit *amici*'s students, faculty, and scholars to come to the United States. See Executive Order § 3(c). As a result, a number of visa holders who are students, faculty, or scholars at *amici* universities, and who the United States government has already determined do not pose a threat to this nation, were unable to leave or return to the country when the Executive Order went into effect. *Infra* at 23-24. In addition, following the Executive Order, the State Department “provisionally revoked” the visas of most visa holders from the seven affected countries.²⁹ While the Order’s implementation is currently stayed due to litigation in the Ninth Circuit, the Order by its terms affects a huge number of individuals who already have undergone significant security vetting,³⁰ including many students, faculty, and scholars on *amici*'s campuses.

B. These International Students, Faculty, and Scholars Contribute to *Amici*'s Campuses in a Variety of Ways.

The international students, faculty, and scholars who study or work on *amici*'s campuses make significant contributions to them. International diversity benefits members of *amici*'s communities by providing for regular interactions with individuals who come from different cultures and have had varied life experiences: a Muslim student from Iran brings something different to the seminar table than a Jewish professor from the Midwestern United States or a Christian graduate student from Western Europe. This diversity promotes the free exchange of ideas, encouraging individuals to consider issues from different perspectives, and giving students

²⁹ <https://travel.state.gov/content/travel/en/news/important-announcement.html>

³⁰ See Nicholas Kulish, Caitlin Dickerson, & Charlie Savage, *Court Temporarily Blocks Trump's Travel Ban, and Airlines Are Told to Allow Passengers*, N.Y. Times (Feb. 3, 2017), https://www.nytimes.com/2017/02/03/us/visa-ban-legal-challenge.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&_r=0.

and faculty a greater understanding of our global, pluralistic society. Moreover, when individuals from vastly different backgrounds who have had unique life experiences live and study together on the same university campus, this diversity increases understanding of all parts of the world.

It is for these reasons that the Supreme Court has held that universities have a compelling interest in obtaining the “educational benefits that flow from student body diversity.” *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411, 2419 (2013) (quoting *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003)). As this case law makes clear, “[t]he academic mission of a university is a special concern of the First Amendment,” and “[p]art of the business of a university [is] to provide that atmosphere which is most conducive to speculation, experiment, and creation.” *Id.* at 2418 (internal quotation marks omitted). A diverse student body contributes to this atmosphere by fostering “enhanced classroom dialogue” and “lessening . . . isolation and stereotypes.” *Id.* The Supreme Court has thus recognized that to “fulfill[] [their] mission[s],” universities must be able to recruit students (and, by extension, faculty and scholars) who will “contribute the most to the robust exchange of ideas.” *Grutter v. Bollinger*, 539 U.S. 306, 324 (2003) (quoting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 313 (1978)).

International diversity is similarly valuable. For many of *amici*’s students, enrollment in the university will be their first exposure to students, faculty, and scholars from other nations or who practice particular religions. Such exposure both in and outside of the classroom enriches students’ experiences and teaches them how to be sensitive to and collaborate across ethnic and religious differences. Moreover, international students, faculty, and scholars provide insight into the world’s current problems and potential solutions. For example, a student from Syria who has lived through the country’s ongoing civil war necessarily will have a unique perspective on the causes of that conflict and the extent and manner in which the rest of the world might help alleviate

it. So too, a student from Iraq may have specific thoughts on efforts at democratization in that country, whether those are expressed during classroom discussions, extracurricular activities, meetings of campus clubs or debate societies, or around the dinner table at a dining hall. These opportunities for cross-cultural understanding are integral to *amici*'s ability to provide some of the best undergraduate and graduate educational programs in the world.

International students, faculty, and scholars also contribute to *amici*'s campuses through their academic interests and achievements. For example, many of these individuals study, teach, and research in fields that are underpopulated by American-born students, faculty, and scholars, such as the sciences, technology, engineering, and mathematics ("STEM"). By one account, more than one third of international students during the 2015-16 year studied engineering, math or computer science, and 14% participated in F-1 Optional Practical Training, including many in STEM fields.³¹ Permitting these students and faculty to study and work at *amici* universities is particularly important given the pressing needs for scholarship and research in these fields.

C. The Enrollment and Employment of International Students, Faculty, and Scholars at *Amici* Universities Benefits the United States and the World More Generally.

The presence of international students, faculty, and scholars on *amici*'s campuses results in benefits to this country and many others above and beyond the benefits to *amici* and their students. International students, faculty, and scholars make significant scientific, technological, social, and political contributions to the United States and the world.

To begin, international students enrolled in United States universities, including *amici*, make significant contributions to the United States economy. One estimate provides that international students directly contributed \$32.8 billion to the United States economy and

³¹ See Sara Custer, *Open Doors, supra*.

supported or contributed to the creation of 400,000 American jobs in the 2015-16 academic year;³² others suggest that international students “inject hundreds of billions into the U.S. economy” and “support[] well over a million U.S. jobs.”³³

Those numbers are just the start, as many international students, faculty, and scholars who choose to remain in the United States become leading innovators, entrepreneurs, artists, and thought-leaders. For example, one study found that more than one third of United States innovators were born outside the country, and another ten percent have at least one foreign-born parent.³⁴ Another analysis concluded that “[i]mmigrants have started more than one half (44 of 87) of America’s startup companies valued at \$1 billion or more and are key members of management or product development teams in over 70 percent (62 of 87) of these companies.”³⁵ The Brief of Technology Companies and Other Businesses in the Washington litigation lays bare the compelling economic contributions of immigrants in this country.³⁶

The benefits from international students, faculty, and scholars at United States universities are not just economic. As noted above, these individuals make significant discoveries and contributions to their fields of study. Since 2000, forty percent of all American Nobel prize

³²NAFSA, NAFSA International Student Economic Value Tool, http://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/NAFSA_International_Student_Economic_Value_Tool/.

³³ Government Officials Declaration ¶ 5(g) (“The Order will affect many foreign travelers, particularly students, who annually inject hundreds of billions into the U.S. economy, supporting well over a million U.S. jobs.”).

³⁴ See, e.g., Adams Nager, et al., Information Technology & Innovation Found., *The Demographics of Innovation in the United States* (Feb. 24, 2016), <https://itif.org/publications/2016/02/24/demographics-innovation-united-states>.

³⁵ Stuart Anderson, Nat’l Found. for American Policy, *Immigrants and Billion Dollar Startups*, <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf>.

³⁶ See Brief of Technology Companies and Other Businesses As *Amici Curiae* in Support of Appellees, *Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 5, 2017), ECF No. 19-1.

winners in Chemistry, Medicine, and Physics have been immigrants—and in 2016, *all six* American winners of the Nobel Prize in economics and scientific fields were immigrants.³⁷ These awards “represent great individual achievement but also reflect the state of research, openness and scientific advancement within [American] society.”³⁸

Once again, *amici* have seen these successes up close. For example, in 2014, Maryam Mirzakhani was the first woman to win the Fields Medal, known as the “Nobel Prize of Mathematics.” Mirzakhani grew up in Iran before earning her Ph.D. at Harvard and becoming a professor at Princeton and then Stanford.³⁹ She has become an example of success and a role model for girls and women both in the United States and abroad. Professor Muawia Barazangi came to the United States from Syria for graduate study after earning his undergraduate degree from the University of Damascus; he earned a Ph.D. from Columbia before joining the faculty at Cornell, where he became a U.S. citizen and had a long and distinguished research and teaching career in the field of Earth Sciences. Carnegie Mellon’s current President, Subra Suresh, is an immigrant (as was its founder, Andrew Carnegie); President Suresh came to the United States “at age 21 with a partially filled suitcase, less than \$100 in cash, and a one-way airplane ticket purchased with a loan.”⁴⁰ President Suresh went on to study and conduct research at several United States universities, to join the faculty at Brown and the Massachusetts Institutes of Technology,

³⁷ Stuart Anderson, *Immigrants Flooding America with Nobel Prizes*, Forbes (Oct. 16, 2016, 10:48 AM), <http://www.forbes.com/sites/stuartanderson/2016/10/16/immigrants-flooding-america-with-nobel-prizes/#3de213817f5f>.

³⁸ *Id.*

³⁹ See Katie Rose Qunadt, *Meet the First Woman to Win the “Nobel Prize of Mathematics,”* Mother Jones (Aug. 14, 2014, 12:29 PM), <http://m.motherjones.com/mixed-media/2014/08/maryam-mirzakhani-first-woman-fields-medal-mathematics>.

⁴⁰ <http://www.cmu.edu/leadership/president-suresh/campus-comms/2017/2017-01-31.html>

and to be nominated by the President and unanimously confirmed by the Senate as the Director of the National Science Foundation before joining Carnegie Mellon.⁴¹

The education of international students at leading American universities, as well as the employment of international faculty and researchers, also provides opportunities for those individuals to experience life in the United States and to gain a greater appreciation for American social, political, and cultural norms and ideas. These include democratic governance and respect for the rule of law, human rights, and tolerance for cultural, religious, and other differences. International students, faculty, and scholars thus return to their home countries with a deeper understanding of and appreciation for the United States and its values—and, hopefully, a greater desire to engage in continuing discourse and exchange with the United States. Indeed, as discussed *supra*, this is the very purpose of the J-1 Visa Program. International students, faculty, and scholars also return to their home countries with the tools necessary to improve conditions on the ground, whether through public health initiatives, good governance, or other know-how. This, in turn, promotes the economies of developing nations, and may help to stymie radicalization.⁴²

Some international students, faculty, and scholars become leaders in their home countries, as have many of *amici*'s alumni. For example, Yale counts among its distinguished alumni many foreign leaders, including Abd al-Karim al-Iryani, the former Prime Minister of the Republic of Yemen; Ernesto Zedillo, the former President of Mexico; and Valdis Zatlers, the current president of Latvia. Alumni from MIT have gone into public service around the world including, among

⁴¹ *Id.*; see <http://www.cmu.edu/leadership/president-suresh/bio/index.html>

⁴² See, e.g., Omer Taspinar, *The Problem With Radicalism*, 19 *Cairo Rev.* 76, 80 (2015) (noting that extremism cannot be explained or treated through economics alone, and that “[a]n agenda based on human development with equal emphasis on education reform, democratic reforms, and socioeconomic advancement can address the ideological as well as economic root causes of radicalization.”), <https://www.thecairoreview.com/wp-content/uploads/2015/10/CR19-Taspinar.pdf>.

others, Kofi Annan, the former Secretary-General of the United Nations; Benjamin Netanyahu, the Prime Minister of Israel; and Lucas Papademos, the former Prime Minister of Greece. Likewise, Pedro Kuczynski, the current president of Peru, attended Princeton, as did Ricardo Luna, Peru's foreign minister, and other foreign leaders. Dartmouth similarly counts several foreign leaders and diplomats among its alumni, including Kul Gautam, a citizen of Nepal and the former Assistant Secretary General of the United Nations; Paavo Lipponen, the former Prime Minister of Finland; and Gordon Campbell, the former Premier of British Columbia.

D. *Amici* Endeavor to Attract the Best Students, Faculty, and Scholars from Around the World.

Given the significant contributions that international students, faculty, and scholars make to *amici*'s campuses, the United States, and the world, *amici* are firmly committed to attracting to their communities the most exceptional individuals from all nations. To this end, *amici* are home to many globally-focused programs and centers, and engage in significant international outreach and recruiting. For these endeavors to succeed, however, *amici* also must be able to assure their international students, faculty, and scholars that they may travel freely to pursue their studies and scholarship, as well as to attend to family and personal matters.

Each of the *amici* institutions has invested significant time and resources to attract international students, faculty, and scholars. For example, *amici* have established many programs and centers focusing on specific subject matter areas like archeology and the ancient world, including the Joukowsky Institute for Archaeology and the Ancient World at Brown⁴³ and the University of Chicago's Oriental Institute for the study of ancient Near Eastern civilizations;⁴⁴ schools dedicated to international relations like the School of International and Public Affairs at

⁴³ https://brown.edu/Departments/Joukowsky_Institute/.

⁴⁴ <https://oi.uchicago.edu/research>

Columbia;⁴⁵ residential communities focusing on cross-cultural collaboration, like the Global Village at Dartmouth;⁴⁶ and centers that serve as the focal point for international students, faculty, and scholars, like the Davis International Center,⁴⁷ Mamdouha S. Bobst Center for Peace and Justice,⁴⁸ and Princeton Institute for International and Regional Studies⁴⁹ at Princeton, the Bechtel International Center at Stanford,⁵⁰ and the World Fellows Program, Jackson Institute for Global Affairs, and MacMillan Center for International and Area Studies at Yale.⁵¹ *Amici* also have expressed their commitment to cross-cultural collaboration by creating a physical footprint in other nations, including the Penn Wharton China Center,⁵² Carnegie Mellon University Qatar⁵³ and Carnegie Mellon University Rwanda,⁵⁴ the Cornell Global Initiative,⁵⁵ Cornell's Nilgiris Field Learning Center in India,⁵⁶ the Cornell Syria Project,⁵⁷ and the Yale Center Beijing.⁵⁸ MIT's Sloan Management School allows students to enroll in "Action Learning Labs," where they are assigned to real-world company partners and work on projects for those companies, often on-site, during an academic term. The school offers Labs in China, India, and Israel, as well as a Global Entrepreneurship Lab, in which students are sent to emerging markets across the globe, "from Argentina to Zambia."⁵⁹ *Amici* similarly offer varied and popular study abroad programs. For

⁴⁵ <https://sipa.columbia.edu>

⁴⁶ <http://global.dartmouth.edu/global-learning/global-village>

⁴⁷ <http://www.princeton.edu/intlctr/davis-ic-home/about-davis-ic/>

⁴⁸ <http://bobstcenter.princeton.edu/>

⁴⁹ <http://piirs.princeton.edu/>

⁵⁰ <https://bechtel.stanford.edu/>

⁵¹ <http://macmillan.yale.edu/about>; <http://worldfellows.yale.edu/>; <http://jackson.yale.edu/>

⁵² <http://pwcc.upenn.edu>

⁵³ <https://www.qatar.cmu.edu/>

⁵⁴ <http://www.cmu.edu/rwanda/>

⁵⁵ <https://global.cornell.edu/impact/global-cornell-initiative>

⁵⁶ <https://blogs.cornell.edu/nflc/research/>

⁵⁷ <http://atlas.geo.cornell.edu/syria/welcome.html>

⁵⁸ <http://centerbeijing.yale.edu/>

⁵⁹ MIT-Sloan, Action Learning, <http://mitsloan.mit.edu/actionlearning>

example, at Cornell, fully 37% of graduating seniors have participated in international programs;⁶⁰ at Dartmouth, that proportion of graduating Bachelors of Arts students is 43%, and at Duke, that proportion is 47%.⁶¹ Duke's signature service learning program, DukeEngage, has sent 3,600 Duke students to participate in an immersive summer of service in 76 nations on six continents, with themes ranging from social justice to youth empowerment.⁶² Similarly, at Stanford, nearly half of each graduating class studies abroad at one of Stanford's eleven overseas campuses.⁶³

These centers, programs, and offerings all depend on the ability of international students, scholars, and faculty to travel freely both to *amici*'s campuses and to other locations around the world. Whether a Libyan undergraduate seeks to study international relations or public health on one of *amici*'s campuses, a Somali graduate student wishes to pursue field research abroad, or a Yemeni faculty member seeks to return home to celebrate a relative's wedding, each depends on the ability to travel to and from the United States. Without that ability, a significant number of *amici*'s current and prospective students, faculty, and scholars would be unable to benefit from these opportunities. Moreover, travel for professional endeavors like participation in international meetings is often critical for faculty and scholars to be considered leaders within their fields. *Infra* at 24-25. Thus, while *amici* can and do take meaningful steps to ensure that the students, faculty, and scholars from around the world continue to choose to study in the United States, *amici* are necessarily constrained by, and dependent on, American immigration and visa policies.

⁶⁰ <http://global.cornell.edu>

⁶¹ https://globaled.duke.edu/uploads/media_items/geo-brochure-2016-singles-pdf.original.pdf

⁶² <https://global.duke.edu/engagement>

⁶³ <https://undergrad.stanford.edu/programs/bosp>

II. The Executive Order Harms Students, Faculty, Scholars, and Universities.

The Executive Order has serious and chilling implications for *amici*'s students, faculty, and scholars. By prohibiting persons from freely traveling to and from this country, the Executive Order divides students and their families, impairs the ability of American universities to draw the finest international talent, and inhibits the free exchange of ideas. *See Washington v. Trump*, No. 17-35105, ___ F.3d ___, 2017 WL 526470, at *11 (9th Cir. Feb. 9, 2017) (referring to these effects as “substantial injuries”). Because of these effects, the Executive Order has drawn staggering opposition from the academic world. More than 42,000 scholars—including 62 Nobel Laureates, 813 Members of the National Academies of Sciences, Engineering, and Arts, and 105 recipients of prestigious awards like the Fields Medal and Pulitzer Prize—have explained their opposition:

The EO significantly damages American leadership in higher education and research. US research institutes host a significant number of researchers from the nations subjected to the upcoming restrictions. From Iran alone, more than 3000 students have received PhDs from American universities in the past 3 years. The proposed EO limits collaborations with researchers from these nations by restricting entry of these researchers to the US and can potentially lead to departure of many talented individuals who are current and future researchers and entrepreneurs in the US. We strongly believe the immediate and long term consequences of this EO do not serve our national interests.⁶⁴

It is imperative to *amici* that the Court account for these and other detrimental effects of the Executive Order in considering its legality.

First, the Executive Order excludes from this country students, faculty, and scholars who make valuable contributions to American universities. Some of these are individuals who had the misfortune of traveling abroad when the Executive Order went into effect. These individuals—talented, law-abiding members of *amici*'s academic communities—left the United States in possession of valid visas. They were visiting family, conducting field research, and attending

⁶⁴ *Academics Against Immigration Executive Order*, <https://notoimmigrationban.com/> (last visited Feb. 6, 2017).

academic conferences and meetings in furtherance of their studies.⁶⁵ All planned to return here following their travels abroad. Instead, they found themselves suddenly stranded and separated from their families, homes, studies, and work. That separation caused anguish and uncertainty for the affected individuals and their friends and families. It also disrupted their studies and hampered the work of their colleagues, leaving research projects half-finished, dissertations half-written, and courses without an instructor.

The Executive Order also separated members of *amici*'s communities from their family members who were traveling abroad. For instance, a Ph.D. student from one *amicus* was separated from his wife, who was home visiting her family in Iran when the Executive Order went into effect. Although she possessed a valid visa when she departed the United States, Turkish Airlines refused to issue her a boarding pass when she attempted to return.⁶⁶ This separation was sufficiently traumatic that the student is considering withdrawing from his academic program.⁶⁷ At a different *amicus* university, one faculty member's spouse and baby were abroad and unable to return. At another *amicus* university, a researcher's wife was unable to join him in the United States.

Second, in addition to keeping individuals out of the United States, the Executive Order has also effectively forced others to remain in this country. Students, faculty, and scholars affected by the Executive Order now find themselves unable to leave the United States; doing so risks invalidating their visas and barring them from reentry. These individuals are now deterred from

⁶⁵ Anya Kamenetz, *Students Stranded Worldwide By Trump Order*, NPR (Jan. 30, 2017, 2:20 PM), <http://www.npr.org/sections/ed/2017/01/30/512431112/students-stranded-worldwide-by-trumporder>.

⁶⁶ Kimberly Kindy, *With his wife blocked from returning from Iran, a Columbia University student eyes quitting his program to be with her*, Wash. Post (Jan. 29, 2017), <https://www.washingtonpost.com/news/post-nation/wp/2017/01/29/his-wife-was-kept-off-her-flight-in-iran-and-now-a-columbia-university-student-eyes-quitting-his-program-to-join-her>.

⁶⁷ *Id.*

conducting field research, attending academic conferences, or participating in international meetings in foreign nations; for some, the inability to travel will force them to set aside projects that simply cannot be completed without travel abroad. There is also a personal toll, as they must cancel any plans to visit family and friends abroad: fly home to attend the wedding or funeral of a family member, and one risks the loss of one's visa, separation from family and friends here in the United States, and the loss of a job, an academic degree, and years of hard work and research.

These effects are already being felt. One scholar at Princeton has already cancelled attendance at international conferences over the past few weeks, and though upcoming trips are important to the scholar's work, they too will be canceled in light of the Order. At Yale, international academic research conducted by Yale's MacMillan Center's Political Violence Lab has been curtailed as a direct result of the Order; so too, at the University of Chicago's Oriental Institute, the Executive Order threatens to shut down excavation projects in Iraq, Iran, and Iraqi Kurdistan. A student at another *amicus* university has canceled travel to visit elderly grandparents and worries that they may never be reunited because of the Order. Another student worries that he may not be able to travel to conduct research in support of his dissertation, imperiling its completion.

Third, the Executive Order hurts American universities by deterring international students, faculty, and scholars from studying here. *Amici*, like other American universities, aim to attract the brightest, most talented students, faculty, and scholars from around the globe. The Executive Order hampers *amicus*'s ability to do so because if people cannot freely leave the country, they will inevitably study elsewhere. Moreover, if a valid visa may be revoked at any moment based simply on a person's country of origin, the Executive Order alters the perceived cost-benefit analysis of studying or teaching here, even for persons from countries unaffected by this particular Executive

Order. Studying and working in this country has historically been a key asset to attract international talent to American universities; by casting uncertainty on that process, the Executive Order turns that asset into a risk factor that may deter rather than attract talent.

Reducing the international presence on *amici*'s campuses will diminish the academic experience in this country. As discussed *supra*, the benefits of international diversity to American universities are manifold. And it is not merely the classroom experience that will suffer. American laboratories, which are a major driver of our economy, depend on the ability to attract the best trainees and postdoctoral fellows from around the world, as well as the collaboration of foreign scientists in areas of science that have no defense or security implications. The Order diminishes *amici*'s ability to attract these scientists, who will otherwise go to foreign laboratories.

Indeed, international universities have noted this effect and issued statements criticizing the Executive Order and touting their own opportunities for international students and scholars.⁶⁸ For instance, the Vice-Chancellor of the University of Cambridge, UK stated: “While we acknowledge that a country must have the right to manage its own borders, this ban is fundamentally at odds with the values of openness, tolerance and evidence-based decision-making that the University of Cambridge stands for.”⁶⁹ He added: “We are determined to champion openness, and the free exchange of knowledge across borders. Even as governments around the world seek to curb freedom of movement, the University of Cambridge remains committed to welcoming the best and brightest students and staff – irrespective of their nationality.”⁷⁰

⁶⁸ Chris Parr, *Response: international universities speak out against Trump ban*, The Times Higher Education (Jan. 31, 2017), <https://www.timeshighereducation.com/blog/response-international-universities-speak-out-against-trump-ban>.

⁶⁹ *Id.*

⁷⁰ *Id.*

Amici are already experiencing these effects too. For example, a postdoctoral fellow from Iran had been hired to work in the lab of a Princeton professor, but was prevented from entering the country after the Order took effect. An accepted student at Yale's School of Management from Iran is now rethinking his options because of the uncertainty. Similarly, Yale's MacMillan Center Council on Middle East Studies and its Program on Iranian Studies is currently conducting searches for post-doctoral fellows and visiting scholars, with the most promising candidates being Iranian nationals who are currently abroad. The uncertainty with regard to securing visas will affect acceptances of offers. The University of Pennsylvania has similar concerns, with three faculty recruits whose opportunities may be eliminated by the Executive Order. Princeton and MIT, too, have received numerous inquiries from academic departments about how to handle the questions and concerns of faculty and scholar recruits who have expressed hesitance about coming to the U.S. in light of the Order.

Fourth, the Executive Order will impede successful academic collaboration in the United States. American universities host thousands of conferences and symposia each year. These academic meetings are incubators for innovation and thrive on the free flow of information and ideas. By hosting these events, *amici* ensure that their scholars participate in them. Such collaborations are essential to addressing problems that are global in scope, such as geopolitical conflict, terrorism, and the spread of communicable diseases.

The Executive Order threatens the success of these efforts both by prohibiting certain academics from traveling to the U.S. and by risking a backlash from others who are not subject to the ban. Indeed, international universities have observed that the Executive Order will impede

collaborative partnerships with American universities.⁷¹ And these effects are already being felt. After the Executive Order was issued, an Iraqi postgraduate student from the University of Exeter was stopped from boarding a plane to the United States, where he had been invited to present an academic paper along with his professors.⁷² Despite the fact that he obtained a valid visa, the Executive Order deprived him of the opportunity to present here, and deprived American students, faculty, and scholars from hearing about his research. Likewise, the University of Pennsylvania had planned to invite three Iranian human rights activists to a conference in March, but with the Executive Order in effect their participation would be barred. Similarly, a faculty member at Dartmouth planning a conference for next fall has expressed concern that participants may not be able or willing to travel to the United States, and one keynote speaker wonders whether it “sends the wrong message” to attend a conference in the U.S. at this time. The Sharmin & Bijan Mossavar-Rahmani Center for Iran and Persian Gulf Studies at Princeton expressly aims to advance understanding of Iran and the Persian Gulf; if the Center cannot invite Iranian guest speakers, the Center obviously will be impeded in serving its mission.

⁷¹ *Id.* (quoting the President of McMaster University, Canada, as stating “This is a misguided and harmful step that is unnecessarily disruptive for students, faculty members and other partners. . . . As an internationally engaged research intensive university, this abrupt change in policy has a chilling impact on individual scholars and their families, and on the important relationships we have carefully built over the years. Our collaborative partnerships allow us to forge important research and educational programs and activities, which are threatened by arbitrary measures such as the one announced last week.”); *id.* (quoting the vice-chancellor of the University of Exeter, UK, as stating, “At Exeter, we collaborate widely with institutions abroad, including in the United States, and we cannot condone a policy that restricts these freedoms, curtails intellectual partnerships or impedes research. . . . We will continue to be a collaborative and diverse community that welcomes people from around the world, regardless of their nationality, and will be actively supporting any staff and students who are affected by the ban.”).

⁷² *Id.*

What is more, faculty members from around the world already have called for a boycott of academic conferences in the United States in response to the Executive Order.⁷³ A petition circulating online has drawn thousands of signatures from scholars in the United States and abroad pledging not to attend international conferences in the United States while the travel ban persists.⁷⁴ Thus, the Executive Order threatens collaboration well beyond scholars from and institutions in the seven affected countries.

Academic conferences and meetings facilitate major breakthroughs and discoveries, candid discussion and debate, and face-to-face meetings that inevitably generate future collaborations and partnerships. Excluding scholars from the seven affected countries—and other scholars who may choose not to participate because of the Order—will hamper the success of these scholarly collaborations. Moreover, American universities, students, and faculty will inevitably suffer when these meetings are shifted outside the United States to avoid the Executive Order’s effects.

Finally, as *amici* have explained, they strive to foster a culture of diversity, inclusion, and tolerance on their campuses. *Supra* Part I. The Executive Order undercuts those important efforts by making many of *amici*’s students, faculty, and scholars feel “less than,” and signaling, from the highest levels of government, that discrimination is not only acceptable but appropriate. Rather

⁷³ See Shannon Najmabadi, *Academics Mull Boycott of U.S. Conferences as a Way of Fighting Travel Ban*, *The Chronicle of Higher Education* (Jan. 30, 2017), http://www.chronicle.com/article/Academics-Mull-Boycott-of-US/239047?cid=pm&utm_source=pm&utm_medium=en&elqTrackId=e9a82fa115e24765bc019b2dfc9d480e&elq=ef21be06f46043e287aeedd6a611eb6e&elqaid=12357&elqat=1&elqCampaignId=5023; Elizabeth Redden, *Boycotting the U.S.*, *Inside Higher Ed* (Jan. 31, 2017), <https://www.insidehighered.com/news/2017/01/31/protest-trump-entry-ban-some-scholars-areboycotting-us-based-conferences>.

⁷⁴https://docs.google.com/forms/d/e/1FAIpQLSeNN_2HHREt1h-dm_CgWpFHw8NDPGLCKOwB4ILRFtKFJqI25w/viewform?c=0&w=1&fbzx=2104368019732744200 (last visited Feb. 11, 2017).

than securing American universities, this thwarts *amici*'s ability to foster a diverse environment in which individuals feel comfortable contributing to a robust exchange of ideas.

CONCLUSION

Amici take extremely seriously the safety and security of their campuses and of the nation: if *amici*'s campuses were not safe, or the towns and cities in which they are located were not secure, *amici* could not maintain their world-renowned learning environments. *Amici*, however, believe that safety and security concerns can be addressed in a manner that is consistent with the values America has always stood for, including the free flow of ideas and people across borders and the welcoming of immigrants to our universities. As the Ninth Circuit recently explained, although “the Government’s interest in combating terrorism is an urgent objective of the highest order,” the Government must do “more than reiterate that fact.” *Trump*, 2017 WL 526470, at *10 (quoting *Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010)). Here, however, “the Government has not offered any evidence or even an explanation” to justify the blanket ban on individuals from the specified countries. *Id.* at *10-11 & n.7. Given this, and the significant burdens the Executive Order inflicts on *amici*'s students, faculty, and scholars, as well as the substantial impediments it poses to *amici*'s ability to fulfill their educational missions, *amici* support the relief sought by Plaintiffs.

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Respectfully submitted,

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