

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ARAB AMERICAN CIVIL RIGHTS LEAGUE (“ACRL”),  
SAMIR ALMASMARI, SABAH ALMASMARY,  
HANA ALMASMARI, MOUNIRA ATIK,  
WALID JAMMOUL, NAGI ALGAHAIM,  
KOKAB ALGAZALI, SHAIKA SHAGERA,  
HEND ALSHAWISH, YUSRA AL SOUFI,  
HASAN AL-AHMED, SALHA AL-TALAQA,

on behalf of themselves and others similarly situated,

Plaintiffs,

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,

Case No.: 17-cv-10310  
Hon.: Victoria A. Roberts  
Mag.: Stephanie D. Davis

Defendants.

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**FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

NOW COME Plaintiffs, Arab American Civil Rights League (“ACRL”),  
Samir Alasmari, Sabah Alasmari, Hana Alasmari, Mounira Atik, Walid  
Jammoul, Nagi Algahaim, Kokab Algazali, Shaika Shagera, Hend Alshawish,

Yusra Al Soufi, Hasan Al-Ahmed, Sahla Al-Talaqani by and through their attorneys and state the following in support of their First Amended Complaint:

### **INTRODUCTION**

1. On January 27, 2017 Defendant President Donald Trump signed an Executive Order stating that the “entry into the United States” of non-citizens from Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen is “suspended” for 90 days from the date of the Executive Order. The countries subject to the Executive Order are Muslim-majority countries. The Executive Order makes exceptions for religious minorities in these countries – a thinly-veiled reference to Christians. The Executive Order is therefore plainly an effort to prevent Muslims from travelling to the United States.
2. All Plaintiffs have either been denied the ability to travel to the United States or face a real and immediate threat of not being permitted to travel to the United States, their place of residence, in violation of U.S. law.
3. Although temporary injunctions were entered in various district courts around the United States, Plaintiffs filed this present suit because the existing orders did not encompass green card holders who were not in route or detained by the United States. This Complaint addresses green card holders who are attempting to fly back to the United States and immigrant visa holders attempting to fly to the United States, who have either been denied airplane boarding or face a threat of

being denied boarding due to the Executive Order. Additionally, even though the administration has now backed off from applying the Executive Order to legal permanent residents, Plaintiffs still face the immediate threat of being denied entry due to the way the Order is written.

4. Indeed, this Court has issued a temporary restraining order requiring Defendants to comply with their statements concerning the ability of lawful permanent residents to travel to the United States irrespective of the Executive Order. Plaintiffs seek permanent relief including a determination that the Executive Order creates an impermissible religious test for travel to the United States.

### **PARTIES**

#### **American Arab Civil Rights League (ACRL)**

5. Plaintiff ACRL is a non-profit organization and has its principal place of business at 4917 Schaefer Rd., Dearborn, Michigan 48126.

6. The ACRL is committed to protecting the civil rights of Arab Americans through education and advocacy. The organization, which is based out of Dearborn, Michigan, works to build coalitions, promote understanding and cooperation and combat negative stereotypes. Led by prominent civil rights attorneys and advocates, the ACRL offers the community it serves a solid commitment to ensuring that their rights are protected and preserved.

7. At least seven (7) of the ACRL's members that are affected by the Executive Order are prepared to be standing witnesses. These members have either already experienced concrete harms by being denied the ability to return to the United States or face a real and immediate threat of not being permitted to travel to Detroit, their place of residence, in violation of U.S. law.

**The Lawful Permanent Resident Class of Plaintiffs**

8. Plaintiff Samir Alasmari has been a lawful permanent resident of the United States since March 2015. He resides in Wayne County, Michigan. Plaintiff Alasmari is a citizen of Yemen. As he attempted to return to the United States from Yemen, he was denied boarding in Egypt to return to the United States. He is Muslim.

9. Plaintiff Sabah Alasmari has been a lawful permanent resident of the United States since 2004. Plaintiff Alasmari resides in Wayne County, Michigan. Her spouse is a United States citizen and she has seven United States citizen children. Plaintiff Alasmari is a citizen of Yemen and travelled to Yemen to visit her family. She has a real and immediate threat of not being permitted to travel to Detroit, in violation of U.S. law since the Executive Order was signed. She is Muslim.

10. Plaintiff Hana Alasmari is a lawful permanent resident of the United States and resides in Wayne County, Michigan. She is the spouse of a United States

citizen. Plaintiff Alasmari is a citizen of Yemen and has a real and immediate threat of not being permitted to travel to Detroit, in violation of U.S. law since the Executive Order was signed. She is Muslim.

11. Plaintiff Mounira Atik is a lawful permanent resident of the United States and is a resident of Wayne County, Michigan. Plaintiff Atik is a citizen of Yemen and has a real and immediate threat of not being permitted to travel to Detroit, in violation of U.S. law since the Executive Order was signed. She is Muslim.

### **The Immigrant Visa Class of Plaintiffs**

#### **Plaintiff Walid Jammoul**

12. Plaintiff Walid Jammoul was issued an immigrant visa on January 22, 2017 to enter the United States as a lawful permanent resident of the United States.

13. Plaintiff is the spouse of a U.S. citizen; his wife resides in Wayne County, Michigan.

14. When Plaintiff attempted to purchase a ticket to fly to the United States, he was advised that he would not be permitted to board a plane.

15. Mr. Jammoul is a Syrian citizen.

16. Mr. Jammoul has a real and immediate threat of not being permitted to travel to Detroit, in violation of U.S. law since the Executive Order was signed.

17. Mr. Jammoul is Muslim.

18. Plaintiff is concerned that because of the Executive Order he will not be able to enter the United States or that, if he is able to enter the United States, he could be detained, his visa could be revoked, or he could suffer immigration and other consequences.

**Plaintiff Kokab Algazali**

19. Plaintiff Kokab Algazali is a citizen of Yemen.

20. On December 2016, Mrs. Algazali was issued an Immigrant Visa.

21. Plaintiff has a five-year-old daughter, Lena Algahaim, who is a U.S. citizen and has resided in the United States since infancy. Mrs. Algazali and Lena have not seen one another in over five years.

22. For the past two years, Mrs. Algazali has undergone the vetting process prior to approval for her immigrant visa.

23. Yemen is in the midst of a brutal and destructive civil war, and has no operating United States embassy. Therefore, Plaintiff and her husband travelled to Malaysia to attempt to make arrangements to come to the United States. While in Malaysia, Plaintiffs have booked airline tickets to fly to the United States on several occasions.

24. On each such occasion, their tickets have been cancelled and they have been denied travel by the respective airlines, which have cited to the Executive Order as the basis for such denial.

25. Their passports have been stamped by the airport in Kuala Lumpur on at least two occasions just prior to travel, only to have the stamps cancelled or voided by the Malaysian authorities, again, as a direct result of Mrs. Algazali's ineligibility to travel to the United States due to the dictates of the Executive Order.

26. Plaintiff is concerned that because of the Executive Order, she will not be able to enter the United States or that, if she is able to enter the United States, she could be detained, her visa could be revoked, or she could suffer immigration and other consequences.

**Plaintiff Nagi Algahaim**

27. Plaintiff Nagi Algahaim is a United States Citizen.

28. Mr. Algahaim is a resident of the State of Michigan.

29. Mr. Algahaim is married to Plaintiff Kokab Algazali.

30. Mr. Algahaim flew to Yemen for the purpose of assisting Mrs. Algazali in immigrating to the United States.

31. Because of the Executive Order, and the consequences of the order described above, Mr. Algahaim currently faces a choice: He can attempt to return to the United States with his wife, but under the threat that his wife will not be permitted to enter the United States or will be detained, forcing their separation and depriving her of his wife's companionship. Or he can remain outside the

United States so that he can be assured of remaining with his wife. Either choice would deprive Mr. Algahaim, a United States Citizen, of the freedom to live with his spouse in the United States.

**Plaintiff Shaika Shagera**

32. Plaintiff Shaika Hamid Mohsin Shagera is a 15-year-old Yemeni national.

33. She was issued an immigrant visa on January 8, 2017 to enter the United States.

34. Plaintiff's mother is a lawful permanent resident residing in Wayne County, Michigan; Plaintiff's father is deceased.

35. Upon attempting to travel from Egypt, she was denied boarding.

36. Plaintiff Shagera is Muslim.

37. Plaintiff is concerned that because of the Executive Order she will not be able to enter the United States or that, if she is able to enter the United States, she could be detained, her visa could be revoked, or she could suffer immigration and other consequences.

**Plaintiff Hend Alshawaish**

38. Plaintiff Hend Alshawaish is a citizen of Yemen.

39. She was issued an immigrant visa on December 28, 2016 to enter the United States as a lawful permanent resident.

40. Plaintiff's visa to enter the United States is set to expire in six months.



41. Plaintiff is the spouse of a U.S. Citizen and the mother of four children. Two children are U.S. citizens and two children, age 11 and 15, are currently in Yemen waiting to be issued visas to return to the United States with Plaintiff.

42. Plaintiff's U.S. Citizen spouse, Salim Jaber, flew to Egypt to assist his wife to immigrate to the United States.

43. Plaintiff Alshwaish is Muslim.

44. Plaintiff is concerned that because of the Executive Order she will not be able to enter the United States or that, if she is able to enter the United States, she could be detained, her visa could be revoked, or she could suffer immigration and other consequences.

**Plaintiff Yusra Al Soufi**

45. Yusra Al Soufi is a citizen of Yemen.

46. She is the spouse of U.S. Citizen Jalal Muflihi.

47. Plaintiff Al Soufi was issued an immigrant visa on October 31, 2016, which she had been waiting for since 2010.

48. Her visa will expire April 20, 2017.

49. She has secured travel plans for herself and her three children on February 26, 2017 from war-torn Yemen to Jordan and thereafter to the United States.

50. Plaintiff is concerned that because of the Executive Order she will not be able to enter the United States or that, if she is able to enter the United States, she

could be detained, her visa could be revoked, or she could suffer immigration and other consequences.

51. Plaintiff Al Soufi is Muslim.

**Plaintiff Hasan Al-Ahmed**

52. Hasan Al-Ahmed is a 25-year-old Iraqi citizen who was approved for a CR1 visa on December 16, 2016.

53. Mr. Al-Ahmed is Muslim.

54. Mr. Al-Ahmed's visa, which is based on his marriage to Sahla Al-Talaqani, a U.S. citizen, expires June 7, 2017.

55. To qualify for his current CR1 visa, Mr. Ahmed complied with all the application requirements, which include submitting an extensive set of documents and records, paying significant fees, and complying with the visa interview, medical examination, and vaccination requirements.

56. Mr. Al-Ahmed currently lives in Karbala, Iraq, which is about 60 miles southwest of Baghdad. He works as an auto electrician in a family-owned shop.

57. Mr. Al-Ahmed and Ms. Al-Talaqani are scheduled to fly to the U.S. from Iraq, via Dubai, on February 15-16, 2017. Their flights are scheduled to arrive in the U.S. on February 16, 2017.

58. Mr. Al-Ahmed is concerned that because of the Executive Order he will not be able to enter the United States or that, if he is able to enter the United States, he

could be detained, his visa could be revoked, or he could suffer immigration and other consequences.

59. Mr. Al-Ahmed's intended residence in the United States is Detroit, Michigan.

60. Once Mr. Al-Ahmed is in the United States, like most people in Southeast Michigan (which is adjacent to the Canadian border), he plans to engage in normal travel outside the United States; he cannot do so without assurance that he will be able to return to his new home.

**Plaintiff Sahla Al-Talaqani**

61. Sahla Al-Talaqani is a citizen of the United States.

62. Ms. Al-Talaqani is married to Hasan Al-Ahmed.

63. Ms. Al-Talaqani took all necessary steps to secure a CR1 visa so that her husband could lawfully enter the United States and they could live together as a married couple there.

64. Mr. Al-Ahmed and Ms. Al-Talaqani are scheduled to fly to the U.S. from Iraq, via Dubai, on February 15-16, 2017. Their flights are scheduled to arrive in the U.S. on February 16, 2017.

65. Because of the Executive Order, and the consequences of the order described above, Ms. Al-Talaqani currently faces a choice: She can attempt to return to the United States with her husband, but under the threat that her husband

will not be permitted to enter the United States or will be detained, forcing their separation and depriving her of her husband's companionship. Or she can remain outside the United States so that she can be assured of remaining with her husband. Either choice would deprive Ms. Al-Talaqani, a United States Citizen, of the freedom to live with her spouse in the United States.

### **The Defendants**

66. The U.S. Department of Homeland Security ("DHS") is a cabinet department of the United States federal government with the primary mission of securing the United States.

67. U.S. Customs and Border Protection ("CBP") is an agency within DHS with the primary mission of detecting and preventing the unlawful entry of persons and goods into the United States.

68. Defendant John Kelly is the Secretary of DHS. He is sued in his official capacity.

69. Defendant Kevin K. McAleenan is the Acting Commissioner of CBP. He is sued in his official capacity.

70. Defendant Donald Trump is the President of the United States. President Trump authored the Executive Order giving rise to this Complaint. In public statements on several occasions prior to issuing the Executive Order, President

Trump stated his intention to institute a “Muslim ban” in the United States. In public statements, non-party Rudolph Giuliani has stated that he advised Trump on how to “legally” impose a Muslim ban. A team of advisors surrounding President Trump, including but not limited to non-party Steve Bannon, have publicly and often stated their intention to deny Muslims access to the United States. In sum, the intention of the Executive Order is the introduction of a Muslim ban in the United States. President Trump is sued in his official capacity.

### **JURISDICTION AND VENUE**

71. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1361. This court has further remedial authority pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.

72. Venue properly lies within the Eastern District of Michigan because all Plaintiffs are residents of this district and Defendants are employees of the United States Government. 28 U.S.C. § 1391(e).

### **FACTUAL ALLEGATIONS**

73. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

74. On January 20, 2017, Donald Trump was inaugurated as the forty-fifth President of the United States. During his campaign, he stated that he would ban Muslims from entering the United States.

75. On January 27, one week after his inauguration, President Trump signed an executive order entitled, “Protecting the Nation from Foreign Terrorist Entry into the United States,” which is attached hereto as Exhibit A and is hereinafter referred to as the “EO.”

76. In statements to the press in connection with his issuance of the EO, President Trump stated that his order would help Christian refugees to enter the United States.

77. Citing the threat of terrorism committed by foreign nationals, the EO directs a variety of changes to the manner and extent to which non-citizens may seek and obtain entry to the United States. Among other things, the EO imposes a 120-day moratorium on the refugee resettlement program as a whole; proclaims that “the entry of nationals of Syria as refugees is detrimental to the interests of the United States”; and therefore singles out Syrian refugees for an indefinite “suspension” on their admission to the country.

78. Most relevant to the instant action is Section 3(c) of the EO, in which President Trump proclaims “that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States,” and that he is therefore “suspend[ing] entry into the United States, as immigrants

and nonimmigrants, of such persons for 90 days from the date of this order,” with narrow exceptions not relevant here.

79. There are seven countries that fit the criteria in 8 U.S.C. § 1187(a)(12): Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. According to the terms of the EO, therefore, the “entry into the United States” of non-citizens from those countries is “suspended” from 90 days from the date of the EO.

80. Congress has provided that lawful permanent residents in Plaintiffs’ situation are entitled to enter the United States. Under 8 U.S.C. § 1101(a)(13)(C), a lawful permanent resident is regarded as seeking an admission into the United States for purposes of the immigration laws” only if he or she “has abandoned or relinquished that status,” *id.* § 1101(a)(13)(C)(i), has been absent from the United States for more than 180 days continuously, is in removal proceedings, has committed one of a class of enumerated offenses, or has attempted to enter without inspection.

81. None of the foregoing circumstances apply to Plaintiffs and therefore they are not deemed to be seeking admission and have a right to enter. In *In re Collado-Munoz*, 21 I. & N. Dec. 1061, 1065-1066 (1998) (en banc) (requiring immigration judge to look at 8 U.S.C. § 1101(a)(13)(C) in determining whether lawful permanent resident was applicant for admission); *Vartelas v. Holder*, 566 U.S. 257

(2012) (citing *In re Collado-Munoz* and recognizing that the definition supersedes previous statute's definition of entry).

82. Defendants are also preventing Plaintiffs' travel in violation of the Due Process Clause. In *Rosenberg v. Fleuti*, 372 U.S. 449, 462 (1963), the Supreme Court held that "an innocent, casual, and brief excursion by a resident alien outside this country's borders may not have been intended as a departure disruptive of his resident alien status and therefore may not subject him to the consequences of an entry into the country on his return." (internal quotation marks and citations omitted); see also *Kwong Hai Chew v. Colding*, 344 U.S. 590, 601-02 (1953) (assimilating status, for constitutional purposes, of lawful permanent resident who had been abroad for five months to that of one continually present). The Supreme Court reaffirmed this constitutional principle in *Landon v. Plasencia*, 459 U.S. 21, 31(1982) (describing Chew as standing for the proposition that "a resident alien returning from a brief trip has a right to due process just as would a continuously present resident alien").

83. Plaintiffs are attempting to come to the United States to be with their families. They have been left in limbo while being denied the ability to travel to the United States for no reason other than the discriminatory and unconstitutional EO.



**I. FIFTH AMENDMENT – PROCEDURAL DUE PROCESS**

84. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

85. Procedural due process requires that the government be constrained before it acts in a way that deprives individuals of liberty interests protected under the Due Process Clause of the Fifth Amendment. Additionally, due process requires that arriving immigrants be afforded those statutory rights granted by Congress and the principle that “[m]inimum due process rights attach to statutory rights.” *Dia v. Ashcrof*, 353 F.3d 228, 239 (3d Cir. 2003) (alterations in original) (quoting *Marincas v. Lewis*, 92 F.3d 195, 203 (3d Cir. 1996)).

86. In particular, lawful permanent residents entering the United States have constitutional due process rights with respect to their entry to the United States. In evaluating the due process right available to a lawful permanent resident, “courts must consider the interest at stake for the individual, the risk of an erroneous deprivation of the interest through the procedures used as well as the probable value of additional or different procedural safeguards, and the interest of the government in using the current procedures rather than additional or different procedures.” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

87. Defendants’ actions, taken pursuant to the EO, violate the procedural due process rights guaranteed by the Fifth Amendment.

## II. FIRST AMENDMENT – ESTABLISHMENT CLAUSE

88. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

89. The EO exhibits hostility to a specific religious faith, Islam, and gives preference to other religious faiths, principally Christianity. The EO therefore violates the Establishment Clause of the First Amendment by not pursuing a course of neutrality with regard to different religious faiths.

## III. FIFTH AMENDMENT – EQUAL PROTECTION

90. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

91. The EO discriminates against Plaintiffs on the basis of their country of origin and religion, without sufficient justification, and therefore violates the equal protection component of the Due Process Clause of the Fifth Amendment.

92. Additionally, the EO was substantially motivated by animus toward—and has a disparate effect on—Muslims, which also violates the equal protection component of the Due Process Clause of the Fifth Amendment. *Jana-Rock Const., Inc. v. N.Y. State Dep’t of Econ. Dev.*, 438 F.3d 195, 204 (2d Cir. 2006); *Hunter v. Underwood*, 471 U.S. 222 (1985).

93. Defendants have demonstrated an intent to discriminate against Plaintiffs on the basis of religion through repeated public statements that make clear that the EO was designed to prohibit the entry of Muslims to the United States. See Michael D. Shear & Helene Cooper, *Trump Bars Refugees and Citizens of 7 Muslim Countries*, N.Y. Times (Jan. 27, 2017), (“[President Trump] ordered that Christians and others from minority religions be granted priority over Muslims.”); Carol Morello, *Trump Signs Order Temporarily Halting Admission of Refugees, Promises Priority for Christians*, Wash. Post (Jan. 27, 2017).

94. Applying a general law in a fashion that discriminates on the basis of religion in this way violates Plaintiffs’ rights to equal protection under the Fifth Amendment Due Process Clause. *Hayden v. Country of Nassau*, 180 F.3d 42, 48 (2d Cir. 1999); *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886). Plaintiffs satisfy the Supreme Court’s test to determine whether a facially neutral law – in this case, the EO and federal immigration law – has been applied in a discriminatory fashion. The Supreme Court requires an individual bringing suit to challenge the application of a law bear the burden of demonstrating a “prima facie case if discriminatory purposes.” *Vill. of Arlington Heights v. Metro Hous. Dev. Corp.*, 429 U.S. 252, 266-67 (1997). This test examines the impact of the official action, whether there has been a clear pattern unexplainable on other grounds besides discrimination, the historical background of the decision, the specific sequence of

events leading up to the challenged decision, and departures from the normal procedural sequence. *Id.*

95. Here, President Trump and senior staff have made clear that the EO will be applied to primarily exclude individuals on the basis of their national origin and being Muslim. *See, e.g.*, Donald J. Trump, Donald J. Trump Statement On Preventing Muslim Immigration, (Dec. 7, 2015), <https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration> (“Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on.”); Abby Phillip and Abigail Hauslohner, Trump on the Future of Proposed Muslim Ban, Registry: ‘You know my plans,’ Wash. Post (Dec. 22, 2016). Further, the President has promised that preferential treatment will be given to Christians, unequivocally demonstrating the special preferences and discriminatory impact that the EO has upon Plaintiffs. *See supra.*

96. Thus, Defendants have applied the EO with forbidden animus and discriminatory intent in violation of the equal protection of the Fifth Amendment and violated Plaintiffs’ equal protection rights.

#### **IV. FIFTH AMENDMENT – SUBSTANTIVE DUE PROCESS VIOLATION OF RIGHT TO FAMILIAL ASSOCIATION**

97. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

98. Plaintiffs face the real and immediate threat of being denied entry into the United States solely pursuant to an executive order issued on January 27, 2017, which expressly discriminates against Plaintiffs on the basis of their country of origin and was substantially motivated by animus towards Muslims. See *supra* Count Six.

99. Plaintiffs planned to travel to the United States, pursuant to valid immigrant visas, to be with family.

100. The denial of Plaintiffs' ability to travel to the United States to be with family constitutes an unconstitutional denial of the fundamental right to familial association. See *Pittman v. Cuyahoga Cty. Dep't of Children & Family Servs.*, 640 F.3d 716, 727 (6th Cir. 2011); *Lehr v. Robertson*, 463 U.S. 248, 261, 103 S. Ct. 2985, 77 L. Ed. 2d 614 (1983).

## **V. ADMINISTRATIVE PROCEDURE ACT**

101. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

102. Plaintiffs face the real and immediate threat of being denied entry into the United States solely pursuant to an executive order issued on January 27, 2017,

which expressly discriminates against Plaintiffs on the basis of their country of origin and was substantially motivated by animus towards Muslims. See supra Count Six.

103. The EO exhibits hostility to a specific religious faith, Islam, and gives preference to other religious faiths, principally Christianity.

104. The INA forbids discrimination in issuance of visas based on a person's race, nationality, place of birth, or place of residence. 8 U.S.C. § 1152(a)(1)(A).

105. The INA and implementing regulations, including 8 U.S.C. § 1225(b)(1) (expedited removal), 8 C.F.R. §§ 235.3(b)(4), 208.30 and 1003.42; 8 U.S.C. § 1158 (asylum), and 8 U.S.C. § 1231(b)(3) (withholding of removal), and the United Nations Convention Against Torture ("CAT"), implemented in the Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub.L. No. 105-277, div. G, Title XXII, § 2242, 112 Stat. 2681, 2681-822 (1998) (codified at 8 U.S.C. § 1231 note), entitle Plaintiffs to an opportunity to apply for asylum, withholding of removal, and CAT relief.

106. Defendants actions in preventing Plaintiffs' travel into the United States were arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, in violation of APA § 706(2)(A); contrary to constitutional right, power, privilege, or immunity, in violation of APA § 706(2)(B); in excess of statutory jurisdiction, authority or limitations, or short of statutory right, in violation of APA

§ 706(2)(C); and without observance of procedure required by law, in violation of §706(2)(D).

## **VI. RELIGIOUS FREEDOM RESTORATION ACT**

107. Plaintiffs adopt and incorporate by reference all prior paragraphs as though fully set forth herein.

108. The EO will have the effect of imposing a special disability on the basis of religious views or religious status, by withdrawing an important immigration benefit principally from Muslims on account of their religion. In doing so, the EO places a substantial burden on Plaintiffs' exercise of religion in a way that is not the least restrictive means of furthering a compelling government interest.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, request that this Honorable Court grant the following relief:

A. Issue an immediate stay of the Executive Order denying Plaintiffs ability to enter the United States;

B. Issue an injunction ordering Defendants not to detain or stop any individual solely on the basis of the EO;

C. Enter a judgment declaring that Defendants' actions in preventing Plaintiffs from traveling to the United States is and will be unauthorized by statute and contrary to law;

D. Enter an order striking the EO and give an order stating it is unconstitutional;

E. Award Plaintiffs reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act; and

F. Grant such other relief as the Court deems appropriate.



Respectfully submitted,

**Attorneys for Arab American Civil Rights League, Samir Alasmari, Sabah Alasmari, Hana Alasmari, Mounira Atik, Walid Jammoul, Nagi Algahaim, Kokab Algazali, Shaika Shagera, Hend Alshawish and Yusra Al Soufi:**

Dated: February 5, 2017

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Application for admission to the U.S. District Court for the Eastern District of Michigan forthcoming

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