

# Akin Gump

STRAUSS HAUER & FELD LLP

ROBERT A. JOHNSON  
+1 212.872.1077/fax: +1 212.872.1002  
rajohnson@akingump.com

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The Honorable Carol Bagley Amon  
Senior Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Darweesh et al. v. Trump et al.*, Case No, 17-cv-00480-CBA

Dear Judge Amon:

We represent the Fred T. Korematsu Center for Law and Equality (the “Korematsu Center”), Karen Korematsu, Jay Hirabayashi, Holly Yasui, Asian Americans Advancing Justice, the National Native American Bar Association, and the South Asian Bar Association of North America (the “Proposed Amici”). The Proposed Amici write to seek the Court’s permission to file an amicus brief in the above-referenced action. In the alternative, we request a pre-motion conference to authorize leave to file such a brief, pursuant to Rule 3(A) of this Court’s Individual Rules.

The Korematsu Center is dedicated to the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of more than 110,000 Japanese Americans. Ms. Korematsu, Mr. Hirabayashi and Ms. Yasui are children of three Japanese Americans who challenged the government’s racial curfew and detention programs in certain cases in the United States Supreme Court. Their interest is in reminding courts of the legacy left by judicial decisions that fail to protect men, women and children belonging to disfavored groups in the name of national security. Asian Americans Advancing Justice advocates for marginalized members of the Asian American, Native Hawaiian, Pacific Islander and other underserved communities, including immigrant members of those communities. The national bar associations of color are committed to promoting justice for Native Americans, South Asian Americans, and other minority communities that have been subject to discriminatory policies.

The purpose of the brief will be to present this Court with a historical analysis of the plenary power doctrine, upon which the Executive branch has relied in similar cases across the country to suggest that the January 27, 2017 Executive Order is either not reviewable or subject

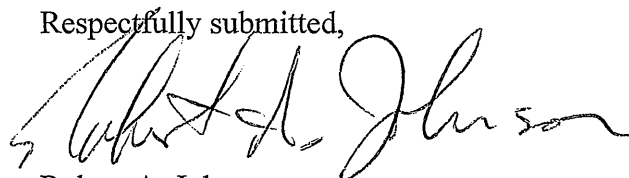
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to extremely deferential review. Due to the special interest that the Proposed Amici have in addressing government action toward persons based on race or nationality, the Proposed Amici offer a unique perspective on the legal questions at issue in this case.

“District courts have broad discretion in deciding whether to accept amicus briefs.” *In re HSBC Bank, USA, N.A., Debit Card Overdraft Fee Litig.*, 14 F. Supp. 3d 99, 103 (E.D.N.Y. 2014) (citation omitted). “An amicus brief should normally be allowed when ... the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Citizens Against Casino Gambling in Erie County v. Kempthorne*, 471 F. Supp. 2d 295,311 (W.D.N.Y. 2007) (citation omitted).

For the foregoing reasons, we respectfully request permission to file an amicus brief on or before a date to be set by the court, or a pre- motion conference concerning leave to file our brief.

Respectfully submitted,



Robert A. Johnson  
Sofie Syed  
Elizabeth Rosen

cc: All Counsel of Record (via ECF)