IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNIVERSAL MUSLIM ASSOCIATION OF AMERICA; JOHN DOE; and JANE DOE, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. CUSTOMS AND BORDER PROTECTION; U.S. DEPARTMENT OF STATE; U.S. DEPARTMENT OF JUSTICE; JOHN KELLY, in his official capacity as Secretary of the Department of Homeland Security; KEVIN K. MCALEENAN, in his official capacity as Acting Commissioner of U.S. Customs and Border Protection; REX W. TILLERSON, in his official capacity as Secretary of State; and JEFFERSON BEAUREGARD SESSIONS III, in his official capacity as Attorney General of the United States, Defendants.	Civil Action No.: 1:17-cv-00537-TSC

REPLY MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

In attempting to defend President Trump's discriminatory and unconstitutional Replacement Executive Order, Defendants reassert arguments that have been rejected repeatedly by courts around the country. Defendants seek to persuade this Court that Plaintiffs' clear and concrete harms are not justiciable; they apply inappropriate review standards to Plaintiffs' constitutional claims; and they try to distract the Court from a disturbing record of anti-Muslim animus from the Executive Branch, including the President himself. Defendants also offer an astonishing interpretation of the Immigration and Nationality Act, contending that the President has authority to discriminate on the basis of religion and to exceed his delegated powers in regulating immigration.

It now falls to this Court to protect not only Plaintiffs, who will suffer immediate and irreparable harm should this Replacement Executive Order not be enjoined, but also our nation's most basic ideals. By enjoining the Replacement Executive Order, this Court would reaffirm that diversity is valued, not feared, and it would send the message that the Replacement Executive Branch cannot paper over explicit religious discrimination merely by invoking the talisman of national security.

ARGUMENT

I. Plaintiffs' Claims Are Justiciable.

A. UMAA Has Standing to Pursue Its Claims

1. UMAA Has Organizational Standing

a. UMAA has suffered an injury in fact

Defendants assert that UMAA has not suffered an injury in fact. But UMAA has demonstrated concrete harms to activities that are important to its mission—organizing a national convention and other events to give American Shi'as access to Islamic teachings from prominent

Shi'a scholars. UMAA Decl. ¶¶ 5, 7-23, 30; UMAA Supp. Decl. ¶¶ 3-7; *see League of Women Voters v. Newby*, 838 F.3d 1, 8 (D.C. Cir. 2016) ("An organization is harmed if the actions taken by [the defendant] have perceptibly impaired the [organization's] programs.") (internal quotations and citations omitted)); *Fair Emp't Council of Greater Wash., Inc. v. BMC Mktg. Corp.*, 28 F.3d 1268, 1276 (D.C. Cir. 1994) ("[I]f discriminatory actions taken by [the defendant] have 'perceptibly impaired' the [plaintiff's] programs, there can be no question that the organization has suffered injury in fact.") (internal citation omitted). That injury includes concrete financial harms, in the form of having to refund payments already received for conference tickets. *See* UMAA Decl. ¶¶ 14–19. Similar financial harms will continue to accrue and will be compounded substantially if the order goes into effect. *See* UMAA Decl. ¶¶ 20–25; UMAA Supp. Decl. ¶ 7.

Defendants first argue that there is no imminent injury, which is simply not accurate. UMAA's annual conference is scheduled for June 30 through July 3, 2017. UMAA Decl. ¶ 11; UMAA Supp. Decl ¶ 3. UMAA has invited a number of Iranian and Iraqi scholars to participate and is unable to make travel arrangements and other logistical plans, without risking wasted expenditures, for these scholars. UMAA Decl. ¶ 23; UMAA Supp. Decl. ¶ 7. UMAA also expects reduced turnout for its convention. *Id.* ¶ 7. For this same reason, UMAA's challenge is ripe for adjudication. *See Mead v. Holder*, 766 F. Supp. 2d 16, 27 (D.D.C.) ("Plaintiffs have also alleged a ripe, actual injury consisting of the impact on their current financial decision-making. That injury is being felt now, and is therefore not subject to contingent future events."), *aff'd sub nom., Seven-Sky v. Holder*, 661 F.3d 1 (D.C. Cir. 2011), *cert. denied*, 133 S. Ct. 63 (2012).

Defendants contend that there is no injury because only a "small percentage" of last year's speakers were from Iraq, and none were from Iran. Defs.' Mem. of Law in Opp. to Pls'

Mot. for Prelim. Inj. [Opp.] 11. But there is no *de minimis* exception for constitutional injuries. At least 10% of UMAA's speakers at last year's conference were Iraqi (UMAA Decl. ¶ 13.)[1], enough to demonstrate concrete injury.

Pointing to *Valley Forge Christian Coll. v. Americans United for Separation of Church and State,* Defendants incorrectly contend that stigma cannot be an injury in fact. Opp. 13. In *Valley Forge,* there was no Establishment Clause standing because plaintiffs had merely read about the offensive conduct in the newspaper—from another state—but had no nexus whatever to the violation. This case is not about the "psychological consequence" of merely knowing about "conduct with which one disagrees." *Id*. As described herein, UMAA and its members are suffering personal harms as the result of the Replacement Executive Order. When combined with the disdain for Islam, the religion to which UMAA and its members belong, these personal harms amount to a concrete, cognizable injury under the Establishment Clause. *See United States v. Hays*, 515 U.S. 737, 745 (1995).

The obstacles imposed by the Replacement Executive Order injure UMAA. Defendants' argument that there has always been "uncertainty" regarding the admission of foreign nationals is a red herring. *See* Opp. 9-10. The potential "uncertainty" that existed before the Replacement Executive Order and the "uncertainty" that exists now are entirely different. The default outcome under the Replacement Executive Order is exclusion, which is different in kind, not just

[1] UMAA has also described, in the most specific terms, the bar to entry as a result of the First Executive Order of Iranian national Basim Karbalaei, resulting in the abrupt cancellation of his performance at an UMAA event, and the impediment to engaging him for UMAA's convention in July. Defendants appear to be arguing that Mr. Karbalaei (and presumably all similarly situated travelers) is grandfathered for all time out of the second Executive Order as a result of having held a valid nonimmigrant visa on January 27, when the first Executive Order went into effect. (Opp. 11). Even if that were true, which Plaintiffs doubt, UMMA has invited other Iranian and Iraqi speakers to its convention. UMAA Supp. Decl. ¶ 4.

degree (or "probability") from the visa program that previously applied. And even to qualify for a waiver, the applicant must convince a consular agent that his or her entry is in "the national interest"—which sends a message of suspicion toward the predominantly Muslim applicants, particularly in light of the repeated statements by the President that Muslim immigrants and visitors are threats. In all events, it is certain that visa applicants from six countries will be barred from entering the United States unless they qualify for a narrow and vague exception, and it is equally certain that visa applicants from Iraq will be subject to significant processing delays, as a direct result of a federal policy of animus toward a particular minority group.

As for *National Wrestling Coaches Association v. Department of Education*, 366 F.3d 930 (D.C. Cir. 2004), the cause of the "uncertainty" there was not the government's actions, but the intervening actions of a regulated private party that affected the plaintiffs. *Id.* at 938-40. Here, it is the government itself that issues visas and is therefore the cause of any "uncertainty."

2. UMAA Has Associational Standing

UMAA also has associational standing.[2] An association may sue on behalf of its membership where: "(i) at least one member would have standing to sue in her own right; (ii) the interests that the association seeks to protect are germane to its purpose; and (iii) neither the claim asserted nor the relief requested requires that an individual member of the association participate in the lawsuit." *Sierra Club v. EPA*, 292 F.3d 895, 898 (D.C. Cir. 2002) (internal citation omitted). Defendants challenge UMAA on only the first part of the test.[3]

[2] Because UMAA has organizational standing, it is not required to prove associational standing as well. *Military Toxics Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998); *see also Termorio S.A. E.S.P. v. Electranta S.P.*, 487 F.3d 928, 932 (D.C. Cir.), *cert. denied*, 128 S. Ct. 650 (2007).
[3] The interests that UMAA seeks to protect are clearly germane to its purpose. (UMAA Decl. ¶ 30). And, because Plaintiffs seek only injunctive relief, member participation is not required. *Camel Hair & Cashmere Inst., Inc. v. Associated Dry Goods Corp.*, 799 F.2d 6, 12 (1st Cir. 1986).

Defendants' argument that UMAA has not identified a specific member who suffered harm fails because UMAA's members are Shi'a Muslims, whose religious leadership is concentrated in Iran, Iraq and Syria, and hence all UMAA members are objects of the Replacement Executive Order. *Fla. Bankers Ass'n v. U.S. Dep't of the Treasury*, 799 F.3d 1065, 1074 n.1 (D.C. Cir. 2015), *cert. denied*, 136 S. Ct. 2429 (2016); *Sierra Club*, 292 F.3d at 899-900; *see* UMAA Decl. ¶ 6. In a case such as this, where the standing of an organization's members is "self-evident," the D.C. Circuit has recognized that no specific identification is required. *Nat'l Biodiesel Bd. v. EPA*, 843 F.3d 1010, 1015-16 (D.C. Cir. 2016); *Nat'l Ass'n of Home Builders v. EPA*, 786 F.3d 34, 45 (D.C. Cir. 2015) (citing cases).

Moreover, Defendants' assertion that UMAA must specifically identify injured members ignores the context in which this litigation arises. The Supreme Court has recognized a right of privacy in one's association that is especially strong when members' constitutional liberties are at stake, or when individually named plaintiffs could otherwise suffer harsh consequences, including fear of "economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility," if their association is revealed as part of a legal action. *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958); *see also Singleton v. Wulff*, 428 U.S. 106, 117 (1976); *Forum for Academic & Institutional Rights, Inc. v. Rumsfeld*, 291 F. Supp. 2d 269, 286 (D.N.J. 2003), *aff'd* 390 F.3d 219, 228 n.7 (3d Cir. 2004), *aff'd* 547 U.S. 47, 52 n.2 (2006). Those fears are widespread here. UMAA Decl. ¶ 31; UMAA Supp. Decl. ¶ 14. Therefore, UMAA's relationship with its members is precisely the type envisioned in adopting the doctrine of associational standing. *Singleton*, 428 U.S. at 114-15; *Patterson*, 357 U.S. at 462-

63; *New York State NOW v. Terry*, 886 F.2d 1339, 1355 (2d Cir. 1989), *cert. denied*, 495 U.S. 947 (1990).[4]

UMAA has submitted a supplemental declaration that sufficiently identifies several members who have been harmed by the Replacement Executive Order. (UMAA Supp. Decl. at ¶¶ 10-14); *see Sierra Club*, 292 F.3d at 900 (permitting plaintiffs asserting associational standing arguments to submit supplemental affidavit on learning that such relationship was not sufficiently self-evident). This supplemental declaration is more than sufficient to establish UMAA's standing, especially given the litigation's current procedural posture.[5]

Defendants also charge that UMAA lacks associational standing because its members do not individually have standing. Specifically, Defendants argue that UMAA members' claims are not ripe until their family members are found eligible for visas and are denied waivers. Opp. 15. This is wrong. The claims of UMAA's members are ripe because the waiver process itself presents an additional hurdle that would delay family reunification. *See Jackson v. Okaloosa City*, 21 F.3d 1531, 1541 (11th Cir. 1994) (holding plaintiffs' claim ripe where, "[a]ssuming that [plaintiffs] successfully prove at trial that [the challenged] additional hurdle was interposed with discriminatory purpose and/or with disparate impact, then the additional hurdle itself is illegal whether or not it might have been surmounted") (footnote omitted). Defendants' attempt to

[4] None of Defendants' cited cases involves an organization whose members, if identified, would be revealing personal and private information such as their religion. *See Summers v. Earth Island Inst.* 555 U.S. 488, 490 (2009) (plaintiffs were organizations dedicated to environmental protection); *Chamber of Commerce v. EPA*, 642 F.3d 192, 196 (D.C. Cir. 2011) (plaintiff was an association of automobile dealers); *Am. Chemistry Council v. Dep't of Transp.*, 468 F.3d 810, 811 (D.C. Cir. 2006) (plaintiffs were associations of hazardous materials manufacturers, shippers and transporters). "Religion is perhaps the quintessentially private matter." *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981); *accord Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004).

[5] Defendants also assert, unsupported by any legal citation, that UMAA's failure to keep a member list is "fatal" to their assertion of associational standing. (Opp. 15). There are no cases that support such an argument.

distinguish *Jackson* fails because UMAA's members do suffer personal injuries as a result of the Order. In addition, Defendants ignore that UMAA's members' standing rests not only on their interest in bringing family members to the United States, but also on their interest in hearing Shi'a scholars invited to UMAA's events and conferences. UMAA Decl. ¶¶ 26-27; UMAA Supp. Decl. ¶ 10.

Defendants further err in asserting that UMAA's members are "outside the zone of interests for the INA…claims." Opp. 15. Defendants' argument fails, as UMAA's members, who seek to be reunited with their family members and who are affected by changes to UMAA's national convention—are precisely the types of individuals Congress intended to protect under the INA. *Cf. Abourezk v. Reagan*, 785 F.2d 1043, 1047 (D.C. Cir. 1986), *aff'd*, 484 U.S. 1 (1987) (individual plaintiffs challenging the denial of visas to foreigners whom they had invited to "attend meetings or address audiences" in the United States were arguably within zone of interests regulated by INA); *see also Legal Assistance for Vietnamese Asylum Seekers v. Dep't of State, Bureau of Consular Affairs (LAVAS)*, 45 F.3d 469, 472 (D.C. Cir. 1995), *vacated on other grounds*, 519 U.S. 1 (1996) (because one of the INA's purposes is "preservation of the family unit," resident sponsors challenging the State Department's failure to process visa applications of Vietnamese citizens were "within the zone of interests protected by the INA") *vacated on other grounds*, 519 U.S. 1 (1996); *Int'l Refugee Assistance Project (IRAP) v. Trump*, No. CV TDC-17-0361, 2017 WL 1018235, at *6 (D. Md. Mar. 16, 2017), *appeal filed*, No. 17-1351 (4th Cir. Mar. 17, 2017). Defendants' reliance on *Haitian Refugee Ctr. v. Gracey* is even more inapposite for UMAA's members' claims than for UMAA's claims as an organization. In that case, the court held that individual members of the Haitian Refugee Center did not have an "injury in fact," because they neither knew the interdicted Haitian aliens nor had any First Amendment basis for

their claims. 809 F. 2d 794, 800 (D.C. Cir. 1987). The opposite is true here. *Saavedra Bruno v. Albright*, 197 F.3d 1153 (D.C. Cir. 1999), involved a single consular decision denying a nonimmigrant visa application based on illegal drug trafficking; the only "organization" involved was a company founded by the applicant. It provides no meaningful guidance for the Court here.

Defendants' remaining arguments similarly fail. Plaintiffs' standing hinges not on the waiver provision alone, but on the Replacement Executive Order's travel ban and extreme vetting procedures, which inflict an injury that the waiver does not cure. And the waiver provision does indeed impose an onerous burden by requiring visa applicants to prove that they suffer "undue hardship" and that their entry would be in the "national interest." Exec. Order § 3(c).

Finally, contrary to Defendants' suggestion, UMAA's members are asserting Establishment Clause and discrimination claims on their *own* behalf, and they have standing to do so. UMAA's members are themselves targets of the President's religious discrimination and his official disapproval of Islam, and they are suffering concrete harms as a result—including prolonged family separation and lack of access to scholars. UMAA Decl. at ¶¶ 26-29; UMAA Supp. Decl. ¶¶ 10-12. *See IRAP*, 2017 WL 1018235, at *7 (holding that plaintiffs seeking to bring family to the United States had standing to assert an Establishment Clause claim based on psychological harm resulting from the Replacement Executive Order's condemnation of Islam); *see also Sarsour v. Trump*, No. 117CV00120AJTIDD, 2017 WL 1113305, at *5 (E.D. Va. Mar. 24, 2017); *Hawai'i v. Trump*, No. CV 17-00050 DKW-KSC, 2017 WL 1167383, at *10-11 (D. Haw. Mar. 15, 2017); *Int'l Refugee Assistance Project v. Kelly*, Case No. 2:17-cv-01761, slip.

op. at pp. 2-3 (C.D. Cal. Mar. 4, 2017). Because UMAA members have standing, UMAA has associational standing.[6]

B. The Doe Plaintiffs Have Standing

The Does have standing because the Replacement Executive Order bars their sons' entry into the United States. Exec. Order § 2(c). Although the Doe sons' visa applications were approved after Plaintiffs moved for a preliminary injunction, the visas have not been issued, and the children remain stranded in Djibouti. Defendants continue to challenge the existing nationwide injunctions that block section 2(c); if they succeed, the Replacement Executive Order will block the children's admission to the United States, harming the Doe parent-plaintiffs.

Contrary to Defendants' argument, the exception at section 3(b)(iii) of the Replacement Executive Order does not apply to the Doe children. *Cf.* Exec. Order § 3(b)(iii) (exempting persons with "a document other than a visa, valid on the effective date of this order or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as an advance parole document"). First, the children do not yet have *any* documents authorizing them to travel to the United States and seek entry. Second, the documents for which the children are applying are indeed "visas," known as "V92." The State Department's own Foreign Affairs Manual elaborates that this stands for "Visas 92." 9 F.A.M. 203.5-2(b)(1), https://fam.state.gov/fam/09FAM/09FAM020305.html. And the children received a document from the U.S. Embassy in Djibouti stating that although their "visa[s] [have been] approved," their "visa[s]" have not yet been "issued." Further, Defendants' own FAQ expressly

[6] Defendants do not argue that UMAA members fail the causation and redressability requirements necessary to establish standing. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Nor could they. UMAA members' "injuries are traceable to the [Replacement] executive order, and if Plaintiffs prevail," an injunction against the challenged provisions "would redress that injury. *Hawai'i*, 2017 WL 1011673, at *10 (citing *Catholic League*, 624 F.3d at 1053).

states that family members of asylees do *not* qualify for a categorical exemption from the Replacement Executive Order. Opp. Ex. B 15 (emphasis added). The FAQ explains that family members of asylees are exempt from the Order only if they "*already* have valid visas or travel documents"—i.e., had these documents as of the Replacement Executive Order's effective date of March 16, 2017. *Id*.; *see also* Exec. Order § 3(a)(iii). Accordingly, the Doe children are subject to the Replacement Executive Order and will be barred from entering the United States unless the Replacement Executive Order remains enjoined.

II. The Doctrine of Consular Nonreviewability Does Not Apply.

Defendants' invocation of the consular nonreviewability doctrine is misplaced. The doctrine limits review of the denial of a single visa by a consular official pursuant to congressionally enumerated criteria. It is irrelevant here, where Plaintiffs challenge a sweeping, prospective executive policy.[7] *See LAVAS*, 45 F.3d at 474 (asserting jurisdiction to hear a challenge to the State Department's decision to stop processing the visa applications of Vietnamese nationals, and holding that the Department's action was discriminatory in violation of the INA), *vacated on other grounds*, 519 U.S. 1 (1996); *Maramjaya v. U.S. Citizenship & Immigration Servs*., No. CIV. A. 06-2158 RCL, 2008 WL 9398947, at *4 (D.D.C. Mar. 26, 2008) (doctrine of consular nonreviewability did not apply because plaintiff did not "challenge the visa decision of any consular official" but instead challenged agency actions antecedent to such decisions); *see also Patel v. Reno*, 134 F.3d 929, 931–32 (9th Cir. 1997) ("[W]hen the suit challenges the authority of the consul to take or fail to take an action as opposed to a decision

[7] Defendants' assertion that this doctrine applies is in tension with their argument that the Replacement Executive Order does not govern "the visa issuance process" at all because it deals with "entry" of non-citizens. Opp. 25.

taken within the consul's discretion, jurisdiction exists.") (internal citation omitted).[8] Hence, the federal courts have repeatedly recognized the judiciary's authority to decide when executive action transgresses constitutional or statutory bounds, even in the visa-adjudication context. *LAVAS*, 45 F.3d at 474; *Abourezk*, 785 F.2d at 1061 (examining whether State Department misinterpreted INA in denying certain visas); *Nine Iraqi Allies Under Serious Threat Because of Their Faithful Serv. to the United States v. Kerry*, 168 F. Supp. 3d 268, 296 (D.D.C. 2016) (holding that plaintiffs stated claim that State Department's delay in adjudicating their visa applications violated federal statutes).[9]

III. Plaintiffs Are Likely to Succeed On Their Constitutional Claims.

A. The Limited Review of *Mandel* Does Not Apply to Plaintiffs' Claims

Contrary to Defendants' argument, *Mandel*'s limited standard of review does not apply to Plaintiffs' constitutional claims.[10] *Kleindienst v. Mandel*, 408 U.S. 753, 769 (1972). Multiple

[8] Even if Plaintiffs were challenging the denial of a single visa by a consular official, the doctrine would not bar review of any of their claims, including their statutory claims. *See Abourezk v. Reagan*, 785 F.2d 1043, 1051 (D.C. Cir. 1986), *aff'd*, 484 U.S. 1 (1987) (holding that APA conferred right to judicial review of statutory claims relating to denial of visas to plaintiffs' invitees, where plaintiffs also raised constitutional claims that court did not decide); *cf. Saavedra Bruno v. Albright*, 197 F.3d 1153, 1163–64 (D.C. Cir. 1999) (declining jurisdiction and distinguishing *Abourezk* on ground that the plaintiffs in *Saavedra Bruno* asserted no constitutional claims).

[9] *See also Zadvydas v. Davis*, 533 U.S. 678, 695 (2001) (power to create immigration policy is "subject to important constitutional limitations") (internal citation omitted); *Abourezk*, 785 F.2d at 1061 (executive's discretion over alien admission and exclusion "extends only as far as the statutory authority conferred by Congress and may not transgress constitutional limitations," and "[i]t is the duty of the courts" to "say where those statutory and constitutional boundaries lie"); *Washington v. Trump*, 847 F.3d 1151, 1161 (9th Cir. 2017), *reh'g en banc denied*, No. 17-35105, 2017 WL 992527 (9th Cir. Mar. 15, 2017) (in reviewing the First Executive Order, holding that "[t]here is no precedent to support [President Trump's] claimed unreviewability, which runs contrary to the fundamental structure of our constitutional democracy") (internal citation omitted).

[10] Defendants mischaracterize Plaintiffs' arguments in asserting that Plaintiffs are defending only the constitutional rights of others. Plaintiffs rather challenge violations of their *own*

courts that have reviewed the Original or Replacement Executive Order have held that *Mandel* does not control. *See Washington v. Trump*, 847 F.3d 1151, 1162–63 (9th Cir. 2017), *reh'g en banc denied*, No. 17-35105, 2017 WL 992527 (9th Cir. Mar. 15, 2017); *Hawai'i*, 2017 WL 1167383, at *6, 12; *IRAP*, 2017 WL 1018235, at *16; *Aziz v. Trump*, No. 117CV116LMBTCB, 2017 WL 580855, at *8 (E.D. Va. Feb. 13, 2017); *Sarsour*, 2017 WL 1113305, at *11. And for good reason: Most of the cases cited by Defendants involve challenges to congressional statutes and implicate Congress's plenary power to make immigration policy. *See Fiallo v. Bell*, 430 U.S. 787, 794, 807 (1977) (upholding sections of the Immigration and Nationality Act because they were supported by "facially legitimate and bona fide" reasoning); *Miller v. Christopher*, 96 F.3d 1467, 1471 (D.C. Cir. 1996) (same), *aff'd sub nom. Miller v. Albright*, 523 U.S. 420 (1998); *Taniguchi v. Schultz*, 303 F.3d 950, 957 (9th Cir. 2002), *as amended* (Sept. 25, 2002) (same); *cf. Harisiades v. Shaughnessy*, 342 U.S. 580, 596 (1952) (upholding the Alien Registration Act without citing *Mandel*'s standard).[11]

The remaining cases, like *Mandel* itself, involved executive action that was expressly authorized by statute. *Washington*, 847 F.3d at 1162 (evaluating denial of a single visa "based on the application of a *congressionally enumerated standard* to the particular facts"); *IRAP*, 2017

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constitutional and statutory rights, and Plaintiff UMAA additionally challenges violations of the rights of its members.

[11] Application of the *Mandel* standard to these statutes is consistent with caselaw explaining that the plenary power to make immigration policy belongs primarily or exclusively to Congress. *See Mandel*, 408 U.S. at 769 (noting that the Attorney General had "exercised the plenary power that Congress delegated to the Executive…."); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950) (noting that "[n]ormally Congress supplies the conditions of the privilege of entry into the United States," but that Congress may "authorize the executive to exercise [this] power," and "[e]xecutive officers may be entrusted with the duty of specifying *procedures* for carrying out *congressional intent* (emphasis added)); *IRAP*, 2017 WL 1018235, at *8 ("The formulation of immigration policies is entrusted *exclusively* to Congress." (emphasis added)) (internal citation omitted).

WL 1018235, at *16 (*Mandel* standard "is most typically applied when a court is asked to review an executive officer's decision to deny a visa") (internal citation omitted); *Narenji v. Civiletti*, 617 F.2d 745, 747 (D.C. Cir. 1979), *cert. denied*, 446 U.S. 957 (1980) (challenge to regulations that INA authorized). In contrast, the Replacement Executive Order, with the stroke of a pen and through an exercise of executive discretion, enacts a sweeping and unprecedented ban that affects thousands of people in the United States and runs counter to the statutory scheme. *See* Section IV, *infra.* Applying greater scrutiny to such a policy than to individual consular decisions made pursuant to statutory criteria is fully consistent with separation-of-powers principles.

At the very least, there can be no real dispute that *Mandel* is inapplicable to Plaintiffs' Establishment Clause claim. Defendants cite no cases that apply *Mandel* in this context.

Likewise, Defendants fail to provide any credible reason why *Mandel* forecloses Plaintiffs' First Amendment right-to-receive-information claim. The Court applied limited review in *Mandel* because it involved a challenge to the denial by a consular official of a single visa pursuant to statutory criteria. 408 U.S. at 769. By contrast, Plaintiffs' right-to-receive-information claim, which finds ample support in case law—*see Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (the right to receive information is "well established"); *Red Lion Broad. Co. v. Fed. Commc'ns Comm'n*, 395 U.S. 367, 390 (1969) (neither Congress nor an administrative agency may constitutionally abridge "the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences…."); *Martin v. City of Struthers*, 319 U.S. 141, 146–47 (1943) (the freedom to distribute and receive information is "clearly vital to the preservation of a free society….")—involves a challenge to a broad policy that contravenes the statutory scheme and makes it much more difficult for the thousands of people associated with UMAA to receive teachings essential to their faith.

Regardless, the Replacement Executive Order fails under *Mandel*. Courts may "look behind" the government's stated purpose where, as here, there is "an affirmative showing of bad faith." *Kerry v. Din*, 135 S. Ct. 2128, 2141 (2015) (Kennedy, J. concurring); *see Cardenas v. United States*, 826 F.3d 1164, 1167 (9th Cir. 2016) ("Justice Kennedy's concurrence in *Din* is the controlling opinion."). Even at this early stage, the record is filled with the President's own repeated pronouncements maligning Muslims and promising a Muslim ban. These statements belie the President's stated national-security purpose and show that it is not "bona fide," or genuine, as required by *Mandel*. *See also* Section IV.B.[12]

B. Plaintiffs Are Likely to Succeed On Their Establishment Clause and Equal Protection Claims

Defendants contend that "The Order's Text and Purpose Are Religion-Neutral" (Opp. 32), a position that ignores the entire history, purpose, and effect of the Replacement Executive Order. "A review of the historical background here makes plain why [Defendants] wish to focus on the Executive Order's text, rather than its context. The record . . . includes significant and unrebutted evidence of religious animus driving the promulgation of the Executive Order and its related predecessor." *Hawai'i*, 2017 WL 1011673, at *13.[13] The historical record and the Executive Order's sole focus on nationals of predominantly Muslim countries reveal shocking religious animus that violates the Establishment Clause and the equal-protection component of the Due Process Clause.

[12] The Second Circuit's decision in *Rajah*, cited by Defendants, is inapposite because plaintiffs there presented *no* evidence, other than disparate impact, that the program "was motivated by an improper animus toward Muslims." *Rajah v. Mukasey*, 544 F.3d 427, 438 (2d Cir. 2008).

[13] Defendants also seek to sidestep the Original Executive Order and the overwhelming religious animus on the face of that document. Am Compl. 47-48. Yet the Trump Administration has repeatedly acknowledged that the "core policy outcome" remained the same between the Original and Replacement Executive Orders. *IRAP*, 2017 WL 1018235, at *13; Am. Compl. 58-59, 62. Hence, the text and history of the Original remain relevant here.

Defendants claim that the absence of explicit reference to Muslims in the Replacement Executive Order's text suffices to avoid strict scrutiny under *Larson*. But in *Larson* itself, the challenged law did not name the disfavored denomination; it instead laid out what the state contended was "a neutral, secular criterion," which had a "disparate impact among religious organizations." *Larson v. Valente*, 456 U.S. 228, 261 (1982) (White, J., dissenting). Examining statements made by state senators before the statute's passage, the Court concluded that "the provision was drafted with the explicit intention of including particular religious denominations and excluding others." 456 U.S. at 254-55. So too here: Statements by President Trump and his advisors before, during, and after issuance of the Original and Replacement Executive Orders demonstrate that the disparate treatment of Muslims is no coincidence, but rather is the precise result that President Trump intended. Discriminatory policies do not materialize from discriminatory statements by happenstance. And tellingly, Defendants do not seriously dispute that these statements reflect a profoundly anti-Muslim bias.[14]

Defendants have no real answer to the administration's record of express animus toward Muslims. This record powerfully supports Plaintiffs' Establishment Clause and equal-protection claims, no matter which legal test is applied. Under the Establishment Clause, a governmental action is evaluated from the perspective of an "objective observer" who is "competent to learn what history has to show." *McCreary County Ky. v. Am. Civil Liberties Union of Ky.*, 845 U.S. 844, 866 (2005). Likewise, equal-protection analysis involves looking to "historical background," including "[t]he specific sequence of events leading up to the challenged

[14] Defendants assert that "honor killings" are not unique to any one religion and therefore that their mention in the Executive Order is unrelated to anti-Muslim animus. Opp. 33 n.14. Although "honor killings" are not *factually* unique to Islam, the usage of that term in the Original and Replacement Executive Orders must be recognized as an effort to perpetuate negative stereotypes about Muslims. Decl. Professor Lila Abu-Lughod, ECF No. 36.

decision…." *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977). And courts regularly consider pertinent history stretching back much further than the President's campaign pledges. *See, e.g.*, *McCreary*, 545 U.S. at 851–55 (three successive displays over course of nearly a year); *Felix v. City of Bloomfield*, 841 F.3d 848, 853, 859 (10th Cir. 2016) (looking back more than four years); *ACLU of Ohio Found. v. DeWeese*, 633 F.3d 424, 432–33 (6th Cir. 2011), *cert. denied*, 565 U.S. 930 (2011) (looking back six years); *Trunk v. City of San Diego*, 629 F.3d 1099, 1118 (9th Cir. 2011), *cert. denied sub. nom.*, *Mount Soledad Mem'l Ass'n v. Trunk*, 132 S. Ct. 2535 (2012) (looking back "more than five decades"). That is because "[l]imiting the temporal scope of the purpose inquiry 'bucks common sense: reasonable observers have reasonable memories, and [Supreme Court] precedents sensibly forbid an observer 'to turn a blind eye to the context in which [the] policy arose.'" *Aziz*, 2017 WL 580855 at *8 (brackets in original) (quoting *McCreary*, 845 U.S. at 866).

Defendants' principal response is that the President's campaign promise to ban Muslims should be ignored because campaign statements "are made without the benefit of advice from an as-yet unformed Administration, and they cannot bind elected officials who later conclude that a different course is warranted." Opp. 37. But both the public record and eventual discovery will show that no advice from national-security professionals was sought and no "different course" was considered, much less adopted. There is a straight line that runs directly from the campaign statements to the Original and Replacement Executive Orders. Indeed, the President reaffirmed his campaign pledges when he said, after reading the title of the first Executive Order ("Protecting The Nation From Foreign Terrorist Entry Into The United States"), "We all know what that means," Am. Compl. ¶ 45, and again when he described the replacement Executive Order as a "watered-down version of the first one," Am. Compl. ¶ 73.

More generally, Defendants assert that "private persons" cannot reveal governmental purpose. Opp. 37. But this argument rests on court decisions involving people wholly uninvolved in government, *see Glassman v. Arlington County*, 628 F.3d 140, 147 (4th Cir. 2010); *Weinbaum v. City of Las Cruces*, 541 F.3d 1017, 1031 (10th Cir. 2008), and governmental actors other than "the decision-maker," *Modrovich v. Allegheny County*, 385 F.3d 397, 412 (3d Cir. 2004)). The putative "private person" here is President Trump himself. The assertion that the President's statements cannot reveal the President's purpose is frivolous.

As for Defendants' concerns regarding "'judicial psychoanalysis' of a candidate's 'heart of hearts,'" Opp. 38 (quoting *McCreary*, 545 U.S. at 862), "[t]he Government need not fear. The remarkable facts at issue here require no such impermissible inquiry." *Hawai'i*, 2017 WL 1011673, at *13; *accord IRAP*, 2017 WL 1018235, at *13. The President said what he meant and meant what he said. Nor are there "intractable questions [about] the level of generality at which a statement must be made." Opp. 38. The President promised a Muslim ban, and he delivered one. *Cf. Glassroth v. Moore*, 335 F.3d 1282, 1285, 1297 (11th Cir.), *cert. denied*, 540 U.S. 100 (2003) (relying on state chief justice's campaign statements to affirm an Establishment Clause violation).

Defendants also propose to shield the Executive Order from scrutiny by arguing that Establishment Clause jurisprudence cannot be "applied to foreign-policy, national-security, and immigration judgments of the President." Opp. 32. Defendants are wrong.

First, Defendants rely for that proposition exclusively on a dissenting opinion (itself citing no authority) from a denial of rehearing *en banc* on a stay motion in an appeal from the nationwide injunction of the first Executive Order—which, by the time the dissenting opinion

was written, had already been abandoned by the government. *Id*. There is no authority to support Defendants' newly minted national-security exception to the Establishment Clause.

Second, even if there were some national-security exception, the record would not support its use in this case. Defendants do not dispute that political operatives rushed the policy to issuance in the first week of the administration, without any involvement by or input from national-security professionals. Pls.' Mot. 7. Nor do Defendants dispute that when the nation's national-security professionals *did* assess the international terrorist threat from the countries identified in the Executive Orders, they readily determined that a ban based strictly on country of citizenship would not serve national-security objectives. *See* http://bit.ly/2mh0GVh. Defendants dismiss this report as "based solely on backward-looking evidence" and insist that it should be ignored in favor of President Trump's "predictive judgments." Opp. 35. But the report does include predictive judgments specifically assessing the international terrorist threat: "DHS I&A assesses that country of citizenship is unlikely to be a reliable indicator of *potential* terrorist activity." (emphasis added). And the report makes those judgments based on evidence. "Predictive judgments" that ignore "backward-looking evidence"—i.e., accumulated facts and experience—are mere profiling. Again, Defendants' incantation of "national security" cannot obscure the primary, if not sole, factor that motivated the Replacement Executive Order—animus. *See IRAP*, 2017 WL 1018235, at *15 ("The fact that the White House took the highly irregular step of first introducing the travel ban without receiving the input and judgment of the relevant national security agencies strongly suggests that the religious purpose was primary, and the national security purpose, even if legitimate, is a secondary *post hoc* rationale.").[15]

[15] Despite Defendants' assertions to the contrary, the treatment of Iraqi nationals in Section 4 of the Replacement Executive Order does not demonstrate that the President's actions were "based

Finally, Defendants cannot salvage the Replacement Executive Order based on the purported need to find out whether "current screening and vetting procedures are adequate to detect terrorists seeking to infiltrate the Nation." Opp. 5. The first Executive Order already required that federal agencies (i) report to the President by February 26 which countries do not provide adequate information, and (ii) immediately request that those governments provide the needed information. Executive Order 13,769 § 2(b)-(d). The Replacement Executive Order then set a longer deadline of April 5 to provide the reports and make the requests. Executive Order 13,780 § 2(b). These deadlines have all passed, without any hint to any court or to the public that any assessments have occurred. As of the date of the hearing in this case, the administration will have held office for 90 days—the same period that it says it needs to determine fully whether it has adequate information to adjudicate admissions—yet it has apparently done nothing.

IV. The Replacement Executive Order Violates the INA.

Section 1152 of the Immigration and Nationality Act expressly prohibits discrimination based on a "person's race, sex, nationality, place of birth, or place of residence" "in the issuance of an immigrant visa." 8 U.S.C. § 1152(a)(1)(A), "Nondiscrimination." Section 2 of the Replacement Executive Order clearly violates this Nondiscrimination Requirement.

A. The Nondiscrimination Requirement Applies to Sections 1182(f) and 1185(a)

Defendants' principal response to Plaintiffs' INA claim is that Sections 1182(f) and 1185(a) of the INA grant the President nearly unchecked authority to suspend or otherwise limit the entry of "any class of aliens," purportedly authorizing Section 2 of the Replacement Executive Order. But Sections 1182(f) and 1185(a) do not override the Nondiscrimination

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solely on national security risk." Rather, that provision only underscores the unconstitutional animus underlying the Order. *See* Section V.

Requirement—a fact made clear in the Nondiscrimination Requirement's first clause, which enumerates the INA provisions to which it does *not* apply. Neither § 1182(f) nor § 1185(a) is on that list. "Because the enumerated exceptions illustrate that Congress 'knows how to expand the jurisdictional reach of a statute," the absence of §§ 1182(f) and 1185(a) demonstrates that Congress did not intend for those provisions "to be exempt from the anti-discrimination provision of § 1152(a)." *IRAP*, 2017 WL 1018235, at *9 (quoting *Reyes-Gaona v. N.C. Growers Ass'n*, 250 F.3d 861, 865 (4th Cir. 2001)); *cf. LAVAS*, 45 F.3d at 473 (stating that with § 1152(a), "Congress has unambiguously directed that no nationality-based discrimination shall occur").

Defendants' reliance on the more general language of §§ 1182(f) and 1185(a) is also misplaced because Congress intentionally limited those clauses' reach when it enacted the more specific § 1152(a)(1)(A). *See IRAP*, 2017 WL 1018235, at *9 (concluding that § 1152(a) "[c]ontrols the more general [§] 1182(f)") (internal citation omitted). Section 1152(a) dictates a particular result: nondiscrimination in the issuance of visas. That provision overrides the more general provisions of §1182(f) and §1185(a).[16]

B. The Travel Ban Is Not a "Temporary Pause"

Defendants also attempt to excuse the travel ban as a "temporary pause" in the issuance of visas permitted by § 1152(a)(1)(B), which provides that "[n]othing in [§ 1152(a)] shall be construed to limit the authority of the Secretary of State to determine the procedure[s] for the processing of immigrant visa applications." But a blanket ban on entry does not simply change procedures. Although § 1152(a)(1)(B) allows the Secretary of State to vary "locations" and "procedures" for visa issuance, "it does not include…any authority to make temporal

[16] The 1978 amendment to § 1185(a) was not "substantial[]," Opp. 24, and certainly did not amend the Nondiscrimination Requirement or authorize the President to discriminate on the basis of nationality in regulating the travel of aliens to and from the United States.

adjustments." *IRAP*, 2017 WL 1018235, at *10. And because § 1152(a)(1)(B) "expressly applies to the Secretary of State, it does not provide a basis to uphold an otherwise discriminatory action by the President in an Executive Order." *Id*.

C. Defendants Are Not Free to Invidiously Discriminate in Issuing Nonimmigrant Visas

Finally, Defendants are incorrect that their duty not to discriminate applies only to the issuance of immigrant visas. In arguing that § 1152(a) does not apply to *non*immigrant visas, Defendants essentially argue that they can discriminate—without regard to statutory or constitutional obligations—when issuing other types of visas. Courts, including this one, have rejected that very position. *Olsen v. Albright*, 990 F. Supp. 31, 38-39 (D.D.C. 1997) (policies instructing adjudicators of nonimmigrant visas to base decisions on factors including national origin constituted unlawful discrimination). Indeed, the D.C. Circuit has straightforwardly held, in the context of an alien who overstayed his nonimmigrant visa, that the government is forbidden to act "on an impermissible basis such as an invidious discrimination against a particular race or group." *Chan v. INS*, 631 F.2d 978, 983-84 (D.C. Cir. 1980), *cert. denied* 450 U.S. 921 (1981) (quoting *Wong Wing Hang v. INS*, 360 F.2d 715, 719 (2d Cir. 1980)); *accord Chadha v. INS*, 634 F.2d 408, 429 (9th Cir. 1980), *aff'd*, 462 U.S. 919 (1983). Defendants would stand those principles on their head.

V. Plaintiffs Are Likely To Succeed On Their Section 4 Challenge.

UMAA presents a valid and justiciable challenge to Section 4 of the Replacement Executive Order. Defendants' boilerplate argument that UMAA does not identify concrete harms resulting from Section 4 is incorrect: UMAA alleges that it effectively cannot invite Iraqi speakers to its 2017 convention because it cannot know whether they will satisfy Section 4's "heightened scrutiny" requirement before invitations would have to be issued and accepted and

expenses paid, UMAA Decl. ¶¶ 21-22, resulting in monetary losses and diversion of UMAA's limited resources, *id*. 23-23. The extreme vetting to which Iraqi invitees are subjected will also delay their visa applications, rendering it unlikely that they could obtain visas in time for UMAA's convention. Similar uncertainty delays family reunification and stymies efforts to visit family or study abroad by UMAA's members, who include U.S. residents with family in Iraq and Iraqi nationals living here on single-entry visas. UMAA Decl. ¶ 28.

Beyond that, Defendants pretend that Section 4 is a mere "procedural" adjustment, when in truth it singles out Iraqi immigrants and travelers for "extreme" and onerous vetting requirements *in addition to* the "rigorous" evaluation already imposed by the Replacement Executive Order. This additional hurdle constitutes a concrete injury for UMAA and its Iraqi members. *Cf. Sarsour*, 2017 WL 1113305, at *5 (plaintiffs have suffered "cognizable injury caused by personal contact" because the Replacement Executive Order "prevents or impermissibly burdens their ability to . . . renew their visas without being subjected to a heightened standard of review…."). To accept Defendants' assertion that the additional requirements set forth in Section 4 fall within the exception to the INA's nondiscrimination provision embodied in § 1152(a)(1)(B) would be to ignore the impermissible discriminatory animus that infects the entire Replacement Executive Order. *Cf. IRAP*, 2017 WL 1018235, at *10 (refusing to apply section 1152(a)(1)(B)'s language, which governs actions by the Secretary of State, to action undertaken by the President through an executive order).

Finally, Defendants' attempt to insulate Section 4 from review on "consular non-reviewability" and separation-of-powers grounds is unavailing for the reasons explained in Sections II and III, *supra*. Those doctrines do not render courts powerless to review immigration-related executive orders. *See id.*

VI. Plaintiffs Will Suffer Immediate, Irreparable Harm Absent Preliminary Relief.

Defendants do not contest that where Plaintiffs suffer deprivations of constitutional rights, no other proof of injury is required to establish irreparable harm. *See Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013); *Chaplaincy of Full Gospel Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 303 (D.C. Cir. 2006) (Establishment Clause); *DynaLantic Corp. v. U.S. Dep't of Defense*, 885 F. Supp. 2d 237, 292 (D.D.C. 2012) (Equal Protection).[17] Defendants' few remaining arguments do not pass muster.

First, irreparable harm is threatened even though Section 2 of the Replacement Executive Order has already been preliminarily enjoined. Opp. 42. Defendants are appealing the injunctions in two Circuits; moreover, Plaintiffs also ask this Court to enjoin Section 4, which is not covered by the injunctions currently in effect.

Second, that only a "small percentage" of speakers invited to UMAA's national convention might be affected by the Replacement Executive Order, Opp. 42-43, does not in any way undercut Plaintiffs' showing of irreparable harm. These scholars, whatever their numbers, are important to the practices of the members' faith and "are not fungible." *Aziz v. Trump*, 2017 WL 580855, at *10. On top of that, UMAA's members and the Does continue to be separated from their families, demonstrating again the irreparable harm that the Replacement Executive Order causes. *Washington*, 847 F.3d at 1169 (9th Cir. 2017); *Int'l Refugee Assistance Project v. Kelly*, Case No. 2:17-cv-01761, slip. op. at 2-3 (C.D. Cal. Mar. 4, 2017).

VII. The Balance of the Equities and the Public Interest Support Preliminary Relief.

Defendants' arguments on the balance of equities and the public interest ignore that "enforcement of an unconstitutional executive order is *always* contrary to the public interest."

[17] Defendants' argument that Plaintiffs cannot establish irreparable harm because they cannot succeed on the merits is addressed in Sections III-V, *supra*.

Gordon v. Holder, 721 F.3d 638, 653 (D.C. Cir. 2013) (emphasis added and citations omitted). Although Defendants insist that preliminarily enjoining the Replacement Executive Order will cause irreparable harm, Opp. 43, courts considering the first Executive Order have already rejected that argument, *see, e.g.*, *Washington*, 847 F.3d at 1168. The long delay between abandoning the first Executive Order and issuing the second belies Defendants' assertions of urgency in enforcement. Opp. 4. And the government having now had 90 days in office to assess whether it has adequate information for adjudication (Executive Order 13,769 § 2(b)-(d)), its rationale for banning entrants from the identified countries for 90 days has largely evaporated. At this point, banning entrants from these countries for 90 days from whatever starting date a court might allow would just be banning for banning's sake.

The balance of equities does not tip to the government based on the mere incantation of "national security," Opp. 43-44, especially where its actions are bereft of all the urgency that characterizes its pronouncements. That is especially so here, because Defendants' purported foreign-policy justifications are mere pretexts for religious discrimination, Pls.' Mem. 42, and are contradicted by the Department of Homeland Security, Opp. 42. The Court need not and should not credit these sham justifications. *See Hawai'i*, 2017 WL 1011673, at *16.

VIII. The Court Should Enjoin the Challenged Sections in Their Entirety.

Defendants' proposal for more limited relief that artificially parses Sections 2 and 4 should be rejected because there is no circumstance under which the Replacement Executive Order, which is predicated on invidious animus, is lawful. Because the entire Executive Order rests on this unlawful animus, limiting the relief to the defects that harm Plaintiffs necessarily entails the full requested preliminary relief. *See Lewis v. Casey*, 518 U.S. 343, 357 (1996). Animus and discrimination against Muslims pervade the entire Replacement Executive Order. *See, e.g.*, Am. Compl. at ¶¶ 30-46, 48-49, 73, 66 (citing Declaration of Lila Abu-Lughod).

Facial relief is warranted precisely because there is no circumstance under which the Replacement Executive Order would shed the animus that is its Alpha and Omega. Hence, it cannot be lawfully applied.

Defendants' pattern of invidious practice also justifies ordering Defendants to take affirmative steps. A negative injunction cannot ensure compliance. After the First Executive Order was enjoined, the government represented to the courts that the order would be rescinded. At the same time, though, the President's press secretary publicly stated that the order would *not* be rescinded. *See* Am. Compl. ¶¶ 57-58. Moreover, after the U.S. District Court for the District of Hawai'i temporarily restrained the Replacement Executive Order on March 15, 2017, Defendant Secretary of State Tillerson issued a March 17 State Department Cable mandating increased scrutiny in the visa process even for "non-security related ineligibilities" and directed immigration officials to identify "visa applicant populations warranting increased Scrutiny." *See* Amended Complaint at 21, ¶¶ 77-78. A negative injunction alone, therefore, is not enough.

CONCLUSION

Plaintiffs' motion for a preliminary injunction should be granted.

DATED: April 17, 2017

/s/ David J. Weiner

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNIVERSAL MUSLIM ASSOCIATION OF AMERICA; JOHN DOE; and JANE DOE, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. CUSTOMS AND BORDER PROTECTION; U.S. DEPARTMENT OF STATE; U.S. DEPARTMENT OF JUSTICE; JOHN KELLY, in his official capacity as Secretary of the Department of Homeland Security; KEVIN K. MCALEENAN, in his official capacity as Acting Commissioner of U.S. Customs and Border Protection; REX W. TILLERSON, in his official capacity as Secretary of State; and JEFFERSON BEAUREGARD SESSIONS III, in his official capacity as Attorney General of the United States, Defendants.	Civil Action No.: 1:17-cv-00537-TSC

SUPPLEMENTAL DECLARATION OF THE UNIVERSAL MUSLIM ASSOCIATION OF AMERICA, INC. IN SUPPORT OF THE PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

[TO BE FILED SUBJECT TO THE COURT'S GRANTING OF PLAINTIFFS' MOTION FOR LEAVE TO FILE *INSTANTER* A SUPPLEMENTAL DECLARATION IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION PURSUANT TO L.R. 65.1(c)]