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(See Next Page For Additional Counsel)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I**

STATE OF HAWAI‘I and ISMAIL ELSHIKH,
Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; U.S.
DEPARTMENT OF HOMELAND
SECURITY; JOHN F. KELLY, in his official
capacity as Secretary of Homeland Security;
U.S. DEPARTMENT OF STATE; REX
TILLERSON, in his official capacity as
Secretary of State; and the UNITED STATES
OF AMERICA,

Defendants.

Civil Action No. 1:17-cv-00050-
DKW-KSC

**PLAINTIFFS’ MOTION TO
CONVERT TEMPORARY
RESTRAINING ORDER TO
A PRELIMINARY
INJUNCTION;
MEMORANDUM IN
SUPPORT OF PLAINTIFFS’
MOTION TO CONVERT
TEMPORARY
RESTRAINING ORDER TO
A PRELIMINARY
INJUNCTION; PROPOSED
ORDER; CERTIFICATE OF
SERVICE**

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PLAINTIFFS' MOTION TO CONVERT TEMPORARY RESTRAINING ORDER TO A PRELIMINARY INJUNCTION

Pursuant to Rules 7 and 65 of the Federal Rules of Civil Procedure and Local Rule 7.2 for the U.S. District Court for the District of Hawaii, Plaintiffs, the State of Hawai'i and Ismail Elshikh, by and through counsel, hereby move this Honorable Court to convert its Temporary Restraining Order of March 15, 2017 to a Preliminary Injunction, prohibiting Defendants from enforcing and implementing Sections 2 and 6 of the March 6, 2017 Executive Order issued by Defendant Donald J. Trump (the "Executive Order"). Those provisions of the Executive Order, *inter alia*, impose a nationwide ban on the "entry" of foreign nationals from six Muslim-majority countries for 90 days, and suspend the United States Refugee Admissions Program for a period of 120 days.

Plaintiffs previously moved for a temporary restraining order prohibiting the enforcement of Sections 2 and 6 of the Executive Order nationwide (Dkt. No. 65), and this Court entered a Temporary Restraining Order ("TRO") providing such relief on March 15, 2017. Dkt. No. 219. For the same reasons that this Court entered a TRO, it should convert the TRO to a preliminary injunction. This Court found that Plaintiffs were likely to succeed on the merits of their claim that Sections 2 and 6 of the Executive Order inflict state-sanctioned discrimination towards Muslims in violation of the Establishment Clause of the First Amendment of the United States Constitution. *Id.* at 28-40. Additionally, Sections 2 and 6 of

the Executive Order violate the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, by discriminating on the basis of national origin and by contravening the INA’s finely reticulated system of immigration controls, and violate individuals’ Due Process Clause rights under the Fifth Amendment of the U.S. Constitution.

These discriminatory and unlawful provisions of the Executive Order have no place in the State of Hawai‘i, where Defendants’ actions have caused, and continue to cause, irreparable injury to Plaintiffs. As an immediate remedy, and to maintain the status quo while more permanent solutions may be considered, Plaintiffs ask that the Court convert the Temporary Restraining Order entered on March 15, 2017, to a preliminary injunction, thereby enjoining Defendants from enforcing or implementing Sections 2 and 6 of the Executive Order nationwide.

This motion is supported by the attached Memorandum in Support of Plaintiffs’ Motion to Convert Temporary Restraining Order to a Preliminary Injunction, an accompanying declaration and exhibits, and the records and files in this action, as well as any additional submissions and oral argument that may be considered by the Court.

DATED: Washington, D.C., March 21, 2017.

Respectfully submitted,

/s/ Neal K. Katyal

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