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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JOHN DOE #1; JUAN RAMON MORALES;
JANE DOE #2; JANE DOE #3; IRIS
ANGELINA CASTRO; BLAKE DOE;
BRENDA VILLARRUEL; and LATINO
NETWORK,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States; U.S.
DEPARTMENT OF HOMELAND
SECURITY; KEVIN MCALEENAN, in his
official capacity as Acting Secretary of the
Department of Homeland Security; U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ALEX M. AZAR II, in
his official capacity as Secretary of the
Department of Health and Human Services;
U.S. DEPARTMENT OF STATE;
MICHAEL POMPEO, in his official capacity
as Secretary of State; and UNITED STATES
OF AMERICA,

Defendants.

Case No.: 3:19-cv-01743-SB

**BRIEF OF AMICI OREGON
IMMIGRANT RIGHTS
ORGANIZATIONS IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

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CORPORATE DISCLOSURE STATEMENT

Amici curiae are nonprofit organizations. They have no parent corporations and do not issue stock.

INTEREST OF AMICI CURIAE

Amici are organizations in Oregon who collectively work together in the Oregon Ready coalition or work in collaboration with that coalition. Amici work to further statewide inclusion and create a stronger immigrant rights infrastructure in Oregon by combining community-based organizing, immigrant defense work, immigrant rights policy development, and public discourse. The issues raised in this case are of profound importance to the organizational missions of amici, and they have a unique perspective on immigration, immigrant rights, and the Oregon immigrant experience that may be helpful to the court in resolving the matter.

Causa works to improve the lives of Latino immigrants and their families in Oregon through advocacy, coalition building, leadership development, and civic engagement. Latino immigrants and their families are the heart of Causa and inspire, implement, and champion Causa's work.

El Programa Hispano Católico's mission is to advance racial equity and social justice through the power of Latinx culture, community and self-determination.

Virginia Garcia Memorial Health Center's mission is to provide high quality, comprehensive, and culturally appropriate primary health care to the communities of Washington and Yamhill counties, with a special emphasis on migrant and seasonal farmworkers and others with barriers to receiving health care.

Adelante Mujeres provides holistic education and empowerment opportunities to marginalized Latina women and families to ensure full participation and active leadership in the

community.

Oregon Interfaith Movement for Immigrant Justice (IMIrJ) accompanies and equips communities and people of faith to advance immigrant justice through direct accompaniment of immigrants facing detention and deportation, policy advocacy at local, state and national levels, and prophetic action. IMIrJ is an organization made up diverse faith communities, faith leaders, and individuals called by their conscience to respond actively and publicly to the suffering of immigrant brothers and sisters in the United States due to unjust immigration policies. Through advocacy, accompaniment, and organizing, IMIrJ exposes the harm that these policies and actions inflict on the entire community and takes radical action for the transformation of power, providing real opportunities to take action for change. IMIrJ provides welcome and accompaniment to people facing persecution and oppression and offers sanctuary for immigrants faced with family separation, detention, and/or deportation.

Centro Latino Americano works to empower Latino families of Lane County by providing opportunities and building bridges for a stronger community. Centro Latino Americano's vision is a thriving, connected community where all people are valued.

Catholic Charities Immigration Legal Services is a nonprofit law program providing low-cost consultations and legal representation to immigrants and refugees throughout Oregon and southwest Washington. Catholic Charities educates the public, immigrant communities, and the organizations who serve them to promote justice for all newcomers and support conditions for their full participation in American society. Catholic Charities provides legal representation supporting family reunification and assistance to the most vulnerable immigrants and refugees, including survivors of domestic violence, sexual assault, and human trafficking.

The Immigrant and Refugee Community Organization (IRCO) serves the holistic needs of immigrants, refugees, and mainstream community members in Oregon and southwest Washington. IRCO's mission is to promote the integration of refugees, immigrants, and the community at large into a self-sufficient, healthy and inclusive multi-ethnic society. As a community-based organization, IRCO empowers children, youth, families, and elders from around the world to build new lives and become self-sufficient by providing more than 200 culturally and linguistically specific social services. IRCO's vision is to be a leader of community driven, innovative programs delivered by compassionate staff who create equitable services that empower immigrants, refugees, and underserved communities.

VIVA Inclusive Migrant Network is a non-profit organization that supports migrant communities in Oregon. VIVA Inclusive Migrant Network's mission is to empower their community, educate, create immigrant right awareness and take actions against inhumane immigration policies.

INTRODUCTION

Throughout our Nation's history, our Presidents speak to bind us together as a Nation under the promise of a "government of the people, by the people, for the people." *See, e.g.*, President Abraham Lincoln, *Gettysburg Address* (Nov. 19, 1863).¹ Over the decades, across political parties, Presidents have emphasized the overarching, unifying principles of our Nationhood. *See, e.g.*, President John F. Kennedy, *Address on Civil Rights* (Jun. 11, 1963) ("This is one country. It has become one country because all of us and all the people who came here had an equal chance to

¹ Available at <https://millercenter.org/the-presidency/presidential-speeches/november-19-1863-gettysburg-address>.

develop their talents.”);² President Ronald Reagan, Second Inaugural Address (Jan. 21, 1985) (“Let us resolve that we, the people, will build an American opportunity society in which all of us—white and black, rich and poor, young and old—will go forward together, arm in arm. Again, let us remember that though our heritage is one of blood lines from every corner of the Earth, we are all Americans[.]”);³ President George W. Bush, *President Promotes Compassionate Conservatism*, San Jose, California (Apr. 30, 2002) (“Every immigrant can be fully and equally American because we’re one country. Race and color should not divide us, because America is one country.”);⁴ President Barack Obama, *Address to the Nation on Immigration* (Nov. 20, 2014) (“[T]o be an American is about something more than what we look like, or what our last names are, or how we worship. What makes us Americans is our shared commitment to an ideal—that all of us are created equal, and all of us have the chance to make of our lives what we will.”).⁵ Again and again, Presidents have spoken to espouse the shared principles of freedom and tolerance on which this Nation was founded. *See, e.g., Trump v. Hawai’i*, 138 S.Ct. 2392, 2417-18 (2018) (citing examples of Presidential statements of inclusion and cohesion).

Not so for this “particular President.” *Id.* at 2402. President Trump began his presidential campaign by denouncing Mexican immigrants as “rapists.”⁶ He allegedly commented that Haitian

² Available at <https://millercenter.org/the-presidency/presidential-speeches/june-11-1963-address-civil-rights>.

³ Available at <https://millercenter.org/the-presidency/presidential-speeches/january-21-1985-second-inaugural-address>.

⁴ Available at <https://georgewbush-whitehouse.archives.gov/news/releases/2002/04/20020430-5.html>.

⁵ Available at <https://millercenter.org/the-presidency/presidential-speeches/november-20-2014-address-nation-immigration>.

⁶ *See* Michelle Ye Here Lee, *Donald Trump’s false comments connecting Mexican immigrants and crime*, Washington Post (Jul. 8, 2015), <https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and->

immigrants “all have AIDS” and that Nigerian immigrants would never “go back to their huts” after seeing the United States.⁷ He has intentionally conflated Middle Eastern and Muslim immigrants with terrorists and falsely claimed that most people convicted of terrorism in the U.S. come from abroad.⁸ He has portrayed immigrants as criminals, invaders, and subhuman.⁹ He has denounced immigrants as vermin pouring into and infesting the United States.¹⁰ He has railed

crime. As President, he has affirmed and doubled-down on his remarks. *See* Remarks by President Trump at a Roundtable Discussion on Tax Reform (Apr. 5, 2018), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-roundtable-discussion-tax-reform>.

⁷ *See* Michael D. Shear & Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda* (Dec. 23, 2017), <https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html>.

⁸ *Hawaii*, 138 S.Ct. at 2435–36 (Sotomayor, J., dissenting) (compiling statements “from which a reasonable observer would readily conclude that the [travel ban] was motivated by hostility and animus toward the Muslim faith”). More recently, the President claimed that “unknown Middle Easterners” and “people . . . from the Middle East and other places that are not appropriate for our country” were heading to the U.S. border. Scott Horsley, *Fact Check: President Trump’s False Claims on Migrant Caravan, Tax Cuts*, National Public Radio (updated Oct. 23, 2018, 5:22 PM ET), <https://www.npr.org/2018/10/23/659917659/fact-check-president-trumps-false-claims-on-migrant-caravan-tax-cuts>.

⁹ *See, e.g.*, President Donald Trump, Twitter (Nov. 26, 2018) (describing migrants in caravan as “stone cold criminals”), <https://twitter.com/realDonaldTrump/status/1067015026995879937>; President Donald Trump, *Remarks on the Illegal Immigration Crisis and Border Security* (Nov. 1, 2018) (describing the migrant caravans as “like an invasion”), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-illegal-immigration-crisis-border-security>; Scott Neuman, *During Roundtable, Trump Calls Some Unauthorized Immigrants ‘Animals’*, National Public Radio (May 17, 2018) (reporting Trump’s statement that “These aren’t people. These are animals.”), <https://www.npr.org/sections/two-way/2018/05/17/611877563/during-roundtable-trump-calls-some-unauthorized-immigrants-animals>.

¹⁰ *See* David A. Graham, *Trump Says Democrats Want Immigrants to ‘Infest’ the U.S.*, *The Atlantic* (June 19, 2018), <https://www.theatlantic.com/politics/archive/2018/06/trump-immigrants-infest/563159>.

against immigration from “shithole countries.”¹¹ He ordered United States citizens, members of congress who are people of color to “go back” to their countries.¹²

Spoken by the President, these aren’t just words in a digital space. His words have impact—injurious and immediate. His words have inspired white nationalist violence at the same time that he has condoned the language of white nationalism.¹³ His stereotypes and insults have spurred discrimination and endangered entire communities.¹⁴ And his inflammatory rhetoric has created and deepened divisions within American society, with devastating results.¹⁵

Spoken from the Office of the President, his words become policy.¹⁶ *See James Madison Project v. Department of Justice*, No. 1:17-cv-00144, Def. Supp. Mem. at 4 (ECF No. 29) (D.D.C. Nov. 13, 2017) (“[T]he government is treating the President's statements to which plaintiffs

¹¹ *See* Julie Hirschfeld Davis, Sheryl Gay Stolberg & Thomas Kaplan, *Trump Alarms Lawmakers With Disparaging Words for Haiti and Africa*, N.Y. Times (Jan. 11, 2018), <https://www.nytimes.com/2018/01/11/us/politics/trump-shithole-countries.html>.

¹² *See* Katie Rogers and Nicholas Fandos, *Trump Tells Congresswomen to ‘Go Back’ to the Countries They Came From*, N.Y. Times (July 14, 2019), <https://www.nytimes.com/2019/07/14/us/politics/trump-twitter-squad-congress.html>.

¹³ *See, e.g.*, Jake Shafer, *How Trump Changed After Charlottesville*, Politico (July 18, 2019), <https://www.politico.com/magazine/story/2019/07/18/donald-trump-racist-rally-227408>; Peter Baker & Michael D. Shear, *El Paso Shooting Suspect’s Manifesto Echoes Trump’s Language*, N.Y. Times (Aug. 4, 2019), <https://www.nytimes.com/2019/08/04/us/politics/trump-mass-shootings.html>.

¹⁴ *See* David Leonhardt & Ian Prasad Philbrick, *Donald Trump’s Racism: The Definitive List, Updated*, NY Times (Jan. 15, 2018), <https://www.nytimes.com/interactive/2018/01/15/opinion/leonhardt-trump-racist.html>.

¹⁵ *See* Michael Kunzelman and Astrid Galvan, *Trump words linked to more hate crime? Some experts think so*, AP News (Aug. 7, 2019), <https://apnews.com/7d0949974b1648a2bb592cab1f85aa16>; Griffin Sims Edwards and Stephen Rushin, *The Effect of President Trump’s Election on Hate Crimes* (Jan. 14, 2018), <https://ssrn.com/abstract=3102652>.

¹⁶ *See* Jayashri Srikantiah & Shirin Sinnar, *White Nationalism as Immigration Policy*, Stanford Law Online Review (March 2019) (itemizing immigration policies enacted by the Trump Administration), <https://www.stanfordlawreview.org/online/white-nationalism-as-immigration-policy/>.

point—whether by tweet, speech or interview—as official statements of the President of the United States.”); *see also* Daphna Renan, *Presidential Norms and Article II*, 131 *Harvard L. Rev.* 2187, 2267 (2019) (“[D]oes this particular President’s expressions of anti-Muslim and anti-immigrant animus or cumulative anti-constitutional behavior raise concerns about the functioning of the institutional presidency itself?”).

The October 4, 2019 Proclamation is just another manifestation of this trend.

Oregon’s collective prosperity depends on all of us: hand in hand, Oregonian to Oregonian. Amici are organizations dedicated to protecting Oregon’s collective prosperity by building a human network of people who care about each other and help each other. This network is an anti-thesis to the President’s divisive, zero-sum view of immigrants and America.¹⁷ Amici explain here that while the Proclamation’s impact is immediate, its impact on the Oregon immigrant community is magnified by the cumulative nature of the Trump Administration’s assaults on the immigrants.

ARGUMENT

I. THROUGH OREGON’S EMPHASIS ON IMMIGRANT INCLUSION, THE STATE ADVANCES ITS COLLECTIVE PROSPERITY.

The State of Oregon is an “inclusive jurisdiction that embraces, celebrates, and welcomes its immigrant and refugee residents and recognizes their contributions to the collective prosperity of all Oregonians.” Or. Exec. Order No. 17-04, ¶ 2 (Feb. 2 2017).¹⁸ That we each have a hand in creating this prosperous vision of our state has not always been true. Historically, “Oregon has

¹⁷ *Trump’s Backward View of Immigration*, N.Y. Times (Feb. 7, 2018) (stating that the President’s views “stem from a nativist, zero-sum view that what’s good for immigrants is bad for America”), <https://www.nytimes.com/2018/02/07/opinion/trump-backward-immigration.html>.

¹⁸ Available at https://www.oregon.gov/gov/Documents/executive_orders/eo_17-04.pdf.

struggled with exclusionary policies against immigrants and communities of color.”¹⁹ Oregon is the only state in the United States that began explicitly as “whites only.”²⁰ Oregon’s history of racial exclusion includes immigrant communities. One of the most brutal attacks against early Chinese immigrants occurred in Oregon in 1887, when over thirty Chinese gold miners were ambushed and murdered along the Snake River.²¹ Discriminatory treatment extended to Japanese immigrants in the early 1900s, including barring Japanese immigrants from owning land and facilitating the internment of Japanese-Americans.²² Oregon’s Latino community was frequently targeted including policies intended to remove Mexican immigrants from the region.²³

But that is not all of Oregon. As amici know, “Oregon is an inspiration. Whether you come to it, or are born to it, you become entranced by our state’s beauty, the opportunity she affords, and the independent spirit of her citizens.” *See* Gov. Tom McCall, Address to Oregon Legislative Assembly (Jan. 8, 1973).²⁴ For amici, their work is woven into the fabric of Oregon and the principle of working to support our collective prosperity—that we are all in this together—is a core feature of their programs and civic engagement. The work of amici centers on bringing all the people of Oregon together to work together for our collective prosperity. It is this work that informs their opposition to the President’s Proclamation, which “runs counter not just to the best

¹⁹ Tess Hellgren, Rebekah Friesen & Stephen Manning, *Belong: Strengthening Oregon’s Disentanglement Statute to Enhance Public Safety, Protect Fundamental Rights, and Promote Collective Prosperity*, Innovation Law Lab, 1 (2018), <https://innovationlawlab.org/belong-report-inclusion-2018/>.

²⁰ *Id.* at 3 (describing Oregon exclusionary laws).

²¹ *Id.* at 4.

²² *Id.*

²³ *Id.*

²⁴ Available at <https://oregonhistoryproject.org/articles/tom-mccalls-copy-of-his-speech-to-the-oregon-legislative-assembly-1973/>.

of American tradition and principles, but to evidence of what’s best for the country.”²⁵ For the State of Oregon, like the nation, we are better off as a whole when we work together.

Data supports what amici and Oregonians know: that immigrants are an integral part of the fabric of our state. One in ten Oregon residents is an immigrant—more than 400,000 Oregonians in total.²⁶ Nearly half of Oregon’s foreign-born population have become naturalized U.S. citizens.²⁷ A huge number of Oregon families have mixed citizenship statuses: of the more than 825,000 Oregon children who are American citizens born in the United States, nearly 200,000 have at least one parent who is an immigrant.²⁸

Immigrant Oregonians and their families contribute immensely not only to the community vibrancy of our state, but also to its economic health. Immigrants comprise more than 13% of Oregon’s workforce.²⁹ 69.6% of foreign-born Oregonians and 71.2% of noncitizen Oregonians are in the civilian work force, compared to 61.3% of U.S.-born Oregonians.³⁰ Foreign-born and noncitizen Oregonians are also unemployed at lower rates than U.S.-born Oregonians.³¹ In 2014, immigrant-led households in Oregon paid \$1.7 billion in federal taxes and \$736.6 million in state taxes.³² Oregon residents in these same households had \$7.4 billion in spending power (after-tax

²⁵ See *Trump’s Backward View*, N.Y. Times.

²⁶ Migration Policy Institute, State Immigration Data Profiles: Oregon – Demographics and Social (2017 data), <https://www.migrationpolicy.org/data/state-profiles/state/demographics/OR> (accessed Nov. 11, 2019).

²⁷ *Id.*

²⁸ *Id.*

²⁹ Migration Policy Institute, State Immigration Data Profiles: Oregon – Workforce (2017 data), <https://www.migrationpolicy.org/data/state-profiles/state/workforce/OR> (accessed Nov. 11, 2019).

³⁰ *Id.*

³¹ *Id.*

³² American Immigration Council, *Immigrants in Oregon*, Fact Sheet (Sept. 15, 2017), <https://www.americanimmigrationcouncil.org/research/immigrants-oregon>.

income in 2014).³³ And in 2015, over 28,000 immigrant business owners in Oregon generated \$470.6 million in business income.³⁴

Through the Oregon Ready coalition, amici work to empower immigrant Oregonians to contribute to the state's community vitality and collective prosperity. For example, Centro Latino Americano runs the Empowered Families Program, Familias Poderosas, which helps members of Latino families strengthen their civic involvement and engage with systems to affect change in their communities. IRCO provides programs that foster early childhood development as well as employment programs that include job coaching, development and placement, vocational training and certification courses, and retention services. Adelante Mujeres' Empresas program supports Latino immigrant entrepreneurs, including an eleven-week small business development course with technical assistance and one-on-one coaching. And the Virginia Garcia Memorial Health Center supports immigrants' access to basic health services through assistance with insurance eligibility and enrollment, home visits, parenting classes, and a chronic diseases health education program for patients and community members.

II. THE PROCLAMATION'S UNSUPPORTED ASSERTIONS ARE A DISTRACTION FROM THE PRESIDENT'S REAL PURPOSE: TO DISRUPT THE FAMILY REUNIFICATION SYSTEM IN FAVOR OF WHITE, WEALTHY PEOPLE

On its face, the Proclamation's purpose is to address the financial burden of uncompensated health care within the United States. The Proclamation asserts that "healthcare providers and taxpayers bear substantial costs in paying for medical expenses incurred by people who lack health insurance or the ability to pay for their healthcare." Proclamation No. 9945, 84

³³ *Id.*

³⁴ *Id.*

Fed. Reg. 53,991 (Oct. 9, 2019). It reasons that due to the burden of uncompensated care costs and the reliance of uninsured individuals on publicly funded programs, the U.S. health care system would be improved by barring immigrants—specifically, almost exclusively those immigrants seeking visas abroad under the Congressionally established family reunification system, including family members who have suffered from violent crimes and domestic violence. These unsupported, irrational assertions are readily undermined by reality. Moreover, they are a distraction from the Proclamation’s actual objective: to shut down the Congress’ precise and comprehensive framework for family reunification because of the President’s animus against immigrants of color.

A. The Proclamation is Based on Unsupported and Irrational Assertions

The Proclamation’s preamble consists of a mere four paragraphs, concluding with the claim that “[c]ontinuing to allow entry into the United States of certain immigrants who lack health insurance or the demonstrated ability to pay for their healthcare would be detrimental” to the U.S. healthcare system and American taxpayers. *Id.* Yet the Proclamation fails to ever actually link recent immigrants to the Proclamation’s purported national interests. The Proclamation’s short preamble merely claims that uninsured individuals, *in general*, burden the country’s health care system. Notably, only one sentence of the Proclamation cites any evidence that speaks to lawful immigrants’ actual interaction with the U.S. healthcare system: an unreferenced statement that unidentified “data” show “that lawful immigrants are about three times more likely than United States citizens to lack health insurance.” *Id.* This unsupported statistic, even if true, does not actually show that uninsured lawful immigrants are actually “saddl[ing] our healthcare system, and subsequently American taxpayers, with higher costs.” *Id.*

The Proclamation’s unsupported assertions are particularly irrational when considered in light of actual data about uninsured immigrants’ use of the nation’s healthcare system. Data based on the health insurance status of recent immigrants reveal that uninsured recent immigrants represent about 0.3% of the adult American population and only 2.9% of all uninsured adults in the United States.³⁵ They incur *less than one-tenth of one percent* of total U.S. medical expenditures.³⁶ Even if the Proclamation’s uncited estimates of uncompensated care costs are correct, Defendants have not made any factual findings to show the percentage—if any—of these costs attributable to the tiny percentage of uninsured recent lawful immigrants. Therefore, the Proclamation represents a paradigm example of irrational and arbitrary policymaking.

B. The Proclamation’s Purpose is to Disrupt Congress’ Comprehensive Family Reunification System

The Proclamation’s unsupported assertions may be fairly categorized as a “distraction” from the President’s real purpose: to initiate the shutdown of the family reunification system. *See Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2576 (2019) (finding, in the context of reviewing agency action, that “we cannot ignore the disconnect between the decision made and the explanation given”). The President has made plain his desire to shut down the very immigration programs Congress designed to make legal immigration more diverse and humane. Yet through the Proclamation, the President seeks to end-run Congress and effectively shut down the family reunification system anyway.

³⁵ *See* Decl. of Leighton Ku, ECF 54 at 4, 10. Dr. Ku is a Professor of Health Policy and Management and Director of the Center for Health Policy Research at the George Washington University’s Milken Institute School of Public Health. He is a nationally-known health policy researcher with over 25 years of experience.

³⁶ *Id.*

The Proclamation is President Trump’s latest attempt to upend the nation’s family reunification system codified by Congress in the Immigration and Nationality Act. Since taking office in 2017, President Trump has repeatedly vilified family-based immigration and has sought to restrict visas lawfully issued to reunify families. He has described “chain migration” of family members as “a disaster, and very unfair to our country.”³⁷ Calling the family reunification system “the worst laws,” he has claimed that family members immigrating to the United States are “contrary to our national interest and national security.”³⁸ At the same time, Trump has overseen significant delays in the approval of immigration-related applications. Within U.S. Citizenship and Immigration Services (USCIS), the overall average case processing time increased by 46% over the past two fiscal years—including increasing substantially in FY 2018 despite a marked decrease in the number of cases received by the agency.³⁹ Delays have been even worse for some of the most vulnerable individuals: for domestic abuse survivors and abandoned children who qualify for immigration relief, there was a 181% increase in their visa processing time from FY 2016 to FY 2018.⁴⁰

³⁷ Meghan Keneally, *8 times Trump slammed ‘chain migration’ before it apparently helped wife’s parents become citizens*, ABC News (Aug. 10, 2018), <https://abcnews.go.com/US/times-trump-slammed-chain-migration-apparently-helped-wifes/story?id=57132429>; see also Dara Lind, *What “chain migration” really means – and why Donald Trump hates it so much*, Vox (Jan. 30, 2018), <https://www.vox.com/policy-and-politics/2017/12/29/16504272/chain-migration-family-how-trump-end>.

³⁸ See Keneally; President Donald Trump, *National Security Strategy of the United States of America*, 9 (Dec. 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

³⁹ Jason Boyd & Greg Chen, *AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration*, American Immigration Lawyers Association, 1 (Jan. 30, 2019), <https://www.aila.org/File/DownloadEmbeddedFile/79015>.

⁴⁰ *Id.* at 7.

The President has also pursued a series of policies to actively, systematically undermine Congress’s family reunification system. As of 2018, new policies allow USCIS to deny immigration applications outright for even minor omissions or errors, then refer applicants—including applicants seeking family reunification or protection from domestic abuse—straight to deportation proceedings.⁴¹ The President has also attempted to expand the definition of the “public charge” grounds to dramatically limit the admission of immigrants under the family reunification system.⁴² Under the DHS’ new rule—currently enjoined—nearly 70% of immigrants granted lawful permanent residence over the past five years would have demonstrated at least one negative factor weighing against their admission.⁴³ In line with the President’s repeated attacks on Mexican and Central American immigrants, research shows that the public-charge rule would likely also result in a shift in green card recipients, “away from Mexico and Central America (the origin group

⁴¹ USCIS, *Issuance of Certain RFEs and NOIDs; Revisions to Adjudicator’s Field Manual (AFM) Chapter 10.5(a), Chapter 10.5(b)*, Policy Memorandum PM-602-0163 (Jul. 13, 2018), https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM_10_Standards_for_RF_Es_and_NOIDs_FINAL2.pdf; USCIS, *Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*, Policy Memorandum PM-602-0050.1 (Jun. 28, 2018), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

⁴² U.S. Department of Homeland Security, *Inadmissibility on Public Charge Grounds*, Final Rule, 84 Fed. Reg. 41292 (Aug. 14, 2019), <https://federalregister.gov/d/2019-171/>.

⁴³ Laurel Wamsley, Pam Fessler, & Richard Gonzalez, *Federal Judges in 3 States Block Trump’s ‘Public Charge’ Rule for Green Cards*, National Public Radio (Oct. 11, 2019), <https://www.npr.org/2019/10/11/769376154/n-y-judge-blocks-trump-administrations-public-charge-rule>; Jeanne Batalove, Michael Fix, & Mark Greenberg, *Millions Will Feel Chilling Effects of U.S. Public-Charge Rule That Is Also Likely to Reshape Legal Immigration*, Migration Policy Institute (Aug. 2019), <https://www.migrationpolicy.org/news/chilling-effects-us-public-charge-rule-commentary>; Randy Capps, Mark Greenberg, Michael Fix, & Jie Zong, *Gauging the Impact of DHS’ Proposed Public-Charge Rule on U.S. Immigration*, Migration Policy Institute (Nov. 2018), <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

whose members are most likely to have the negative factors set out in the proposed rule) and toward other world regions, especially Europe.”⁴⁴

The impact of the current Proclamation on the family reunification system is immense. By allowing visas to be denied based on the single factor of healthcare coverage, the Proclamation sets out an even more restrictive test than the public-charge rule.⁴⁵ The U.S. Department of State estimates that 450,500 people would be subject to the Proclamation’s terms. U.S. Department of State, *Notice of Information Collection Under OMB Emergency Review: Immigrant Health Insurance Coverage*, 84 Fed. Reg. 58,199 (Oct. 30, 2019).⁴⁶ Of those, nearly 300,000 people would be denied visas.⁴⁷ The Proclamation’s implementation would mean that “this policy alone might reduce the number of legal immigrants to the United States by about 55 percent.”⁴⁸

Through this Proclamation, the President seeks to undermine the very basis of the family reunification system established by Congress in the Immigration and Nationality Act. On the basis of a single arbitrary factor—health insurance coverage—the President prevents visa applicants from reunifying with family members in the United States, unless they can pass the unspecified wealth-based test of “possess[ing] the financial resources to pay for reasonably foreseeable medical costs.” 84 Fed. Reg. 53,991.

⁴⁴ Capps *et al.* at 3.

⁴⁵ See Julia Gelatt & Mark Greenberg, *Health Insurance Test for Green-Card Applicants Could Sharply Cut Future U.S. Legal Immigration*, Migration Policy Institute (Oct. 2019), <https://www.migrationpolicy.org/news/health-insurance-test-green-card-applicants-could-sharply-cut-future-us-legal-immigration>.

⁴⁶ Available at <https://www.federalregister.gov/d/2019-23639>.

⁴⁷ Ku Decl., ECF 54 at 4 (explaining that “the President’s policy could reduce the number of visas approved for legal immigration by more than half, or 293,000 persons per year, because they lack the approved forms of insurance”).

⁴⁸ *Id.* at 12.

III. THE CUMULATIVE NATURE OF THE PRESIDENT’S UNRELENTING ASSAULTS ON IMMIGRANT COMMUNITIES IMPACTS AMICI.

The impact of the President’s Proclamation would be devastating to Oregon’s families, communities, and collective prosperity, as Amici are uniquely positioned to attest.

The President’s unrelenting assaults on immigrant communities have already taken a toll on Oregon’s communities and economy, both locally and statewide. Increasingly aggressive immigration enforcement actions have caused many Oregon residents to fear sending their children to school or even leaving the house to buy groceries.⁴⁹ Since 2017, for example, ICE has executed or planned enforcement actions at state courthouses that serve nearly three million Oregonians—71 percent of the state’s residents.⁵⁰ As one school superintendent explained, “[a]lmost everybody in town is impacted” by the fear of immigration raids.⁵¹ In the agricultural sector, fear of deportation has led to “record labor shortages in the mid-Willamette Valley and also statewide.”⁵² As organizations that serve Oregon’s immigrant communities and, in many cases, are themselves made up of immigrant staff and membership, Amici have uniquely felt and observed the impact of this cumulative assault on immigrants.

Amicus Virginia Garcia Memorial Health Center (Virginia Garcia), founded in 1975 in response to a farm worker child’s tragic death, provides high quality, comprehensive and culturally

⁴⁹ Katherine Cole, *How Labor Challenges Affected the 2019 Grape Harvest*, SevenFiftyDaily (Nov. 4, 2019) (describing ICE officials “using brute force and pepper spray to detain people they suspect of lacking documentation of citizenship”), <https://daily.seventyfive.com/how-labor-challenges-affected-the-2019-grape-harvest/>.

⁵⁰ ACLU of Oregon, *Advocates Ask Oregon Courts to Ban Arrests at Courthouses* (Oct. 18, 2019), <https://aclu-or.org/en/press-releases/advocates-ask-oregon-courts-ban-ice-arrests-courthouses>.

⁵¹ Casey Parks, *'Everyone is affected.' Immigration raids turn Oregon city into ghost town*, The Oregonian/Oregon Live (Apr. 7, 2017), https://www.oregonlive.com/pacific-northwest-news/2017/04/woodburn_taught_latinos_to_dre.html (updated Jan. 9, 2019).

⁵² See Cole (quoting Reyna López, executive director of the PCUN farmworker union).

appropriate primary health care to the communities of Washington and Yamhill counties, with a special emphasis on migrant and seasonal farmworkers and others with barriers to health care. The health center serves more than 48,500 patients annually at five primary care clinics, a women's clinic, six dental clinics, five school-based health centers and through a mobile clinic serving patients across Washington and Yamhill counties. Virginia Garcia offers medical, dental, pharmacy, mental health, wellness and outreach services. About 98 percent of its patients come from low-income households, 24 percent are uninsured, 45 percent are children and their patients speak over 60 different languages.

Virginia Garcia's patients and their families are on the front line of the Administration's anti-immigrant actions. Providers report frequent discussions with their immigrant patients related to the trauma, anxiety and fear they are experiencing in the face of hostile decisions, proclamations and rhetoric aimed at immigrants in our country. The operators at Virginia Garcia's call center report that patients express fear about coming into the clinic for their appointments and others simply have decided not to seek health care at this point. In one instance, a pregnant woman eligible for insurance coverage for the birth of her child experienced so much anxiety about the constantly changing rules and regulations that she opted to forgo health care entirely for her pregnancy. The Administration's anti-immigrant attitudes have also emboldened attitudes of animus toward Virginia Garcia patients, who describe increasing hostility and confrontation as they go about their daily lives. Their documentation status does not lessen the impact of these hurtful attitudes and decisions because anyone who appears to be an immigrant is a target. As a result, many in the community are fearful of drawing attention to themselves by advocating for basic human rights, such as access to health care, and against exclusionary immigration policies.

Amicus Causa is an organization working to improve the lives of Latino immigrants and their families in Oregon through advocacy, coalition building, leadership development, and civic engagement. Latino immigrants and their families are the heart of Causa and inspire, implement, and champion its work. Founded in 1995 by immigrants, farmworkers, and allies, Causa serves as a bridge between government processes and community, and works to develop community leadership.

Since 2017, Causa has seen a significant spike in family separation through the increased targeting and deportation of Latino community members. Deportation destabilizes families and creates further income and housing instability by removing parents from the home, often resulting in an immediate loss of income. As the President's policies have rolled out, Causa has received an increasing number of calls from people afraid that they will be separated by the President's anti-immigrant policies. Fear and anxiety in the community have skyrocketed as deportations have increased. The rules proposed by the Trump administration will make, and have already made, immigrant families in Oregon, regardless of their citizenship status, afraid to seek programs that help them stay strong and raise children who thrive.

Amicus Centro Latino Americano ("Centro") was formed in 1972 by a group of activist Chicano students from Lane Community College and the University of Oregon to meet the needs of Mexican immigrant families in Lane County, Oregon. In its pursuit of its mission of empowering Latino families by providing opportunity and building bridges for a stronger community, Centro has developed four core programs: social services, mental health therapy, alcohol and addictions counseling, and youth mentoring services.

The President's anti-immigrant policies have increased the fear Centro Latino Americano's clients experience on a daily basis. For example, the threat of the proposed public

charge rule forced many parents' hands and led them to opt-out from self-sufficiency programs that are crucial to the health and wellness of their children, many of whom are U.S. citizens. Food insecurity in Lane County is one of the highest rates in the state, which makes the public charge proposed rule a much bigger threat. Centro operates a community food pantry to meet the increased need for access to food, which has become increasingly important as the community it serves fears accessing food benefits. The Trump administration is willfully choosing to broaden gaps between the community and available services, forcing organizations like Centro Latino Americano and 113 statewide partners to work even harder to bridge these gaps.

Amicus the VIVA Inclusive Migrant Network is a nonprofit organization founded in memory of Denis Moises Escalante Borjas and the many migrant families that lose family members in the attempt to find freedom in the United States. Denis Moises was murder in El Salvador in 2016 after he decide to leave the United States out of fear of being detained by ICE. VIVA Inclusive Migrant Network supports the migrant communities in Oregon. Its mission is to empower our community, educate, create immigrant right awareness and take actions against inhumane immigration policies. Viva is deeply concerned with the impact President Trump's anti-immigrant policies and rhetoric are having on the community.

Amicus The Interfaith Movement for Immigrant Justice (IMIrJ) supports and equips communities and people of faith to advance immigrant justice through direct accompaniment of immigrants facing detention and deportation, policy advocacy at local, state and national levels, and prophetic action. IMIrJ is in relationship with faith leaders from more than 140 congregations throughout the state of Oregon.

Faith communities that IMIrJ accompanies are directly affected by policies that harm immigrant communities. Immigrants, many of whom will be prevented from reunifying with their

families by the Proclamation, are important leaders at IMIrJ and in faith communities throughout Oregon. The President's Proclamation that seeks to disrupt the family reunification system will have a devastating effect on communities of faith with leaders and members that will be prevented from reunifying because of this policy. Although the communities that IMIrJ accompanies are diverse in their theology, all hold a deep belief that the full dignity of every person should be acknowledged. Radically changing our immigration system to favor white wealthy communities stands opposite to this belief.

Amicus Adelante Mujeres has a rich history of successfully engaging the low-income Latino and immigrant community by providing educational resources and acting as a forum for community advocacy. Adelante Mujeres' mission is to provide holistic education and empowerment opportunities to low-income Latina women and their families to ensure full participation and active leadership in the community. The organization served more than 8,000 individuals in 2017 with comprehensive, life-changing services, including education programs, youth development, violence reduction programs, and microenterprise business support programs.

Adelante Mujeres is committed in supporting immigrant families living in Washington County, which is one of the most diverse counties in the state of Oregon. The Proclamation is yet another attack on poor immigrant families who might not be able to pass the wealth-based test. Approximately 98% of the organization's participants are low or extremely low income making them highly vulnerable to the current Proclamation. The impact of the Proclamation would devastate the families that Adelante Mujeres currently work with—families that are already going through trauma and stress as a result of the anti-immigrant rhetoric and policies of this administration. If the Proclamation goes into effect, the inability to reunify with loved ones increases stress levels and will certainly cause adverse health consequences for the women and

children in its programs. Adelante Mujeres believes that the Proclamation would push immigrant families to live in limbo and fear, and cause them to refrain from using health services and other programs it offers that they are eligible for, thus decreasing Adelante Mujeres' retention rate and undermining its mission.

The Immigrant and Refugee Community Organization (“IRCO”) was founded in 1976 with the mission of promoting the integration of refugees, immigrants, and the community at large into a self-sufficient, healthy, and inclusive multi-ethnic society. Just as the needs of immigrants and refugees are multifaceted, so are the culturally and linguistically specific services that IRCO provides. More than 200 wraparound programs and services aim to lift and stabilize refugees and immigrants in Oregon at every age and stage of life—from childhood early education services, to youth after-school activities, employment training, family strengthening, and senior services. IRCO is rooted in the communities that it serves—its staff is one of the most culturally and linguistically diverse workforces in Oregon, with more than 500 individuals who collectively speak 98 languages and represent 73 ethnicities. In fiscal year 2018, IRCO served over 35,000 community members, including those from African, Asian, Indigenous/Native American, Latinx, Middle Eastern, Native Hawaiian/Pacific Islander, and Slavic communities. IRCO's growing legal department provides culturally specific and responsive immigration and disability legal services to immigrants and refugees, including pro bono removal defense in immigration court.

The President's anti-immigrant policies and fear-mongering have been wildly successful at creating widespread panic and confusion among IRCO's clients and the community at large. IRCO's clients are largely refugees and immigrants and the resultant anxiety and confusion from policies like the public charge expansion and health insurance ban causes them to cease accessing much needed public assistance. Worst of all, the most detrimentally impacted members of the

community are the elderly, disabled, and children—those that are the most likely to need social services and supports, and who are not usually in charge of seeking public benefits on their own. IRCO has observed individuals disenrolling from food stamps and opting out of the Affordable Care Act, students not attending schools for fear of ICE enforcement actions and the possibility of being deported, and families at risk of losing their housing because of the U.S. Housing and Urban Development housing ban on immigrants.

IRCO's legal program has observed that unnecessarily heightened requirements in immigration applications and filing fees means that families are either prevented from or overly burdened when they attempt to bring family members over to the United States under family reunification, leaving families separated. IRCO has also seen straightforward affirmative visa applications held up by arbitrary requests for evidence and denials that unnecessarily consume the attorneys' and clients' time, energy, and resources. As a nonprofit legal department, responding to these requests and denials eats up the team's ability to serve the ever-increasing number of low income and underserved community members at risk under this administration. The communities that IRCO serves and represents are traumatized and anxious. IRCO's program staff have been working unceasingly to inform, prepare, safety plan, demystify, and change the narrative of fear and harm from this administration for all impacted community members. However, the constant onslaught is causing severe burnout and direct and vicarious trauma at unprecedented levels among program staff.

Amicus Catholic Charities Immigration Legal Services ("Legal Services") is a nonprofit legal program providing low-cost consultations and legal representation to immigrants and refugees throughout Oregon and southwest Washington. It also educates the public, immigrant communities, and the organizations who serve them to promote justice for all newcomers and

support conditions for their full participation in American society. Legal Services provides representation supporting family reunification and assistance to the most vulnerable immigrants and refugees, including survivors of domestic violence, sexual assault, and human trafficking.

Legal Services has helped many families that would be adversely affected by the new proclamation. For instance, the organization has helped clients where the intending immigrant is a stay-at-home parent and primary caregiver for a disabled U.S. citizen child. Although the applicant's spouse had income above the threshold for the public charge rule, buying qualified health insurance under the proclamation would be prohibitively expensive. Such an applicant would likely be barred under the new proclamation, with negative consequences for the immigrant and her U.S. citizen family members.

Legal Services has found itself increasingly having to tell clients that they should reconsider applying for certain immigration benefits or attending their consular interviews abroad. Changes in immigration enforcement policy that would place applicants for immigration benefits who are found not to qualify in deportation proceedings have forced the organization to reconsider filing applications such as those for victims of domestic violence and crime. The clients seeking those benefits are survivors and among the most vulnerable members of our community. The heightened standards for adjudicating the public charge rule and now the healthcare ban have also prevented the organization from moving forward with many family reunification cases. The President's policies are preventing families from reuniting and forcing others to continue living in the shadows. Due to the frequent and significant changes, it is almost impossible to tell a client who is eligible for an immigration benefit today if they will continue to be eligible by the time their application is adjudicated. Overall, President Trump's anti-immigrant policies have had a chilling effect on applications, meaning that organization is unable to help those who previously

would have sought its services. As people of faith, Legal Services is called to welcome the stranger, and to stand with our brothers and sisters to oppose this proposal, which would harm families, alter the face of our nation, and send a signal to immigrants that they are not welcome.

Amicus El Programa Hispano Católico (“EPHC”) provides culturally specific and responsive support to the Latino communities in Oregon. The organization has been a member of the Greater Portland Latinx community for more than 37 years, with a mission to advance racial equity and social justice in the Latinx community through the power of culture, community, and self-determination. EPHC serves more than 20,000 people every year through five primary categories of services: economic opportunity, housing, domestic violence and spousal abuse intervention and prevention, community health, and education. EPHC’s culturally-specific approach supports the area’s growing population of Latinx individuals and families through shared language, experience, and culture. This core level of understanding is critical to forging trusting relationships with Latinx families, engaging them with services and benefits, and helping them achieve long-term stability.

EPHC has seen an increase of fear in its program participants and the clients it serves as a result of the administration’s anti-immigrant policies. Its clients have expressed a fear of deportation, fear of applying for social services or filing police reports, and most importantly a fear of reporting sexual abuse and domestic violence. The organization has also seen a decrease of applications from participants to access basic housing and food needs for themselves and for their children who are U.S. citizens. At a time when disparities in health, housing and economic opportunities are becoming greater, the administration’s anti-immigrant policies are contributing to the increased marginalization of the most vulnerable people the agency aims serve.

CONCLUSION

If allowed to enter into effect, the Proclamation's impact would be immediate and devastating to immigrant communities in Oregon and the organizations that serve them. The reasons provided by the President for eviscerating the family reunification program authorized by Congress are pretextual and part of a broader and sustained assault on immigrants of color. The impact of the Proclamation on the Oregon immigrant community is magnified by the cumulative nature of this assault. Amici urge the court to enjoin the Proclamation.

DATED this 12th day of November, 2019.

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