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Poverty Law Center

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LAS AMERICAS IMMIGRANT
ADVOCACY CENTER; ASYLUM
SEEKER ADVOCACY PROJECT;
CATHOLIC LEGAL IMMIGRATION
NETWORK, INC.; INNOVATION LAW
LAB; SANTA FE DREAMERS
PROJECT; AND SOUTHERN POVERTY
LAW CENTER,

Plaintiffs,

Case No. 3:19-cv-02051-SB

**AMENDED DECLARATION OF KATE
VOIGT IN SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER PURSUANT TO 28
U.S.C. § 1651(a)**

AMENDED DECLARATION OF KATE VOIGT IN
SUPPORT OF EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER

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v.

DONALD J. TRUMP, in his official capacity as President of the United States; WILLIAM BARR, in his official capacity as Attorney General of the United States; U.S. DEPARTMENT OF JUSTICE; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; AND JAMES MCHENRY, in his official capacity as EOIR Director of the United States,

Defendants.

I, Kate Voigt, declare as follows:

1. I am an attorney in good standing in the state of New York. I am the Senior Associate Director of Government Relations for the American Immigration Lawyers Association (“AILA”). I made this declaration in support of the Plaintiffs Motion for a Temporary Restraining Order in this case. I have personal knowledge of the facts stated herein and if called as a witness to testify, I could and would competently do so under oath.

2. The American Immigration Lawyers Association is a national membership association of more than 15,000 attorneys and law professors who practice and teach immigration law. AILA members provide legal representation to, among others, U.S. business and industries seeking foreign workers, foreign students, entertainers, athletes, and individuals seeking humanitarian relief under our nation’s immigration laws. Our members appear before various administrative and judicial bodies, including U.S. Citizenship and Immigration Services (“USCIS”), local Immigration Courts, the Board of Immigration Appeals (“BIA”), and federal Courts of Appeals. Our mission is to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and to enhance the professional development of our members. To that end, we engage in advocacy before Congress, the Federal Judiciary, the Federal Agencies and the media for the immigration-related interests of our members and their clients. We also promote the delivery of

competent, ethical, and lawful immigration services, and increase the knowledge and professionalism of our members by providing continuing legal education and technical support.

3. In addition to our national organization, AILA supports 39 local chapters through the United States. Each of these local chapters is a separately run organization with their own bylaws and leadership. The chair of each local chapter is on AILA's Board of Governors.

4. AILA also serves as a repository for information for its members, including practice manuals and guides, sample motions and filings, and the contact information and telephone trees for national and local agency offices. For example, /Immigration Court contacts. These numbers and contacts are particularly critical during this current public health crisis when AILA attorneys need to contact the immigration courts to ask about filing deadlines, hearing dates, filing locations, and access to the courts.

5. I joined the staff of AILA's national office in 2011 and assumed my current position in April 2017. As the Senior Associate Director of Government Relations, I work with AILA's Director of Government Relations to advance AILA's policy and advocacy objectives relating to immigration enforcement, due process, and removal defense. My primary aims are: to understand the impact of existing immigration regulations, policies and procedures on our members; to identify common threads in their experiences; to relay these trends to relevant stakeholders within the legislative and executive branches; and to lobby for sensible legislative and policy immigration reforms that will promote efficient and effective representation of noncitizens. To that end, I regularly communicate with representatives from the legislative and executive agencies responsible for the implementation and oversight of our nation's immigration laws, including representatives from the national office of the Executive Office of Immigration Review ("EOIR").

6. For several weeks, my advocacy efforts have centered on understanding the impact that the Coronavirus Disease 2019 (COVID-19) is having on noncitizens and the

attorneys who represent them. I have engaged with representatives from government agencies including the Department of Homeland Security (DHS), the Department of Justice (DOJ), and several subagencies, including the Executive Office of Immigration Review (EOIR) and Immigration and Customs Enforcement (ICE). in order to obtain the latest information and guidance on how agencies will operate in response to COVID-19. We share the information we gather from the agencies with our membership in practice advisories and planning guides, as well as through our local chapter liaisons.

7. During this time, I have been in regular communication with AILA members around the country about their experiences representing noncitizens during the current public health crisis. I have spoken with members of AILA's National ICE and EOIR committees about how EOIR's response to the pandemic—as well as the combined impact of EOIR and ICE policies—have on the ability of AILA's members to represent clients. I regularly monitor the electronic listservs that AILA maintains for local liaisons. On these listservs, members post questions, solicit advice, and share advice and strategies for navigating EOIR's policies and effectively advocating for their clients. Since the outbreak of COVID-19, there has been a considerable uptick in activity on our listservs related to EOIR's response to the pandemic as well as the combined impact of the response of ICE and EOIR. Individual members are asking questions about how to navigate the rapidly shifting environment and are sharing firsthand accounts of how EOIR is implementing policy at the numerous immigration courts around the country, including in detained and non-detained settings. From my conversations and regular review of our listservs, it is clear that EOIR's response to the pandemic has been chaotic and unsound.

8. My team and I used the information we gathered from members, directly and indirectly, to develop a series of policy recommendations that would ensure public safety while mitigating the harm to noncitizens in detention and facing removal. These recommendations

were shared with EOIR. I participated in the drafting, editing and submission of these recommendations.

9. On March 15, 2020, AILA along with the National Association of Immigration Judges and the American Federation of Government Employees (AFGE) Local 511 (the ICE Professionals Union) distributed a position paper titled “Position on Health and Safety of the Immigration Courts During the COVID-19 Pandemic”. The paper was shared with EOIR. The paper called for “the emergency closure of the nation’s Immigration Courts in adherence with current public health protocols” and asked that EOIR “recogniz[e] the urgency of this public health crisis.” The paper explained that the immigration judge union had consulted with an internationally recognized expert on COVID-19 who opined that “from an epidemiological perspective, . . . the Immigration Court should not be holding hearings at this point.” The paper recommended that the immigration courts be closed for two to four weeks to protect the health and safety of immigration judges, immigration court staff, and the public.

10. On March 23, 2020, AILA along with approximately 100 partners, including law firms, legal nonprofits, and universities, sent a letter to James McHenry, Director of EOIR, and Mathew T. Albence, the Senior Official Performing the Duties of Director at ICE, imploring ICE to immediately authorize robust and automatic use of telephonic and video conferencing technology for immigration court appearances and attorney-client meetings. As with previous letter, I participated in drafting the specific recommendations. In the letter, we urged EOIR to “immediately authorize telephonic or VTC appearance by legal representatives (without onerous conditions like waiving evidentiary objections) in all courts that remain open during this public health crisis.”

11. On March, 26, 2020, AILA along with several other partners sent a letter to the U.S. Attorney General and Mr. McHenry. We expressed our concern that “EOIR continues to operate courts in a business-as-usual manner, placing court personnel, litigants, and all

community members in harm's way." In response to EOIR's actions, we opined that "DOJ and EOIR decision-making has been opaque, with inadequate information being released, causing confusion and leading to litigants showing up at hearings that are cancelled without notice" and that "DOJ's current response to the COVID-19 pandemic and its spread is frighteningly disconnected from the realities of our communities, and the advice of local leaders and scientific experts."

12. The impact of EOIR's continued refusal to realistically acknowledge how the Immigration Courts force people to choose between the public health and the deprivation of deportation or violating the ethical obligation to zealously represent a client has caused widespread confusion, fear, and insecurity.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: March 31, 2020

/s/ Kate Voigt

Kate Voigt