Stephen Manning, OSB No. 013373
smanning@ilgrp.com
Nadia Dahab, OSB No. 125630
nadia@innovationlawlab.org
Jordan Cunnings, OSB No. 182928
jordan@innovationlawlab.org
Tess Hellgren, OSB No. 191622
tess@innovationlawlab.org
INNOVATION LAW LAB
The Oregon Trail Bldg
333 SW 5th Ave Ste 200
Portland OR 97204
Telephone: 503.241.0035

Melissa Crow *(admitted pro hac vice)*
Melissa.Crow@splcenter.org
SOUTHERN POVERTY LAW CENTER
1101 17th Street, NW, Suite 705
Washington, DC 20036
Telephone: 202.355.4471

Attorneys for Plaintiffs 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

Bryan D. Beel, OSB No. 073408
BBeel@perkinscoie.com
Heidee Stoller, OSB No. 072835
HStoller@perkinscoie.com
Nathan R. Morales, OSB No. 145763
NMorales@perkinscoie.com
PERKINS COIE LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Telephone: 503.727.2000

Rebecca Cassler *(admitted pro hac vice)*
Rebecca.Cassler@splcenter.org
Gracie Willis *(admitted pro hac vice)*
Gracie.Willis@splcenter.org
SOUTHERN POVERTY LAW CENTER
P.O. Box 1287
Decatur, GA 30031-1287
Telephone: 404.521.6700

Attorneys for Plaintiffs

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

DECLARATION OF JOSHUA M. SHARFSTEIN IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER PURSUANT TO 28 U.S.C. § 1651(a)

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, Joshua M. Sharfstein, declare as follows:

1. I am a board-certified pediatrician, former health commissioner of the City of Baltimore, former principal deputy commissioner of the U.S. Food and Drug Administration, former secretary of the Maryland Department of Health and Mental Hygiene, and now Professor of the Practice in Health Policy and Management at the Johns Hopkins Bloomberg School of Public Health.

2. I write this declaration on my own behalf, and not on behalf of Johns Hopkins University.

3. I write this declaration to explain why the novel coronavirus and its associated disease, COVID-19, are public health emergencies requiring aggressive measures to protect public health and, for my purposes, the health of every member of our community.

4. COVID-19 is a serious disease and has reached pandemic status. At least 553,000 people around the world have received confirmed diagnoses of COVID-19 as of March 27, 2020, including over 86,000 people in the United States. At least 25,000 people have died globally as a result of COVID-19 as of March 27, 2020, including more than 1,300 people in the United States. These numbers will increase in the coming days and weeks, likely exponentially.

5. COVID-19 has spread across the globe at an exponential rate. On March 9, 2020, there were 959 confirmed cases worldwide. On March 16, 2020, there were 6400 confirmed

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

cases. On March 20, 2020, there were 25,500 confirmed cases. And as of March 27, 2020, there were 86,012 confirmed cases. The number of confirmed cases is a lagging indicator of actual true new infections, due to the asymptomatic period of the disease and the time required to process diagnostic tests. The number of confirmed cases also fails to capture the full extent of the virus due to lack of adequate testing and the failure to account for most cases of people who are asymptomatic but still infectious.

6. COVID-19 is a disease caused by the novel zoonotic coronavirus SARS-CoV2. There is no vaccine to prevent COVID-19, and there is no cure for COVID-19. There is no pre-existing immunity to the virus in the world's population. Currently, the only way to control the spread of the virus is to use preventive strategies, including social distancing and mitigation through hygiene practices.

7. The progression of the disease can be very rapid. Individuals can show the first symptoms of infection in as little as two days after exposure and their condition can seriously deteriorate in as little as five days.

8. The effects of COVID-19 are potentially very serious for all people. COVID-19 has infected and killed children, young adults, adults, and the elderly. Particularly vulnerable people include individuals aged 65 years and older as well as those of any age with underlying health problems such as weakened immune systems (including due to cancer treatment), chronic lung disease, asthma, serious heart conditions, diabetes, renal failure, liver disease, and possibly pregnancy.

9. A person with COVID-19 disease, particularly one at high risk as described above, can experience respiratory illness and damage to other major organs and death. Treatment for serious cases of COVID-19 requires significant medical support, including ventilator assistance for respiration and intensive care support. An outbreak of COVID-19 could put significant pressure on or exceed the capacity of health infrastructure.

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

10. Vulnerable populations who do not die may have prolonged serious illness for the most part requiring expensive hospital care, including ventilators that are likely to soon be in very short supply, and an entire team of providers. Patients who do not die from serious cases of COVID-19 may also face prolonged recovery periods, including extensive rehabilitation from neurological damage and loss of respiratory capacity.

11. The transmission of the virus is expected to continue, and the number of new cases is projected to increase exponentially. Nationally, projections by the Centers for Disease Control and Prevention (CDC) indicate that over 200 million people in the United States could be infected with SARS-CoV2 over the course of the pandemic without effective public health interventions, with as many as 2.2 million deaths in certain projections.

12. COVID-19 is highly infectious and the virus spreads rapidly through community transmission. SARS-CoV2 is thought to spread mainly from person-to-person between people who are in close contact with one another (within about six feet) and through respiratory droplets produced when an infected person coughs or sneezes. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; the droplets may also persist in the air for a number of hours. It may be possible for a person to contract COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes.

13. New research suggests that a significant proportion of transmission of SARS-CoV2 is from people who are infected but presymptomatic, who could already be contagious. Although asymptomatic people may have no signs of being sick, they can still spread the virus by coming in close contact with other people.

14. COVID-19 is currently estimated to kill at least 10 people per thousand infected (1%), making it about 10 times more lethal than the seasonal flu. As of March 25, 2020, 802 people have already died from COVID-19 in the United States.

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

15. We know that COVID-19 is already spreading widely through community transmission throughout the United States. For example, without appropriate social interventions, models indicate that millions of Americans, including tens of thousands of Oregonians, could be infected in the next few weeks to months

16. The exponential growth of COVID-19 cases would be devastating not only for patients and their loved ones, but also for our healthcare system in general. As the examples of Italy and Spain indicate, and as the U.S. example of New York does as well, a surge in patients can exhaust the capacity for intensive care unit treatment. This crisis would result not only in COVID-19 patients not receiving necessary care, but also in run-on effects such as staff, bed, and supply shortages to treating individuals throughout the national healthcare system.

17. Models from Oregon Health and Science University ("OHSU") have predicted that, without policy interventions to slow the spread of the pandemic, by April 16, 2020, Oregon will need 1000 additional beds in adult acute care and another 400 intensive care beds for COVID-19 patients.

18. These numbers reflect the significant strain on healthcare providers nationally. Many hospitals already operate near full capacity and do not have the ability to rapidly expand to account for the expected surge in COVID-19 patients.

19. To minimize this shock to our healthcare system, and to protect the health of everyone, effective social distancing policies are critical. By keeping a distance between people of at least six feet, we can slow the spread of COVID-19. This reduction will help "flatten the curve" of the COVID-19 pandemic, lessening the number of people at any one time who are so sick that they need to be in the hospital.

20. COVID-19 poses a grave risk to the public health and healthcare infrastructure of the United States. In my role, I am acutely aware of the risks to public health posed by COVID-19. That is why I have advised Mayors and several Governors who have consulted me to swiftly

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

implement social distancing policies statewide and order the temporary closure of businesses in which it may be difficult to comply with such policies.

21. The experiences of other countries including China, Italy, and Spain show that around 20% of COVID-19 cases require hospitalization, 5% of cases require the Intensive Care Unit (ICU), and around 2.5% require very intensive help, with items such as ventilators or extracorporeal oxygenation. This infrastructure does not appear overnight. These items are not easy to produce. There are vast shortages throughout the country.

22. There are insufficient masks. Estimates indicate that the United States has only 1% of the masks it needs to cover the needs of its healthcare workers. If public health recommendations on closing congregate sites and aggressive social distancing are not adopted around the country and many people become infected, as is the experience in other countries and states, the supply of masks will last for only two weeks.

23. The experiences of other countries in regards to the pandemic have informed the aggressive social distancing public health recommendations. A critical point is to protect the healthcare system from collapsing because once it does, the rapid chain effects are devastating and, in many scenarios, long-lasting.

24. If congregate spaces remain open and aggressive social distancing practices are not enforced per public health recommendations, the experience of other pandemic sites shows how the system collapses rapidly. For example, healthcare workers will spend hours in a single piece of protective gear because of the shortages in available gear and equipment. Exhaustion sets in and our front-line workers--who are critical in this entire effort to save people--become sick and must stop providing help. As a result, fewer front-line workers are available to provide care, and the cycle continues until front-line workers literally start dying because they cannot get the care that they need.

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

25. The strain on healthcare systems when the ICU and extracorporeal membrane oxygenation machines (ECMOs) are involved is significant. Because the healthcare system cannot absorb all of the sick people at once, and because ICU beds, ventilators, and ECMOs are in short supply, the experience in other countries has been that healthcare workers must determine which patients live or die.

26. The rapid, down-chain impacts of a collapsed healthcare system are significant. Not only do people die from the coronavirus, other people with lesser illnesses or treatable illnesses who would have required medical intervention will now suffer more serious impacts, including death. For example, if a community member has a heart attack, the lethal consequences are much higher if the response time is higher because of the overwhelmed or collapsed system. In this scenario, the ICUs are already full of coronavirus patients, and the (sick and exhausted) frontline workers are unable to assist in a timely manner.

27. Scenario planning shows how quickly an unprecedented pandemic like COVID-19 can collapse a healthcare system. For example, there are approximately 4 million admissions to the ICU in the United States every year with a fatality rate of approximately 13%. Estimates indicate that without sufficient ICU beds, the fatality rate might rise to 50-80%.

28. Conditions related to and understanding of the novel coronavirus and COVID-19 are changing rapidly, and this declaration is drafted under intense time pressures in an evolving, public health crisis. Information contained herein may rapidly change from the date I sign this. I offer this declaration because it is critical to national public health that all public health recommendations are followed including closing congregate spaces and enforcing aggressive social distancing practices.

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

I hereby declare under the penalty of perjury pursuant to the laws of the United States that the above is true and correct to the best of my knowledge.

DATED: March 27, 2020

s/ Joshua M. Sharfstein, M.D.
Joshua M. Sharfstein, M.D.
Professor of the Practice in Health Policy and Management

Perkins Coie LLP
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222