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Attorneys for *Amici Curiae*

IN THE UNITED STATES DISTRICT COURT

FOR THE 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,

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.

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

MOTION FOR LEAVE TO APPEAR AS  
*AMICI CURIAE* BY FORMER  
IMMIGRATION JUDGES AND  
MEMBERS OF BOARD OF  
IMMIGRATION APPEALS IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR TEMPORARY RESTRAINING  
ORDER

ORAL ARGUMENT REQUESTED

### **LOCAL RULE 7-1 CERTIFICATION**

On March 30, 2020, counsel for the former federal immigration judges and former members of the Board of Immigration Appeals who seek leave to appear in this case as *Amici Curiae* attempted to confer by phone with Brian Ward of counsel for defendants. Mr. Ward's voice mailbox was full. Counsel then emailed both Mr. Ward and Erez Reuveni of counsel of defendants, and neither have responded as of the time of filing of this motion. Counsel for *Amici Curiae* proceeded to file this motion in light of the scheduled hearing on the Temporary Restraining Order and the importance of the issues.

### **LEGAL STANDARD**

The district court has broad discretion to appoint amici curiae." *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), overruled on other grounds by *Sandin v. Conner*, 515 U.S. 472, (1995). The "classic role of amicus curiae" is "assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration." *Miller-Wohl Co. v. Comm'r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982).

### **MOTION AND STATEMENT OF INTEREST**

*Amici* move the court for an order allowing them to appear as *amici* in this case with respect to Plaintiffs' Motion for Temporary Restraining Order, filed March 30, 2020, and to file an *amicus curiae* brief in support of the Plaintiffs' Motion for Temporary Restraining Order. *Amici* are former immigration judges and former members of the Board of Immigration Appeals who have spent their careers conducting proceedings in the immigration courts of the United States. Individually and collectively, *Amici* have decades of hands-on, real-world experience with the immigration court system. Further, *Amici* are familiar with the questions presented by the emergency motion such as what procedures are available to the immigration court system, options that the immigration court system can put into place to preserve the rights of individuals appearing in immigration court, and how the emergency health measures that the federal and

state governments have instituted can be accommodated to protect the public health. For example, *Amici* have a particular understanding of immigration court procedure and the state of the resources the immigration courts have to implement emergency procedures such as electronic filing and remote access.

Their experience and expertise directly relate to the important questions presented in the emergency motion; their perspective as adjudicators would benefit the Court in its consideration. Importantly, based on their expertise, *Amici* have outlined an easy to implement, three-phase process by which order can be quickly restored to the system: a 28-day pause by granting the relief requested by Plaintiffs to protect the public health right now and allow the agency to issue interim administrative guidance along the recommendations set forth herein that then permits the agency to more fully address the questions and stakeholders in a comprehensive manner.

*Amici* have an interest in protecting the full and fair adjudication of cases in the immigration courts and the safety of those who participate in and adjudicate those cases. *Amici* also seek to offer the Court an understanding of the resources—technological or otherwise—available to immigration court judges and how those resources may best be used to protect the immigration courts in the face of a global pandemic.

The names and dates of service of *Amici* are set forth in Appendix A. As indicated in the appendix, amici are uniquely qualified as to the issues presented by the TRO motion. This obviously is a unique time for the immigration court system and in the history of the United States, and *Amici* respectfully submit that their experience can assist this process.

DATED this 30th day of March, 2020.

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.

By: s/ Keith S. Dubanevich

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Attorneys for *Amici Curiae* Former Federal Immigration  
Judges and Members of Board of Immigration Appeals

## APPENDIX A

Steven Abrams was an Immigration Judge (“IJ”) in New York City from 1997 to 2013  
Silvia Arellano was appointed as an IJ in Florence, Arizona in 2010  
Terry A. Bain was an IJ in New York City from 1994 to 2019  
Sarah Burr was an IJ in New York City from 1994 to 2006  
Esmeralda Cabrera IJ in New York, Newark, and Elizabeth, 1994-2005  
Teofilo Chapa was an IJ in Miami, Florida from 1995 to 2018  
Jeffrey Chase was an IJ in New York City from 1995 to 2007 and an attorney advisor and senior legal advisor at the Board of Immigration Appeals (“BIA”) from 2007 to 2017  
George Chew was an IJ in New York from 1995 to 2017  
Bruce J. Einhorn was an IJ in Los Angeles, California from 1990 to 2007  
Cecelia Espinoza was a Member of the BIA from 2000 to 2003 and served in the Office of the General Counsel from 2003 to 2017  
Noel Ferris was an IJ in New York from 1994 to 2013 and an attorney advisor to the BIA from 2013 to 2016  
James Fujimoto was an IJ in Chicago, Illinois from 1990 to 2019  
Thaddeus Gembacz was an IJ in Los Angeles from 1996 to 2008  
Jennie Giambastiani was an IJ in Chicago, Illinois from 2002 to 2019  
John Gossart was an IJ in Baltimore, Maryland from 1982 to 2013  
Paul Grussendorf was an IJ in Philadelphia, Pennsylvania and San Francisco, California from 1997 to 2004  
Miriam Hayward was an IJ in San Francisco, California from 1997 to 2018  
Charles Honeyman was an IJ in Philadelphia, Pennsylvania and New York from 1995 to 2020  
Rebecca Bowen Jamil was an IJ in San Francisco, California from 2016 to 2018  
William Joyce was an IJ in Boston, Massachusetts from 1996 to 2002  
Carol King was an IJ in San Francisco, California from 1995 to 2017  
Elizabeth Lamb was an IJ in New York City from 1995 to 2018  
Margaret McManus was an IJ in New York City from 1991 to 2018  
Charles Pazar was an IJ in Memphis, Tennessee from 1998 to 2017  
George Proctor was an IJ in Los Angeles and San Francisco from 2003 to 2012  
John Richardson was an IJ in Phoenix, Arizona from 1990 to 2018  
Lory Rosenberg was a Member of the BIA from 1995 to 2002  
Susan Roy was an IJ in Newark, New Jersey from 2008 to 2010  
Paul Schmidt was an IJ in Arlington, Virginia from 2003 to 2016  
Ilyce Shugall was an IJ in San Francisco, California from 2017 to 2019  
Andrea H. Sloan was an IJ in Portland, Oregon from 2010 to 2017  
Polly Webber was an IJ in San Francisco, California from 1995 to 2016  
Robert Weisel was an IJ in New York from 1989 to 2016