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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-IM

PLAINTIFFS' SUPPLEMENTAL BRIEF IN  
SUPPORT OF EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING ORDER  
PURSUANT TO 28 U.S.C. § 1651(a)

1- SUPPLEMENTAL BRIEF 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.

Plaintiffs filed an emergency motion for a temporary restraining order on Friday, March 27, 2020, requesting that this Court issue certain relief aimed at protecting the health and safety of those who practice in the immigration court system during the COVID-19 pandemic.

Defendants filed their opposition to the motion on March 31, 2020. *See* ECF 45. In the opposition, Defendants claim that “[t]he federal government has taken swift, substantial, and tailored action to respond to the effects and challenges created by the global coronavirus pandemic on the Nation’s immigration courts.” *Id.* at 1. Defendants also ask this court to defer to EOIR’s procedures, because “EOIR has taken reasonable steps, similar to other U.S. courts, to mitigate exposure and permit flexibility while still following the statutory and court-ordered strictures by which it is bound.” *Id.* at 29.

Plaintiffs submit this supplemental brief with additional evidence supporting Plaintiffs’ request for relief and responding to the assertions set out above. This evidence was not available at the time that Plaintiffs filed their motion on March 27, 2020.

This supplemental brief is supported by the supplemental declaration of Nadia Dahab (“Dahab Suppl. Decl.”). The declaration attaches a statement from the National Association of Immigration Judges calling for the “immediate implementation of required health and safety measures for the immigration courts during the Coronavirus pandemic.” Dahab Suppl. Decl. Ex.

2- SUPPLEMENTAL BRIEF IN SUPPORT OF  
EMERGENCY MOTION FOR TEMPORARY  
RESTRAINING ORDER

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A at 1. This statement explains that “EOIR’s failure to take prompt, appropriate and sufficient action on court closures has created a dangerous environment placing at risk the health and lives of . . . judges, court staff, practitioners, detained respondents, and all individuals who interface with the court process as well as the broader community.” *Id.* The statement also directly refutes Defendants’ claim that “EOIR’s current operational status is largely in line with that of most federal courts across the country, which have continued to receive and process filings and to hold critical hearings, while deferring others as appropriate.” *Id.* Instead, according to the organization that represents judges who are on the frontlines of what is occurring in the immigration courts, “EOIR’s status is absolutely not in conformity with courts across the country. . . . The vast majority of courts around the country, and particularly those in pandemic hot-spots, have closed operations for even criminal trials and almost all other purposes and clearly and decisively extended filing deadlines.” *Id.* at 1-2. The statement also includes a detailed proposal of the steps that EOIR should take, including some of the steps that the order proposed by Plaintiffs in this case would cover. *Id.* at 4-5.

The Declaration also attaches an order that Oregon Chief Justice Martha L. Walters issued after Plaintiffs filed for a temporary restraining order on March 27, 2020. In light of the continuing COVID-19 pandemic, Chief Justice Walters’s order institutes distinct emergency procedures for different categories of cases. The order defines and postpones all “Non-Essential Proceedings” scheduled to begin before June 1, 2020. Dahab Suppl. Decl., Ex. B at 7. It also defines three different categories of “Essential Proceedings,” each subject to a distinct set of procedures that are tailored to the needs of those cases, depending on the urgency and nature of proceedings. *Id.* at 4–7. A similar categorization of “non-essential” and “essential” immigration court proceedings is proposed in the Brief of Amici Former Federal Immigration Judges and Members of Board of Immigration Appeals. *See* ECF 41, at 8–15.

DATED: April 1, 2020

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