

1 DECHERT LLP
 NATHAN M. MCCLELLAN (SBN 291435)
 2 Email: nathan.mcclellan@dechert.com
 FRED T. MAGAZINER
 3 Email: fred.magaziner@dechert.com
 CHRISTOPHER S. BURRICHTER
 4 Email: Christopher.burrichter@dechert.com
 US Bank Tower
 5 633 West 5th Street
 37th Floor
 6 Los Angeles, California 90071-2013
 Telephone: +1 213 808 5700
 7 Facsimile: +1 213 808 5760

8 Attorneys for *Amicus Curiae*
 Southern Poverty Law Center
 9

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

14 COUNTY OF SANTA CLARA,
 15 Plaintiff,
 16 v.
 17 DONALD J. TRUMP, et al.
 18 Defendants.

Case No. 17-cv-00574 WHO

**AMICUS CURIAE BRIEF OF SOUTHERN
 POVERTY LAW CENTER IN
 OPPOSITION TO FEDERAL
 DEFENDANTS' MOTION TO DISMISS**

Date: July 12, 2017
 Time: 2:00 p.m.
 Dept.: Courtroom 2
 Judge: Hon. William H. Orrick

Date Filed: February 3, 2017

Trial Date: Not Yet Set

ARGUMENT

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2 The Southern Poverty Law Center and other *amici*¹ oppose the Motion to Dismiss filed by
3 Donald J. Trump, John F. Kelly, Jefferson B. Sessions, John Michael “Mick” Mulvaney, and
4 Does 1-50 (“Federal Defendants”). The Motion to Dismiss makes the same arguments regarding
5 the scope of the Executive Order that this Court considered and rejected in April during its
6 consideration of the City and Counties’ Motions for Preliminary Injunction. We likewise re-urge
7 consideration of the arguments made in our amicus briefs in support of the Motions for
8 Preliminary Injunction. *See* SF Dkt. No. 38-2; SC Dkt. No. 67-2.

9 Despite the Attorney General’s assurances to the contrary, states, localities, and federal
10 agencies that prefer the broad language of Executive Order 13,768 to the narrower interpretation
11 put forth by the Attorney General will continue to be emboldened by the Executive Order’s
12 expansive language to target immigrant communities, particularly communities of color, for
13 disparate enforcement of laws, racial profiling, and excessive policing. Without a continuing
14 injunction on Section 9(a), immigrants will continue to avoid interactions with law enforcement
15 and other authorities, creating the kind of fear and unintended consequences Amici detailed in our
16 briefs in support of the Motions for Preliminary Injunction.

17 Amici are particularly disturbed by the arguments made in the amicus brief filed by ten
18 states, led by West Virginia and Louisiana (“the West Virginia Brief”), in support of the Federal
19 Defendants’ Motion to Dismiss. *See* SF Dkt. No. 114; SC Dkt. No. 118. The West Virginia Brief
20 purports to support the Federal Defendants’ Motion, but it undermines the Attorney General’s

21 ¹ *See* Motion For Leave To File *Amicus Curiae* Brief Of Southern Poverty Law Center In Support
22 Of County Of Santa Clara’s Motion For Preliminary Injunction, at Appendix A (Additional *amici*
23 include Adelante Alabama Worker Center, Alabama Coalition for Immigrant Justice (ACIJ),
24 American Federation of Teachers, Americans for Immigrant Justice, Asian American Legal
25 Defense and Education Fund, Asian Americans Advancing Justice (Asian Law Caucus, Los
26 Angeles, AAJC, and Atlanta), Coalition for Humane Immigrant Rights (CHIRLA), Equal Rights
27 Advocates, Florida Immigrant Coalition, Inc. (FLIC), Florida Legal Services, Inc., Greater
28 Birmingham Ministries, Greater Rochester Coalition for Immigration Justice, Illinois Coalition
for Immigrant and Refugee Rights, Immigrant Legal Resource Center (ILRC), Jobs With Justice,
Justice in Motion, LatinoJustice PRLDEF, National Employment Law Project, National Center
for Lesbian Rights, National Immigration Law Center, New Orleans Workers' Center for Racial
Justice, Northwest Forest Worker Center, Refugee and Immigrant Center for Education and Legal
Services (RAICES), Safe Horizon, Southeast Immigrant Rights Network (SEIRN), St. Louis
Workers Education Society, Tennessee Immigrant and Refugee Rights Coalition, We Belong
Together, Worker Justice Center of New York, Inc., Workers Defense Project, and Worksafe).

1 assurances that the Executive Order will be read narrowly. While the Federal Defendants’
2 Motion takes pains to emphasize Attorney General Sessions’ current, narrowed definition of
3 “sanctuary jurisdictions” as jurisdictions that “willfully refuse to comply with 8 U.S.C. § 1373,”
4 *see* SF Dkt. No. 111; SC Dkt. No. 115 at 8, 13, 14, 26, the West Virginia Brief defines “sanctuary
5 jurisdictions” as broadly as the Executive Order itself—*i.e.*, as “cities and localities that prohibit
6 or otherwise obstruct cooperation between federal and local officials on immigration
7 enforcement,” *see* SF Dkt. No. 114; SC Dkt. No. 118. The states that joined the West Virginia
8 Brief do not seem prepared to apply the Attorney General’s narrowed definition over the
9 President’s broad one—even in a brief supposedly supporting the Attorney General’s position.
10 Perhaps the West Virginia Brief states do not believe that the Attorney General’s narrowed
11 definition of “sanctuary jurisdiction” actually constrains the broader language of the Executive
12 Order. Unless Section 9(a) remains enjoined, it is reasonable to expect the West Virginia Brief
13 states to override local sanctuary ordinances adopted by localities within their borders by goading
14 legislators into passing anti-sanctuary ordinances while citing Section 9(a)’s broad threat to cut
15 off funds to jurisdictions that “hinder” federal immigration enforcement.

16 Further, the West Virginia Brief argues that sanctuary jurisdictions, as that brief defines
17 them, “undermine the rule of law and deprive law enforcement of the tools necessary for effective
18 civil and criminal enforcement.” *See* SF Dkt. No. 114; SC Dkt. No. 118 at 3. In fact,
19 jurisdictions that “cooperate” with federal immigration enforcement efforts undermine the rule of
20 law by alienating segments of the population from law enforcement, rendering everyone less safe
21 by making it harder to solve crimes, as Amici explained in our original brief. *See* SF Dkt. No. 38-
22 2; SC Dkt. No. 67-2.

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For these reasons, the reasons set out in Amici’s briefs in support of the Motions for Preliminary Injunction (*see* SF Dkt. No. 38-2; SC Dkt. No. 67-2), and the reasons for which this Court enjoined Section 9(a) of Executive Order 13,768, Amici urge the Court to deny the Federal Defendants’ Motion to Dismiss.

Dated: June 28, 2017

Dechert LLP

By: /s/ Nathan M. McClellan
Nathan M. McClellan
Fred T. Magaziner
Christopher Burcher
Attorneys for *Amicus Curiae*
Southern Poverty Law Center

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Southern Poverty Law Center

By: /s/ Naomi Tsu

Naomi Tsu
GA Bar No. 507612
1989 College Ave., NE
Atlanta, GA 30317
(t): 404-521-6700
(f): 404-221-5857
naomi.tsu@splcenter.org
Attorney for proposed amici curiae
Adelante Alabama Worker Center,
Alabama Coalition for Immigrant Justice,
American Federation of Teachers,
Americans for Immigrant Justice,
Asian American Legal Defense and
Education Fund,
Asian Americans Advancing Justice (Asian
Law Caucus, Los Angeles, AAJC, and
Atlanta),
Coalition for Humane Immigrant Rights,
Equal Rights Advocates,
Florida Immigrant Coalition, Inc.,
Florida Legal Services, Inc.,
Greater Birmingham Ministries,
Greater Rochester Coalition for
Immigration Justice,
Illinois Coalition for Immigrant and
Refugee Rights,
Immigrant Legal Resource Center,
Jobs With Justice,
Justice in Motion,
Latin American Legal Defense and
Education Fund,
LatinoJustice PRLDEF,
National Center for Lesbian Rights,
National Employment Law Project,
National Immigration Law Center,
New Orleans Workers' Center for Racial
Justice,
Northwest Forest Worker Center,
Refugee and Immigrant Center for
Education and Legal Services,
Safe Horizon,
Southeast Immigrant Rights Network,
St. Louis Workers Education Society,
Tennessee Immigrant and Refugee Rights
Coalition,
We Belong Together,
Worker Justice Center of New York, Inc.,
Workers Defense Project, and
Worksafe

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The undersigned hereby attests that all signatories hereto, together with their respective clients on whose behalf this filing is submitted, concur in the contents of the within AMICUS CURIAE BRIEF OF SOUTHERN POVERTY LAW CENTER IN OPPOSITION TO FEDERAL DEFENDANTS' MOTION TO DISMISS and have authorized this filing.

By: /s/ Nathan M. McClellan
Nathan M. McClellan