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15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA

17 COUNTY OF SANTA CLARA,  
 18 Plaintiff,  
 19 v.  
 20 DONALD TRUMP, et al.,  
 21 Defendants.

22 CITY AND COUNTY OF SAN FRANCISCO  
 23 Plaintiff,  
 24 v.  
 25 DONALD TRUMP, et al.,  
 26 Defendants.

CASE NO. 3:17-cv-00574-WHO  
 CASE NO. 3:17-cv-00485-WHO

**[PROPOSED] SUPPLEMENTAL BRIEF  
 AMICI CURIAE SUPPORTING  
 PLAINTIFFS AND OPPOSING  
 DEFENDANTS' MOTIONS TO  
 DISMISS**

Date: July 12, 2017  
 Time: 2:00 pm  
 Dep't: Courtroom 2  
 Judge: Hon. William H. Orrick  
 Date Filed: June 28, 2017

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## INTRODUCTION

Amici Service Employees International Union (SEIU), American Federation of State, County & Municipal Employees (AFSCME) Council 57, United Food and Commercial Workers (UFCW) Local 5, Working Partnerships USA, and South Bay AFL-CIO Labor Council submit this brief in support of plaintiffs’ opposition to defendants’ motion to dismiss. The defendants’ motions are based on the Attorney General Sessions’ May 22, 2017 memorandum (“Sessions Memo”). Amici collectively represent and advocate for millions of employees nationwide, including many in the County of Santa Clara (“Santa Clara”) and the City and County of San Francisco (“San Francisco”) who provide and depend on the public services harmed by President Trump’s unconstitutional Executive Order.

As plaintiffs demonstrate in their opposition, the Sessions Memo merely recycles arguments and interpretations of Executive Order 13768—previously asserted by defendants at oral argument—that this Court expressly rejected in its April 25, 2017 Order Granting the Motions to Enjoin Sections 9(a) of Executive Order 13768. For the reasons stated by plaintiffs, the Sessions Memo does not warrant any change in the Court’s order because, *inter alia*, the Memo cannot override the plain text of the Executive Order, is subject to summary revision or abrogation at the whim of the Executive Branch, does not actually or adequately address the multiple failings the Court identified in the Executive Order, is not binding on other executive agencies and, even if given effect, is itself a violation of plaintiffs’ rights.

For all of these reasons, the Sessions Memo does nothing to change or diminish the kinds of immediate effects of President Trump’s Executive Order on the health and well-being of millions residents in Santa Clara and San Francisco. We submit the instant brief to provide an example of the continuing effect and irreparable harm posed by Executive Order 13768, including since the issuance of the Sessions Memo.

## ARGUMENT

Amici believe that the Executive Order at issue in this case has already had and will have, if the injunction is dissolved, serious negative effects on the residents of Santa Clara and San Francisco, public employees, essential public institutions and economies of Santa Clara and San

1 Francisco, and people across the country, notwithstanding the statement of the Attorney General on  
2 which the defendants rely.

3 The experiences of front-line county and city employees, such as the experience of Nurse  
4 Martha Baer, provide evidence of the harm that the Executive Order will do and has already done.  
5 Ms. Baer is a registered nurse at Zuckerberg San Francisco General Hospital and a member of  
6 SEIU Local 1021. She has worked for the City and County of San Francisco for 9 years.<sup>1</sup> For the  
7 past 3 years, she has worked at one of the hospital's primary care clinics that serves 7,500 San  
8 Francisco residents including high-risk patients with multiple chronic illnesses. Nurse Baer treats  
9 patients with severe and complex conditions, including chronic kidney disease, diabetes, cancer,  
10 heart failure and other serious conditions.

11 Without the care that Nurse Baer and the clinic's other medical professionals provide, their  
12 patients would be forced to rely solely on sporadic treatment at hospital emergency rooms during  
13 medical crises. In other words, these patients would face serious consequences if the hospital and  
14 clinic were defunded and the essential services the clinic offers were not available. "We keep  
15 people from resorting to the emergency room for care – which benefits everyone. Costs are lower,  
16 care is better and waiting time is less at the clinics."

17 The story of one of Nurse Baer's recent patients provides an example the harm defunding  
18 would do. As recently as June 20, Nurse Baer's clinic treated a patient who suffers from an auto-  
19 immune kidney disease, diabetes, coronary artery disease and congestive heart failure. Nurse Baer  
20 observes, "Caring for him is complicated because the treatment for his cardiac problem would  
21 harm his already damaged kidneys and the treatment for his kidney condition is terrible for his  
22 diabetes. It's heart-breaking. But we keep him stable with clinic visits, adjust his meds, do an  
23 EKG if he needs it and monitor him to keep him out of the hospital." Without access to the clinic,  
24 this patient would suffer life-threatening medical consequences.

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27 <sup>1</sup> Ms. Baer was interviewed by attorneys about her experiences and work. She has given  
28 amici permission to tell her story, and records of her interview and statements are on file with  
undersigned counsel.

1 In addition to treating patients with complex medical conditions, Nurse Baer also works  
2 with vulnerable populations and patients who have survived tremendous challenges. These are the  
3 patients who inspired her to become a nurse. She believes that establishing a relationship of trust  
4 with her patients is critical to providing effective medical care. Indeed, much of her work involves  
5 educating her patients about their diseases and how to self-manage them. Nurse Baer is convinced  
6 that if her patients did not trust her, they would not follow her recommendations and not accurately  
7 report their symptoms. Without the patients’ trust, her work would be impossible.

8 Nurse Baer believes that the anti-immigrant hostility of the Executive Order causes patients  
9 to fear and distrust all governmental institutions. She believes that Attorney General’s statement—  
10 the Sessions Memo—has not diminished the fear engendered by the Order and that allowing it to  
11 go into effect would have devastating consequences. Amici share these concerns.

12 **CONCLUSION**

13 President Trump’s unconstitutional and punitive Executive Order continues to undermine  
14 the crucial health and social services programs that protect the millions of residents, communities,  
15 and workers who are served by them in San Francisco and Santa Clara. The Sessions Memo does  
16 not diminish this irreparable harm. Accordingly, amici urge the Court to deny the defendants’  
17 motions to dismiss.

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