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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

STATE OF CALIFORNIA, et al.,

Plaintiffs,

vs.

DONALD J. TRUMP**,** in his official capacity as President of the United States, et al.,

Defendants.

Case No. 4:19-cv-00872-HSG

BRIEF OF 58 RELIGIOUS ORGANIZATIONS AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Date: 05/17/2019
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INTERESTS OF *AMICI*

Led by the Muslim Bar Association of New York, *amici* are American religious or religiously-affiliated organizations who represent a wide array of faiths and denominations. *Amici* include congregations and houses of worship, as well as professional, civil liberties, and immigrant rights groups who work with or represent faith communities ("Religious Organizations"). The individual interests of *amici* are set out in further detail at Appendix A.

Amici are: Albuquerque Mennonite Church; Albuquerque Monthly Meeting of the Religious Society of Friends (*Quakers*); Association of Muslim American Lawyers; Campus Ministry of Roman Catholic Archdiocese of New York at Hostos and Bronx Community College of City University of New York; Capital Area Muslim Bar Association; Catholic Charities Community Services of the Archdiocese of New York; Catholic Charities, Diocese of Trenton; Church Council of Greater Seattle; Church of Our Saviour/La Iglesia de Nuestro Salvador (Cincinnati, Ohio); Congregation B'nai Jeshurun (New York City); Congregation Beit Simchat Torah; Congregation Shaarei Shamayim (Madison, Wisconsin); Council on American-Islamic Relations – California Chapter; Council on American-Islamic Relations – New Jersey Chapter; Council on American-Islamic Relations – New York Chapter; Cuba Presbyterian Church (New Mexico); Daughters of Charity of St. Vincent de Paul, USA; East End Temple (New York City); El Paso Monthly Meeting of the Religious Society of Friends (*Quakers*); Episcopal City Mission; Episcopal Diocese of Long Island; Episcopal Diocese of Western Massachusetts; First Congregational Church of Kalamazoo; First Congregational United Church of Christ (Albuquerque, New Mexico); Franciscan Action Network; Franciscan Friars of the Province of St. Barbara; Greater New York Labor-Religion Coalition; Hispanic Apostolate Catholic Diocese of Baton Rouge; Interfaith Alliance of Iowa; Islamic Society of Central Jersey; Leadership Conference of Women Religious; Metropolitan New

York Synod of the Evangelical Lutheran Church in America; Muslim Advocates; Muslim Bar Association of New York; Muslim Urban Professionals (Muppies); National Council of Jewish Women; NETWORK Lobby for Catholic Social Justice; New Mexico Faith Coalition for Immigrant Justice; New Sanctuary Coalition; New York Justice for Our Neighbors (United Methodist Church); New York State Council of Churches; Parish of the Epiphany; Pacific Northwest Conference of the United Church of Christ; Presbyterian Church (U.S.A.); Presentation Sisters at Caminando Juntos; Romemu; Saint Peter's Church, Evangelical Lutheran Church in America; Sisterhood of Salaam Shalom; Southwest Conference of the United Church of Christ; T'ruah: The Rabbinic Call for Human Rights; Temple Israel of Hollywood (CA); Trinity Church Wall Street; Unitarian Universalist FaithAction of New Jersey; Unitarian Universalist Mass Action Network; Unitarian Universalist Service Committee; United Methodist Women; University Christian Ministry at Northwestern University; and West End Synagogue (New York City).

INTRODUCTION

The Appropriations Clause of the United States Constitution provides that: "No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law." President Trump ignored that mandate by shrugging off Congress's rejection of $5.7 billion in appropriations for a proposed border wall, and purporting to divert funds that had been appropriated for other purposes. This challenge ensued.

Amici have a direct stake in preventing the president from ignoring the Appropriations Clause. President Trump's effort to build a wall is targeted at a specific disfavored group, namely immigrants entering the United States through the southern border. But the risks of an unchecked executive with access to unlimited funds to implement its agenda are shared by all potentially-disfavored groups. *Amici*, religious groups whose members have, throughout history, faced

discrimination by powerful executive branches of government both here and abroad, are acutely conscious of the need for a balance of powers. Indeed, several *amici* represent groups that have already been specifically targeted by President Trump, such as Muslims, immigrants, and refugees, and all *amici* are justly concerned that the president will, if permitted, use his newfound power to re-direct appropriations to impinge on the rights of religious minorities.

For the reasons set forth herein and in Plaintiffs' and other *amici*'s briefs, *amici* urge the Court to grant the Plaintiffs' motion for a preliminary injunction restraining Defendants from diverting funds towards construction of a wall on the southern border.

ARGUMENT

THE COURT SHOULD ISSUE A PRELIMINARY INJUNCTION

A. The Constitutional Separation of Powers Serves to Protect Individual Liberty

The Founding Fathers recognized that the constitutional separation of powers affords critical protections against threats by the government to individual liberties. "The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny." The Federalist No. 47 (James Madison). As Justice Kennedy observed, "[l]iberty is always at stake when one or more of the branches seek to transgress the separation of powers." *Clinton v. City of N.Y.*, 524 U.S. 417, 450 (1998).

The Appropriations Clause serves as one of the Constitution's most critical safeguards of individual liberty through the separation of powers. It provides that "[n]o money shall be drawn from the Treasury but in Consequence of Appropriations made by Law." U.S. Const., art I, § 9 cl. 7. The "straightforward and explicit command of the Appropriations Clause" is that "no money can be paid out of the Treasury unless it has been appropriated by an act of Congress." *Office of Pers. Mgmt. v. Richmond*, 496 U.S. 414, 424 (1990) (quoting *Cincinnati Soap Co. v. United States*, 301

U.S. 308, 321 (1937)). The power of the purse is "the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people," The Federalist No. 58 (James Madison), as it hinders the executive's efforts to consolidate power. *See also* Joseph Story, Commentaries on the Constitution of the United States § 531, at 372 (1833) ("And the [legislature] has, and must have, a controlling influence over the executive power, since it holds at its own command all the resources by which a chief magistrate could make himself formidable. It possesses the power over the purse of the nation and the property of the people.").

The arrogation of the appropriations power by the Executive Branch presents a particular threat to the individual liberties of disfavored groups, including religious minorities. Religious minorities are especially vulnerable to a president, unchecked by Congress, who finds it expedient to intrude upon the rights of certain religious groups or to appeal to constituencies that disfavor those groups. When consolidated in the executive, the power to allocate and spend government money endangers religious liberty because "[m]oney is the instrument of policy and policy affects the lives of citizens." *Clinton*, 524 U.S. at 451. Without the constraints of the Appropriations Clause, a president desiring to punish or reward a particular religious group has a heightened ability to do so. *See id.* ("The individual loses liberty in a real sense if [the appropriations power] is not subject to traditional constitutional constraints.").

Congress reinforced the principles of the separation of powers and the Appropriation Clause by codifying them in legislation requiring Congress to make appropriations explicitly and specifically. For example, "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." 31 U.S.C. § 1301(a). In addition, "[a] law may be construed to make an appropriation out of the Treasury . . . only if the law specifically states that an appropriation is made." *Id.* § 1301(d). In other words, "all uses of

appropriated funds must be affirmatively approved by Congress; the mere absence of a prohibition is not sufficient." *U.S. Dep't of the Navy v. Fed. Labor Relations Auth.*, 665 F.3d 1339, 1348 (D.C. Cir. 2012). Where Congress makes "an appropriation for a specific purpose[, it] is exclusive of other appropriations in general terms which might be applicable in the absence of the specific appropriation." *Nevada v. U.S. Dep't of Energy*, 400 F.3d 9, 16 (D.C. Cir. 2005) (quoting 1924 U.S. Comp. Gen. LEXIS 578, *4 (Nov. 25, 1924)). These requirements ensure that "Congress's control over federal expenditures is 'absolute.'" *See U.S. Dep't of the Navy*, 665 F.3d at 1348. That "absolute" control prevents the executive from using government funds as a cudgel that threatens individual liberties.

B. Plaintiffs' Claims Are Likely to Succeed on the Merits Because the Defendants' Diversion of Funds Violates the Appropriations Clause

Defendants' attempt to divert funds towards the construction of a southern border wall, in the face of clear congressional disapproval, is a blatant violation of the separation of powers and the Appropriations Clause. Defendants claim authority to divert funds for the proposed border wall from the Treasury Forfeiture Fund ("TFF") and the Department of Defense ("DOD") pursuant to certain statutes, including: (1) 31 U.S.C. § 9705; (2) 10 U.S.C. § 8005; and (3) 10 U.S.C. § 2808. None of these statutes contains the requisite grant of appropriations by Congress for the proposed border wall.

As an initial matter, Congress explicitly rejected President Trump's request for $5.7 billion for a proposed border wall. On January 6, 2019, in the midst of a government shutdown due to Congress's refusal to appropriate funding for the proposed border wall, the Office of Management and Budget ("OMB") formally requested $5.7 billion from Congress for this purpose.[1] On February

[1] Letter from Russell T. Vought, Acting Director, Off. of Mgmt. and Budget, to Sen. Richard Shelby (Jan. 6, 2019), https://www.whitehouse.gov/wp-content/uploads/2019/01/Final-Shelby-1-6-19.pdf.

14, 2019, one day before the government would shut down once again, Congress passed the FY 2019 Appropriations Act, which provided for $1.375 billion for "construction of primary pedestrian fencing, including levee pedestrian fencing, in the Rio Grande Valley Sector" of the border. H.J. Res. 31 § 230(a)(1). Congress afforded no other funding for the construction of a wall or fencing on the border. The Defendants' diversion of funds above and beyond the $1.375 billion appropriated by Congress constitutes "measures incompatible with the expressed or implied will of Congress, [when the president's] power is at its lowest ebb." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring). In such a situation, the president "can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter." *Id.* Because the president has no constitutional power to make appropriations, Congress's rejection of additional funds for the proposed border wall conclusively precludes the Defendants' diversion of funds. *See City & Cty. of San Francisco v. Trump*, 897 F.3d 1225, 1233 (9th Cir. 2018) ("[W]hen it comes to spending, the President has none of 'his own constitutional powers' to 'rely' upon." (quoting *Youngstown*, 343 U.S. at 637)); *Nevada*, 400 F.3d at 13 ("[T]he Appropriations Clause of the U.S. Constitution vests Congress with exclusive power over the federal purse.") (internal quotation marks omitted).

The statutes invoked by Defendants do not confer the authority to make the desired appropriations. First, 31 U.S.C. § 9705(g)(4)(B) permits the Treasury Secretary to transfer certain unobligated balances from the TFF "for obligation or expenditure in connection with the law enforcement activities of any Federal agency." Defendants rely on § 9705 to divert hundreds of millions of dollars towards construction of a border wall in the Rio Grande Valley. As discussed above, Congress appropriated $1.375 billion for construction of pedestrian fencing in the same area. H.J. Res. 31 § 230(a)(1). It is well-established that "specific appropriations preclude the use of

general ones even when the two appropriations come from different accounts." *Nevada*, 400 F.3d at 16. In a closely analogous situation, the Government Accountability Office ("GAO") determined that an appropriation for the repair of jails in Alaska precluded funding for repairs to an Alaskan jail with funds that Congress appropriated from the Treasury for "repairs, betterments, and improvements of United States jails." 1924 U.S. Comp. Gen. LEXIS 578, *5 (Nov. 25, 1924). Here, Congress's appropriation of limited funds for the border wall in the 2019 Appropriations Act precludes the diversion of funds from the TFF based on the general appropriation for "law enforcement activities" in § 9705.

Second, Defendants rely on 10 U.S.C. § 8005 to transfer funds for military personnel into DOD's drug interdiction account and subsequently transfer those funds to the Department of Homeland Security ("DHS") for border wall construction pursuant to 10 U.S.C. § 284. Section 8005 requires that transfers be made only "based on unforeseen military requirements" and "in no case where the item for which funds are requested has been denied by Congress." FY 2019 DOD Appropriations Act, Pub. L. No. 115-245, § 8005, 132 Stat. 2981, 2999 (2018). Here, the circumstances purportedly requiring construction of the border wall are not "unforeseen," as President Trump has advocated for the proposed border wall at least since 2015. Nor can construction of the proposed border wall be considered a "military requirement." Finally, as discussed above, Congress has explicitly denied the funds requested which forecloses any diversion of funds under this subsection.

Third, Defendants claim authority to divert funds pursuant to 10 U.S.C. § 2808, which permits the Secretary of Defense, upon declaration by the President of a national emergency "that requires use of the armed forces," to use funds appropriated for military construction to "undertake military construction projects . . . not otherwise authorized by law that are necessary to support such

use of the armed forces." There is no evidence that any threat at the border "requires the use of the armed forces." Indeed, Air Force General Terrence O'Shaughnessy, commander of the U.S. Northern Command, which is responsible for defending the U.S. homeland, recently stated that the southern border is "not a military threat."[2] Similarly, Vice Admiral Michael Gilday, Director of the Joint Staff, responded to a question asking what the military that is currently at the border is doing that could not be done by DHS by stating: "None of the capabilities that we are providing are combat capabilities."[3] Moreover, construction of the proposed border wall is not a "military construction project," *see* 10 U.S.C. § 2801(b) (defining "military construction project" as "all military construction work . . . necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility"), nor is it necessary "to support [the] use of the armed forces."

Because Congress has explicitly rejected the appropriations that Defendants are attempting to divert and none of the statutes cited by Defendants authorize such diversion, Plaintiffs are likely to succeed on the merits of their claim that Defendants are in violation of the Appropriations Clause. *See City & Cty. of San Francisco*, 897 F.3d at 1235 ("Absent congressional authorization, the Administration may not redistribute or withhold properly appropriated funds in order to effectuate its own policy goals.").

C. The Defendants' Violations of the Appropriations Clause Aim to Harm Immigrants as a Disfavored Group

Throughout his campaign and his presidency, President Trump has used damaging rhetoric and harmful policies to castigate immigrants from certain countries, particularly those from Mexico

[2] Lolita C. Baldor, AP News, *US General Says No Military Threat on Southern Border* (Feb. 26, 2019), https://www.apnews.com/a78120075dd4447aa4ba5902a3816c68, accessed Apr. 17, 2019.

[3] Heather Timmons, Quartz, *The US Border Situation Isn't a National Emergency, Pentagon Officials Tell Congress* (Jan. 29, 2019), https://qz.com/1536879/trump-border-wall-isnt-an-emergency-pentagon-tells-congress/, accessed Apr. 17, 2019.

and Central America. The president's rhetoric has had little to no basis in fact, and his policies have been disconnected from legitimate governmental objectives. Rather, President Trump has targeted immigrants as a political expedient to stoke fear of crime from Mexico and Central America, rally his base, and win political points. The diversion of funds to build the border wall is in the same vein, and it exemplifies the threat posed to disfavored groups by allowing an executive to flout the constitutional separation of powers to serve political goals.

Since the day he announced his candidacy, the border wall has been a key component of President Trump's strategy of inciting fear of immigrants for political gain. On the first day of his campaign, the president made the border wall one of the most prominent items on his policy agenda. He told his supporters that "[i]t is way past time to build a massive wall to secure our southern border," and he famously declared: "when Mexico sends us its people, they're not sending their best. . . . They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists." He continued: "It's coming from more than Mexico. It's coming from all over South and Latin America, and it's coming probably . . . from the Middle East."[4]

Since then, President Trump has called for a wall on the southern border hundreds of times.[5] In doing so, he has publicly referred to immigrants entering the country through the southern border as "animals,"[6] reiterated his comments about immigrants being rapists,[7] and tweeted stories of

[4] Time, *Here's Donald Trump's Presidential Announcement Speech* (June 16, 2015), http://time.com/3923128/donald-trump-announcement-speech/, accessed Apr. 17, 2019.

[5] *See generally* Trump Twitter Archive, www.trumptwitterarchive.com/ (filtering for tweets containing the word "wall" since June 16, 2015 yields 364 results as of April 30, 2019 at 7:46 P.M. Eastern Time).

[6] Gregory Korte and Alan Gomez, USA Today, *Trump Ramps Up Rhetoric on Undocumented Immigrants. 'These Aren't People. These Are Animals.'* (May 16, 2018), https://www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/, accessed Apr. 17, 2019.

[7] Michelle Mark, Business Insider, *Trump Just Referred to One of His Most Infamous Campaign Comments: Calling Mexicans 'Rapists'* (Apr. 5, 2018), https://www.businessinsider.com/trump-mexicans-rapists-remark-reference-2018-4, accessed Apr. 17, 2019.

immigrants allegedly committing crimes in the United States.[8] Just recently, President Trump tweeted: "With Caravans marching through Mexico and toward our Country, Republicans must be prepared to do whatever is necessary for STRONG Border Security. Dems do nothing. If there is no Wall, there is no Security. Human Trafficking, Drugs and Criminals of all dimensions – KEEP OUT!"[9]

President Trump's caustic rhetoric about immigrants is dangerously false. Studies show that immigrants are about half as likely as native-born Americans to commit crimes, including serious crimes.[10] States with higher rates of undocumented immigrants as a share of population tend to have significantly lower rates of crime.[11] The city of El Paso provides a useful illustration: situated across the Rio Grande from Ciudad Juarez, El Paso's population is more than 80% Hispanic, and its Hispanic residents are mostly of Mexican descent. Yet El Paso is one of the safest cities in the United States, with a homicide rate (2.9 per 100,000 residents) closer to London (1.6 per 100,000) than to the average rate in the United States (approximately 5 per 100,000).[12] Contrary to the president's claims, crime in El Paso dropped and achieved historic lows *before* Congress authorized a fence to be built in 2006.[13]

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[8] Aaron Rupar, Vox, *Trump's Fear-Stoking Immigration Policy, in Two White House Retweets* (Apr. 3, 2019), https://www.vox.com/2019/4/3/18294290/white-house-retweets-immigrant-crime-stories, accessed Apr. 17, 2019.

[9] Donald J. Trump (@realDonaldTrump), Twitter (Feb. 3, 2019, 2:03 PM), https://twitter.com/realdonaldtrump/status/1092181733825490945?s=11.

[10] Alex Nowrasteh, Cato Institute, *Criminal Immigrants in Texas*, (Feb. 26, 2018), https://object.cato.org/sites/cato.org/files/pubs/pdf/irpb-4-updated.pdf, accessed Apr. 25, 2019.

[11] Michael T. Light and Ty Miller, *Does Undocumented Immigration Increase Violent Crime?*, 56:2 CRIMINOLOGY 370, *available at* https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9125.12175.

[12] Aaron J. Chalfin, University of Pennsylvania Department of Criminology, *Do Mexican Immigrants Cause Crime*, available at https://crim.sas.upenn.edu/fact-check/do-mexican-immigrants-cause-crime.

[13] Jane C. Timm, NBC News, *Fact Check: Trump Claims a Wall Made El Paso Safe. Data Shows Otherwise* (Feb. 11, 2019), https://www.nbcnews.com/politics/donald-trump/fact-check-trump-claims-wall-made-el-paso-safe-data-n969506, accessed Apr. 23, 2019.

The president has not limited his offensive against immigrants to rhetoric and false claims; he has also implemented policies specifically targeting immigrants entering the United States through the southern border. Within days of his inauguration, the President signed Executive Order 13768—aiming to eliminate federal funding to sanctuary cities—which the Ninth Circuit later declared unconstitutional for violating the constitutional separation of powers. *City & Cty. of San Francisco*, 897 F.3d at 1234. Months later, he rescinded President Obama's program for Deferred Action for Childhood Arrivals ("DACA"),[14] an action later enjoined as arbitrary and capricious by multiple courts. *See, e.g.*, *Regents of the Univ. of Cal. v. United States Dep't of Homeland Sec.*, 908 F.3d 476, 486 (9th Cir. 2018); *Vidal v. Nielsen*, 279 F. Supp. 3d 401, 409 (E.D.N.Y. 2018); *NAACP v. Trump*, 298 F. Supp. 3d 209, 249 (D.D.C. 2018). On May 7, 2018, then-Attorney General Jeff Sessions announced[15] that the Department of Justice would prosecute all parents entering the United States illegally with their children, effectively implementing a family-separation policy at the southern border that resulted in approximately 3,000 children being separated from their parents.[16] A court again stopped this policy as illegal—but not before it caused catastrophic and irremediable damage to thousands of families.[17] *L. v. United States Immigration & Customs Enf't ("ICE")*, 310 F. Supp. 3d 1133, 1149 (S.D. Cal. 2018).

The border wall is the logical extension of President Trump's harmful rhetoric and policies against immigrants, aimed at stoking fear and winning political points rather than achieving

[14] Mike Ellis, Rafael Bernal, and Rebecca Savransky, The Hill, *Trump Rescinding DACA Program* (Sept. 5, 2017), https://thehill.com/latino/348848-sessions-says-DACA-to-end-in-six-months, accessed Apr. 23, 2019.

[15] Aric Jenkins, Time, *Jeff Sessions: Parents and Children Illegally Crossing the Border Will Be Separated* (May 7, 2018), http://time.com/5268572/jeff-sessions-illegal-border-separated/, accessed Apr. 23, 2019.

[16] Miriam Jordan, The New York Times, *Family Separation May Have Hit Thousands More Migrant Children Than Reported* (Jan. 17, 2019), https://www.nytimes.com/2019/01/17/us/family-separation-trump-administration-migrants.html, accessed Apr. 23, 2019.

[17] *See, e.g.*, Society for Research in Child Development, *The Science is Clear: Separating Families Has Long-Term Damaging Psychological and Health Consequences for Children, Families, and Communities* (June 20, 2018), https://www.srcd.org/policy-media/statements-evidence/separating-families.

legitimate governmental objectives. Although the data belie the president's claim that there is a "crisis" at the border,[18] the president's supporters overwhelmingly view illegal immigration as a major problem that a southern border wall can solve.[19] This type of unilateral executive action—targeting a disfavored group because it is politically expedient—is precisely what the Appropriations Clause was designed to guard against.[20]

D. The Defendants' Violations of the Appropriations Clause Threaten *Amici's* Religious Liberty

President Trump seeks to seize funds appropriated for specific public purposes and use them to make good on campaign promises that bear no rational relationship to the purposes for which those funds were appropriated. That kind of presidential authority is unprecedented in the United States. *Amici* have a rational fear that, unless reined in by a court, President Trump will use that authority to deliver on other campaign promises, including those that impinge on religious liberty.

The danger that an unrestrained executive poses to disfavored religious groups is not new. Rather, it is intertwined with the history of this country. During the early 1620s, King Charles I of

[18] PBS, *Trump Says There's a 'Crisis' at the Border. Here's What the Data Says* (Jan. 8, 2019), https://www.pbs.org/newshour/politics/trump-says-theres-a-crisis-at-the-border-heres-what-the-data-says, accessed Apr. 24, 2019 (observing that (a) the majority of drugs that cross the southwest border arrive through official ports of entry, (b) the U.S. Department of State recently found "no credible evidence" indicating that international terrorist groups have sent operatives into the U.S. through the southern border, and (c) unauthorized migration to the United States has fallen significantly from its peak in the early 2000s).

[19] In a poll performed weeks prior to the 2018 midterm elections, Republicans ranked illegal immigration as the biggest national problem, with 75% of Republican voters saying it is a very big problem. *See* Pew Research Center, *Little Partisan Agreement on the Pressing Problems Facing the U.S.* (Oct. 15, 2018), https://www.people-press.org/2018/10/15/little-partisan-agreement-on-the-pressing-problems-facing-the-u-s/, accessed Apr. 24, 2019. The same poll showed that 64% of Republicans thought that the treatment of people in the U.S. illegally was a small problem or not a problem at all. *Id.* A poll performed in January 2019, in the midst of the government shutdown over President Trump's proposed border wall, showed that 82% of Republicans or those leaning Republican favored substantially expanding the wall along the U.S.-Mexico border, up from about 63% in 2016. *See* Pew Research Center, *Most Border Wall Opponents, Supporters Say Shutdown Concessions Are Unacceptable* (Jan. 16, 2019), https://www.people-press.org/2019/01/16/most-border-wall-opponents-supporters-say-shutdown-concessions-are-unacceptable/, accessed Apr. 24, 2019.

[20] The Defendants' attempted diversion of funds also displays indifference for the religious liberties of indigenous groups along the border, such as the Tohono O'odham Tribe, whose sacred religious sites will be desecrated by construction of the proposed border wall. Laurel Morales, NPR, *Border Wall Would Cut Across Land Sacred to Native Tribe* (Feb. 23, 2017), https://www.npr.org/2017/02/23/516477313/border-wall-would-cut-across-land-sacred-to-native-tribe, accessed Apr. 30, 2019.

England was locked in a prolonged battle with Parliament over Parliament's refusal to authorize funds requested by the king, in part due to Parliament's concerns regarding the king's respect for the rights of religious minorities, particularly Puritans. In 1629, King Charles dissolved Parliament so he could obtain the funds without obstruction.[21] This caused what is today known as the "Great Migration" of Puritans from England to escape religious persecution by an unrestrained king. Thousands of Puritans fled to America and established the Massachusetts Bay Colony, one of the first English settlements in what is today the United States.[22]

That danger is similarly pronounced today. Modern courts have recognized that "[i]f the Executive could circumvent the appropriations process and spend funds however it pleases," then the U.S. "constitutional structure would collapse, and the role of the House would be meaningless." *United States House of Representatives v. Burwell*, 130 F. Supp. 3d 53, 71 (D.D.C. 2015).

The existence of other constitutional protections for religious freedoms does not allay *amici*'s concern that erosions of the Appropriations Clause threaten religious liberty. In *Hawaii v. Trump*, the Supreme Court upheld Executive Order No. 13769, 82 Fed. Reg. 8977 (2017) (EO-1), entitled "Protecting the Nation From Foreign Terrorist Entry Into the United States" but originally dubbed by then-Candidate Trump as a "Muslim Ban," and later as a "Travel Ban." The Court applied a rational basis standard, and found that President Trump's "Muslim Ban" policy was "plausibly related to the Government's stated objective to protect the country and improve vetting processes." *Trump v. Hawaii*, 138 S. Ct. 2392, 2420 (2018). The Court was not persuaded that the policy had "the primary purpose" of "disfavor[ing] Islam and its adherents by excluding them from the country." *Id.* at 2438 (Sotomayor, J., dissenting). In reaching that result, the Court set aside evidence—outlined in

[21] The History of Parliament: the House of Commons 1624-1629 (Andrew Thrush and John P. Ferris 2010), *available at* https://www.historyofparliamentonline.org/volume/1604-1629/survey/parliament-1628-1629.

[22] New England Historical Society, *The Great Migration of Picky Puritans, 1620-40*, *available a*t http://www.newenglandhistoricalsociety.com/the-great-migration-of-picky-puritans-1620-40/.

Justice Sotomayor's dissent—that the President was motivated by animus against Islam and people of Muslim faith. To name just a few of examples:

- In November 2015, then-candidate Trump remarked at a rally in Birmingham, Alabama that "thousands and thousands" of Muslims in New Jersey were cheering as the World Trade Center came down on September 11, 2001. Challenged by George Stephanopoulos on ABC's *This Week*, he did not waver: "It did happen. I saw it. . . . There were people who were cheering on the other side of New Jersey where you have large Arab populations."[23] That claim is false.[24]

- Mr. Trump posted a statement on his website in December 2015 "calling for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on." The statement remained on the website until May 8, 2017, several months into the Trump Presidency. It made no distinction between American and non-American Muslims.

- That statement continued, "[w]ithout looking at the various polling data, it is obvious to anybody the hatred [of Muslims toward Americans] is beyond comprehension. . . . Until we are able to determine and understand this problem and the dangerous threat it poses, our country cannot be the victims of horrendous attacks by people that believe only in Jihad, and have no sense of reason or respect for human life."

- In March 2016, Mr. Trump expressed his belief that "Islam hates us."[25]

- Later that month, Mr. Trump stated that "[w]e're having problems with the Muslims, and we're having problems with Muslims coming into the country." He got specific about his view of what these "problems with the Muslims" were, asserting that Muslims' lack of "assimilation" and commitment to "sharia law" were responsible for terrorist attacks.[26]

- On the question of whether he would create a Muslim registry, Mr. Trump was, at best, ambiguous. When asked whether he would put in place a database system tracking Muslims, Mr. Trump stated that he "would certainly implement that."[27] He did not recant, but later

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[23] Olivia Nuzzi, New York Magazine, *Trump Still Hasn't Retracted His False Claim That He Saw Muslims Cheering on 9/11* (Sept. 11, 2017) http://nymag.com/intelligencer/2017/09/trump-hasnt-retracted-claim-about-muslims-cheering-9-11.html, accessed Apr. 23, 2019.

[24] D'Angelo Gore, FackCheck.org, *Trump's Revised 9/11 Claim* (Aug. 5, 2016), https://www.factcheck.org/2016/08/trumps-revised-911-claim/, accessed Apr. 24, 2019.

[25] Theodore Schleifer, CNN, *Donald Trump: 'I Think Islam Hates Us'* (Mar. 10, 2016), https://www.cnn.com/2016/03/09/politics/donald-trump-islam-hates-us/index.html, accessed Apr. 24, 2019.

[26] Jenna Johnson and Abigail Hauslohner, Washington Post, *'I Think Islam Hates Us': A Timeline of Trump's Comments About Islam and Muslims*, https://www.washingtonpost.com/news/post-politics/wp/2017/05/20/i-think-islam-hates-us-a-timeline-of-trumps-comments-about-islam-and-muslims/?utm_term=.2ec601b30d82, accessed Apr. 24, 2019.

[27] Vaughn Hillyard, NBC News, *Donald Trump's Plan for a Muslim Database Draws Comparison to Nazi Germany* (Nov. 20, 2015), https://www.nbcnews.com/politics/2016-election/trump-says-he-would-certainly-implement-muslim-database-n466716, accessed Apr. 24, 2019.

stated that he "didn't suggest a database [for tracking Muslims]—a reporter did."[28] Asked in December 2016 whether he would "rethink" "plans to create a Muslim registry or ban Muslim immigration," he replied: "You know my plans. All along, I've proven to be right."[29]

- Under the Trump administration, the Countering Violent Extremism program—which the president stated he intended to rename to the "Countering Islamic Extremism" program[30]—has focused at least 85% of its grants to explicitly target minority groups, including Muslims.[31] That is despite the fact that, since the 9/11 attacks, "nearly twice as many people have been killed by white supremacists, antigovernment fanatics and other non-Muslim extremists than by radical Muslims," as reported in the New York Times.[32]

The evidence demonstrates, without any ambiguity, that the threat to disfavored religious minorities from this president are real; and that other constitutional protections alone cannot be depended upon to provide comprehensive protection against such threats. In light of President Trump's documented antipathy toward Islam, and his belief that Muslims residing in the United States present a security threat, *amici* are justly concerned that the president will, if permitted, use his newfound power to re-direct appropriations to impinge on religious liberty. A decision in favor of Defendants would signal to this president and future presidents that they can appropriate funds on their own initiative, even where Congress explicitly rejects such appropriation, to target disfavored religious groups. It would also permit such a broad reading of the relevant statutes that any president would be able to use phrases like "law enforcement activities," 31 U.S.C. § 9705, "unforeseen

[28] Donald J. Trump (@realDonaldTrump), Twitter (Nov. 20, 2015, 10:51 AM), https://bit.ly/2L4k7hj.

[29] Catie Edmondson, The New York Times, *Sonia Sotomayor Delivers Sharp Dissent in Travel Ban Case* (June 26, 2018), https://www.nytimes.com/2018/06/26/us/sonia-sotomayor-dissent-travel-ban.html, accessed Apr. 24, 2019.

[30] Dustin Volz, Reuters, *U.S. Senators Denounce Trump Plan to Focus Counter-Extremism Program on Islam* (Feb. 9, 2017), https://www.reuters.com/article/us-usa-trump-extremists-program-idUSKBN15O2QT, accessed Apr. 24, 2019.

[31] Faiza Patel, Andrew Lindsay, and Sophia DenUyl, Brennan Center for Justice, *Countering Violent Extremism in the Trump Era* (June 15, 2018), https://www.brennancenter.org/analysis/countering-violent-extremism-trump-era, accessed Apr. 24, 2019.

[32] Scott Shane, The New York Times, *Homegrown Extremists Tied to Deadlier Toll Than Jihadists in the U.S. Since 9/11* (June 24, 2015), https://www.nytimes.com/2015/06/25/us/tally-of-attacks-in-us-challenges-perceptions-of-top-terror-threat.html, accessed Apr. 24, 2019; *see also* David Neiwert et al., Reveal, *Homegrown Terror* (June 22, 2017), https://apps.revealnews.org/homegrown-terror/ (observing that, from 2008 through 2016, "[f]ar-right plots and attacks outnumber Islamic incidents by almost 2 to 1), accessed Apr. 30, 2019.

military requirements," 10 U.S.C. § 8005, and "emergency," *id.* § 2808, as pretexts for projects aimed at violating religious liberties.

Indeed, President Trump has himself indicated that his approach to the border wall and religious minorities are thematically linked. He has on multiple occasions drawn a connection between the supposed-threat of Islam and the need for a border wall: "It is amazing how often I am right, only to be criticized by the media. Illegal immigration, take the oil, build the wall, Muslims, NATO!"[33] That statement was made shortly after the president's false claim that Muslims in New Jersey celebrated the 9/11 attacks. He again made that connection in the aftermath of a terrorist attack in Egypt that killed over 300 people: "Will be calling the President of Egypt in a short while to discuss the tragic terrorist attack, with so much loss of life. We have to get TOUGHER AND SMARTER than ever before, and we will. Need the WALL, need the BAN!"[34] The president has also frequently made the false assertion that "Middle Easterners" are infiltrating the caravans traveling north through Mexico to enter the United States,[35] going so far as to claim that Muslim "prayer rugs" have been found at the border.[36]

And, while this president has usually singled out Muslims for opprobrium, he has signaled intolerance towards other religious groups as well, including Jews. For example, then-candidate Trump initially refused to disavow the support of former Grand Wizard of the Ku Klux Klan David Duke, asserting: "I know nothing about David Duke; I know nothing about white supremacists." He later included what appeared to be a Star of David embedded with the phrase "Most Corrupt

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[33] Donald J. Trump (@realDonaldTrump), Twitter (Mar. 24, 2016, 7:38 AM), https://bit.ly/2IYrsfF.

[34] Donald J. Trump (@realDonaldTrump), Twitter (Nov. 24, 2017, 10:49 AM), https://bit.ly/2Dy5j4h.

[35] Jessica Schneider, Geneva Sands, and David Shortell, CNN, *Counterterrorism Official Contradicts Trump: No Sign ISIS or 'Sunni Terrorist Groups' Are in Caravan* (Oct. 22, 2018), https://www.cnn.com/2018/10/22/politics/caravan-terrorism-trump/index.html, accessed Apr. 30, 2019.

[36] Donald J. Trump (@realDonaldTrump), Twitter (Jan. 18, 2019 5:22 AM), https://bit.ly/2PvxB44.

Candidate Ever!" in a tweet criticizing Hillary Clinton.[37] On multiple occasions, President Trump has retweeted messages from known white supremacists and neo-Nazis.[38] After neo-Nazi groups held a rally in Charlottesville, VA during which one of their members murdered a protester named Heather Heyer, the president told a reporter that there "were very fine people on both sides."[39] The president's rhetoric has caused a spike in violence towards Jews, unprecedented in recent decades. During the first year of his presidency, anti-Semitic incidents increased by 60%, the largest single-year increase on record.[40] Indeed, the gunman who murdered eleven worshippers at a synagogue in Pittsburgh in 2018 was motivated by his fury over the assistance that a Jewish humanitarian non-profit (unconnected to the target of the attack) provided to members of the caravan that the President labeled as "invaders."[41]

The threat to religious liberty presented by Defendants' violation of the Appropriations Clause is lasting, and thus concerns not only members of groups who are disfavored today, but also members of any religious faith that may be disfavored in the future. Indeed, many faiths have been the target of hatred and mistrust over the course of U.S. history. Rhode Island was founded by a Protestant dissenter, Roger Williams, who had been banished from the Massachusetts Bay Colony

[37] Jeremy Diamond, CNN, *Donald Trump's 'Star of David' tweet controversy, explained*, https://www.cnn.com/2016/07/04/politics/donald-trump-star-of-david-tweet-explained/index.html, accessed Apr. 25, 2019.

[38] *See, e.g.*, Eliza Collins, Politico, *Trump Retweets Neo-Nazi's Insult of Jeb Bush*, https://www.politico.com/story/2016/01/trump-neo-nazi-retweet-218113, accessed Apr. 25, 2019.

[39] Politico, *Full Text: Trump's Comments on White Supremacists, 'Alt-Left' in Charlottesville*, https://www.politico.com/story/2017/08/15/full-text-trump-comments-white-supremacists-alt-left-transcript-241662, accessed Apr. 25, 2019.

[40] Anti-Defamation League, *Anti-Semitic Incidents Surged Nearly 60% in 2017, According to New ADL Report*, https://www.adl.org/news/press-releases/anti-semitic-incidents-surged-nearly-60-in-2017-according-to-new-adl-report, accessed Apr. 25, 2019.

[41] Paul P. Murphy, CNN, *Bowers Blamed Jews for Helping 'Invaders' in the Migrant Caravans*, https://www.cnn.com/us/live-news/pittsburgh-synagogue-shooting/h_0c180f52c8d032fd47eef570cc5065c2, accessed Apr. 25, 2019.

for his religious views.[42] Pennsylvania and Delaware were founded by William Penn as a sanctuary for Quakers from religious discrimination.[43] The Mormons settled in Utah only after being driven out of Missouri and Illinois.[44] A Texas state court once had to make clear that the Equal Protection Clause prohibited the "systematic exclusion of Catholics from grand jury service." *See Casarez v. State*, 857 S.W.2d 779, 784 n.4 (Ct. App. Tx. 1993) (describing the 1925 case *Juarez v. State*, 102 Tex. Crim. 297, Crim. App. 1925). The national origins quota system, which played a major role in the United States turning away Jewish refugees fleeing the Holocaust, was in fact conceived in part to limit Jewish immigration.[45]

Amici of all faiths therefore understand that when the president can redirect funds at will—even in the face of congressional opposition—nothing stands in the way of using such funds to surveil, harass, and sanction disfavored religious groups.

CONCLUSION

President Trump has long sought to build a wall on the border with Mexico. Congress has consistently resisted his requests for appropriations to fund that wall. The president in response has purported to "re-appropriate" funds that were allocated to other purposes. If President Trump is allowed to indulge this whim, he will turn to others. And the president has, repeatedly, singled out religious minorities for contempt. *Amici* therefore have a reasonable expectation that, if permitted to divert funds on this pretext, President Trump will later use that power to surveil, harass, and sanction

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[42] Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1425 (1989).

[43] *Id.*

[44] Paul Wake, *Fundamental Principles, Individual Rights, and Free Government: Do Utahns Remember How to Be Free?*, 1996 Utah L. Rev. 661, 672 (1996).

[45] Kevin R. Johnson, *Race, the Immigration Laws, and Domestic Race Relations: A 'Magic Mirror' into the Heart of Darkness*, 73 Ind. L.J. 1111, 1129 (1998).

disfavored religious minorities. *Amici* therefore respectfully urge the Court to grant Plaintiffs' motion for a preliminary injunction.

Dated: New York, New York
May 1, 2019

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APPENDIX A

IDENTITY AND INTERESTS OF AMICI

1. Albuquerque Mennonite Church

Part of Mennonite Church USA, Albuquerque Mennonite Church is a community of over 150 Mennonites who believe strongly in the connections between peacemaking and justice, and the Kingdom of God that Jesus taught about and lived out. Mennonites began as a persecuted religious minority group suffering from the tyranny of toxically interwoven church and state during our origins in 16th century Europe. Especially during the early history, Mennonites & Anabaptists often migrated as religious refugees in Russia & Europe. Anabaptists & Mennonites received hostile treatment when we most needed hospitality. It is imperative that all people today have access to the international law asylum-seeking process, especially religious minorities.

2. Albuquerque Monthly Meeting of the Religious Society of Friends (Quakers)

Albuquerque Monthly Meeting of the Religious Society of Friends ("AMM") is a Quaker Meeting for Worship in Albuquerque, New Mexico, affiliated with Intermountain Yearly Meeting, a community of Quaker Meetings and individual Friends situated within the Intermountain West. In unity with the shared testimonies of Friends within IMYM, we affirm that "Our witness to the world comes from our perception of the Divine Spirit moving through us (IMYM Faith and Practice, Advice 1 on Integrity, p. 130)." "Recognizing the oneness of humanity in God, we affirm fellowship with all people (Id., Advice 2 on Integrity, p. 131)". "We [must] refuse to join in actions that denigrate others or lead to their victimization (Id., Advice 4 on Peace, p. 133.)"

Albuquerque Meeting has long been troubled by the treatment of refugees and migrants within the United States and in the borderlands. In 2014, we committed ourselves " . . . to assure that the humanity of every migrant to our borders is honored and that all are treated with compassion and dignity, regardless of what their legal status may ultimately be determined to be." (AMM minute 2014.8.3) We are concerned about immigrants as a targeted group, or containing representatives of targeted groups, and see that on our border with Mexico they are threatened with an assault on their humanity. The Administration claims that the presence of these asylum seekers at our Southern border constitutes a threat so severe that it justifies emergency executive action. This demonization of migrant children and families incites and encourages hatred and fear not only of the migrants among us, but even our own documented immigrants and citizens who look or sound like them.

Our current commitment is grounded in our testimony during the 1980s to "extend hospitality to people in danger far from their homeland . . . [and} challenge our government to act more wisely in its policies . . . to recognize human needs . . . and to welcome refugees within our borders. . . . We defy no authority, but in cooperation with other religious groups take this small step towards healing ourselves and our country." (AMM Minute, Nov 11, 1984)

We join this brief because we cannot be faithful to the Light that Spirit has granted us as stated above and ignore what is being done in our name to these brothers and sisters.

3. Association of Muslim American Lawyers

The Association of Muslim American Lawyers ("AMAL") seeks to assist the Muslim-American community's exercise of legal rights through education; encourage entry into the legal profession; assist members in their professional development; promote the administration of justice; benefit the community with legal resources and services; identify and explore themes common to American and Islamic jurisprudence; and promote the highest standards of professionalism, integrity and honor amongst AMAL members.

While Americans celebrated the destruction of the Berlin wall we are now creating a symbol and an illustration of a nationalism that says to the world America was created by and for Americans only. This goes against the fabric of American history and culture. We are a melting pot and we cannot change the American history by simply building a wall. What we need is a comprehensive immigration policy that is fair, welcoming and secure.

4. Campus Ministry of Roman Catholic Archdiocese of New York at Hostos and Bronx Community College of City University of New York

The Catholic Campus Ministry and Interfaith Department, funded by the Roman Catholic Archdiocese of NY since the 1970's at the community colleges of CUNY, serves the traditional immigrant base that bodes well for the future of the NY metropolitan area and our great country. Most of the 13,500 students of both colleges are either immigrants or sons and daughters of people of color and accents. No one on campus sees the refugees and migrants coming to our borders as threats nor criminals. We are all made in the Imago Deo (the Image of God!).

5. Capital Area Muslim Bar Association

The Capital Area Muslim Bar Association ("CAMBA") is a professional bar association whose diverse membership resides in the Washington, DC metro area. CAMBA's mission includes fostering a sense of fellowship amongst Muslim legal professionals, addressing legal issues affecting both the Muslim and non-Muslim community, and educating and advocating for the constitutional, civil, and human rights of all persons. CAMBA signs on to this brief as part of its efforts to ensure the full and fair treatment of all the communities it serves.

6. Catholic Charities Community Services of the Archdiocese of New York

Since 1949, Catholic Charities Community Services, NY ("CCCS") has provided direct human and legal services to over 170,000 people each year from all parts of New York City and the Lower Hudson Valley. These services are offered to all New Yorkers in need, regardless of religious belief, because our work is grounded in our belief in the dignity of each person and the building of a just, compassionate society, especially for the most vulnerable among us. CCCS's Division of Immigrant & Refugee Services provides immigration legal assistance in New York City and the Lower Hudson Valley to adults, children, and families seeking protection from violence, abuse, and persecution, and to those seeking family reunification, employment authorization, release from detention, or residence and citizenship; we also provide resettlement support to newly arrived refugees and asylees, job

development and employment prep to vulnerable newcomers, integration and ESL assistance to adults and children, and hotline and information services to over 65,000 people each year.

Consistent with the Bible's teaching that we are to welcome the stranger—one of the most frequently mentioned moral imperatives in both the Old and New Testaments—our nation deserves an immigration system which protects human rights and human dignity while upholding the rule of law. This requires immigration reform which honors our values and traditions as a nation of immigrants. Building walls only divides us as a country and does not address the sources of global migration. For these reasons we join this brief.

7. Catholic Charities, Diocese of Trenton

Since 1913, Catholic Charities, Diocese of Trenton, has been saving lives, restoring dignity and helping individuals and families achieve self-sufficiency. Central New Jersey residents, regardless of faith background, have always found Catholic Charities programs to be welcoming and compassionate. A private nonprofit, we offer mental health, social and crisis services to individuals and families, particularly those impacted by trauma and adversity. We believe that a border wall is not a solution to the immigration problem.

8. Church Council of Greater Seattle

The Church Council of Greater Seattle has engaged congregations in Martin Luther King Jr. County for the work of social, economic and racial justice since 1919. Our network of multi-faith religious organizations expresses its moral commitment to uphold and affirm the rights and dignity of all immigrants and refugees through actions that alleviate suffering, remove fear and challenge policies and practices that dehumanize and separate families. We live out the principle of "love of neighbor" by recognizing the racist and xenophobic underpinnings of the conceptions of "border wall" rhetoric and administrative actions and proclaiming that any attempt to divide loved ones, incarcerate children, and deny due process to families who seek asylum is a violation of the faiths on which we stand. "Border walls" impede the fundamental human rights of all immigrants and refugees to exercise their faiths and live in peace and security. Our faith leads us to a solidarity with all who migrate in the belief that families belong together.

9. Church of Our Saviour/La Iglesia de Nuestro Salvador (Cincinnati, Ohio)

The Church of Our Saviour/La Iglesia de Nuestro Salvador is an Episcopal parish in Cincinnati Ohio, with a far-reaching ministry beyond its central urban location.

As Christians we are accountable to a tradition of the Abrahamic faiths. Abraham and Sarah were called to leave their homeland and travel across many borders, living as immigrants throughout their long lives. The infant Christ was carried by his family in a time of political crisis to another country, fleeing violence: they had no time nor would they have been permitted to get any papers in order. We are strictly commanded by our Savior Jesus Christ as well as by the Torah and the Prophets, that we must welcome the refugees and immigrants, that ¨whatever you have done to the least of these, you have done to me.¨ To build a wall or to take any other measures to keep desperate people away from safety and a secure future is to act against our religion and contrary to the command of our

God. This is reflected in Resolutions from many General Conventions of The Episcopal Church, of which we are a part.

10. Congregation B'nai Jeshurun (New York City)

B'nai Jeshurun ("BJ") is a synagogue community of nearly 1,800 families on the Upper West Side of New York City. Our congregation has held democracy, freedom, and diversity as core values since its founding in 1825. As a faith community, we feel called-upon to hold ourselves, each other, and our elected leaders accountable for sustaining the core values of our nation, and to bring to bear the moral values of our Jewish tradition and teachings for the benefit of all people. Indeed, as found throughout the Torah and later commentaries, Jewish law and learning address how society treats strangers and fugitives, provides refuge, and serves justice and due process. We look at the American immigration crisis through this lens of dignity, fairness, and respect. As such, in January of 2018 we joined a growing movement of American synagogues declaring ourselves "Sanctuary Congregations." This followed more than two years of work of the BJ Refugee and Immigration Committee, which includes over 100 active members on eight subcommittees, and which has been a Jewish presence in local efforts to support refugees, asylum seekers, and the immigrant community. We undertake this work in partnership with other institutions, including: HIAS, Manhattan Together, the Mexican Coalition, Riverside Language Program, T'ruah: the Rabbinic Call for Human Rights, the New Sanctuary Coalition, and Bend the Arc. In addition, we are a founding member of the Synagogue Coalition on the Refugee and Immigration Crisis—an active collaboration of over 19 Manhattan synagogues and Jewish organizations. The BJ community, led by its rabbis, sees the border situation for what is it: first and foremost, an humanitarian crisis. And we believe strongly that the solution will not be found through inhumane security measures. We are proud to join this coalition of faith groups in support of the State of California's motion for a preliminary injunction barring the federal government from diverting funds from the Department of Defense and the Department of Treasury toward construction of a wall on the southern border.

11. Congregation Beit Simchat Torah

Congregation Beit Simchat Torah ("CBST") is a bold spiritual community of love and resistance that embodies a progressive voice within Judaism. Founded in 1973, CBST attracts and welcomes gay men, lesbians, bisexuals, transgender, queer and straight individuals and families who share common values. Passionate, provocative, and deeply Jewish, CBST champions a Judaism that rejoices in diversity, denounces social injustice wherever it exists, and strives for human rights for all people.

CBST is a community of immigrants and refugees and descendants of immigrants and refugees. We see those being targeted as part of our community and our neighbors, not our enemies. We are reminded of the words from the book of Leviticus that command us to welcome the stranger because we, too, were once strangers in a strange land. As LGBTQ people and Jews, we know the dangers of demonization, and we embrace resistance and love as our response. We cannot be silent. CBST stands committed to furthering social justice and equality for all people. We work within the congregation, take public action and lend our names and voices to a variety of social and humanitarian causes.

After the 2016 presidential election, CBST made a commitment to amplify its social justice initiatives and as part of that promise, we joined the New Sanctuary Coalition of New York City. We are partnering with them on education, training and support for the immigrant community in the tri-state area. CBST members regularly support immigrants facing ICE hearings and check-ins by attending meetings with DHS officials. We are committed to fighting for justice and for the humane treatment of all people.

12. Congregation Shaarei Shamayim (Madison, Wisconsin)

Shaarei Shamayim is a growing, open, pluralistic congregation of 160 households, in Madison, Wisconsin. We believe that Judaism is a means for bringing justice, holiness, and joy to our world. We are building Jewish community rooted in creativity and authenticity, and we are reimagining the possibilities for Jewish life, identity, and community. Working for social justice is one of our core values. We are inspired by Jewish tradition to fight for a sustainable world, care for the vulnerable, and create racial and economic justice. We engage in programs to keep up on current issues, partner with community organizations to amplify our voices, and get involved in efforts to make our city, region, and world a better place for everyone, including vulnerable refugees. Based on our religious beliefs, we have moral objections to the President's actions that are the subject of this litigation, as we believe his actions will further harm our nation's ability to welcome refugees who legitimately seek asylum in our country.

13. Council on American-Islamic Relations – California Chapter

The Council on American-Islamic Relations, California ("CAIR-CA"), is a chapter of the nation's largest American Muslim civil rights and advocacy organization. CAIR-CA's mission is to enhance the understanding of Islam, protect civil rights, promote justice, and empower American Muslims. Through its four offices, CAIR-CA serves California's estimated one million American Muslims by providing direct legal services to victims of discrimination, working with the media, facilitating community education, and engaging in policy advocacy to advance civil rights and civic engagement. CAIR-CA also has an Immigrants' Rights Program, which provides direct legal services to the community in immigration matters.

CAIR-CA regularly represents members of the Muslim community who have been victims of anti-Muslim hate crimes as well as individuals who have been targeted by governmental overreach and discrimination. CAIR-CA has seen a significant uptick in the number of hate crimes perpetrated against Muslims since the beginning of the 2016 Presidential election campaign, which included proposals such as the border wall at issue in this case. The President has consistently used fearmongering about Muslims as a tactic for obtaining funding for the border wall and other draconian immigration policies. Congressional refusal to fund the President's border wall proposal repudiated his claim that the United States is under a national security threat from Muslims and immigrants. Allowing the President to appropriate money against the express will of Congress, under the pretext of a national security emergency, would further increase the perception that Muslims are a serious and imminent threat to the United States, and lead to an increase in hate crimes and discrimination.

Congressional appropriations and oversight provide transparency and a critical check on executive power which can prevent the executive branch from acting against minority groups. Congress can openly debate the issues, give citizens the ability to weigh in on important decisions through their congressional representatives, and, if necessary, restrict the funds that the executive branch would need to act in an illegal or immoral manner. These structural protections in our constitution are especially important to CAIR-CA and its constituents now, with the current administration's open hostility towards Muslims. Allowing the President to reallocate funds against the express wishes of Congress undermines everyone's rights, but the harm is disproportionately borne by disfavored groups, including immigrants and religious minorities.

14. Council on American-Islamic Relations – New Jersey Chapter

The Council on American-Islamic Relations, New Jersey ("CAIR-NJ") is a civil rights organization located in New Jersey, focused on defending the civil rights of New Jersey's Muslims. This President, who has shown disdain for of all types of disenfranchised groups and has specifically vilified Muslims, would set a dangerous precedent, if allowed, by side-stepping the checks and balances that are the cornerstone of this democracy. No one person should have the ability to allocate taxpayer funds, unchecked, for personal political gain, as is the case with this fabricated emergency.

15. Council on American-Islamic Relations – New York Chapter

The Council on American-Islamic Relations, New York Inc. ("CAIR-NY") is a leading Muslim civil liberties and advocacy organization, defending, representing, and educating nearly one million Muslims in the New York area. CAIR-NY's mission is to enhance understanding of Islam, protect civil rights, promote justice, and empower American Muslims. Through legal representation, education, media relations, and advocacy, CAIR–NY empowers the American Muslim community and encourages their participation in political and social activism. CAIR–NY counsels, mediates, and advocates on behalf of Muslims and others who have experienced discrimination, harassment, or hate crimes. Our lawyers work to protect and defend the constitutional rights of American Muslims, thus supporting the rights of all Americans. CAIR-NY opposes the construction of a border wall and is committed to ensuring that every human being receives dignified treatment and the right to seek refuge for themselves and their families. CAIR-NY has participated in many protests against the border wall and inhumane border policies. Last year, CAIR-NY's parent and sister organizations participated in week of action called "Love Knows No Borders: A moral call for migrant justice" that began on Human Rights Day on December 10. CAIR and other participants called on the United States government to respect the human right to migrate and end border militarization.

16. Cuba Presbyterian Church (New Mexico)

Cuba Presbyterian Church (Presbyterian Church, USA), Cuba, NM is a small, traditional congregation in a northern New Mexico village. It was established in 1889 in a multi-cultural community made up of Spanish and Mexican settlers among the diverse Native American tribal communities – Navajo, Jicarilla Apache, and the nineteen Pueblos; along with the Anglo American presence which came into the area in the 1870s. We are keenly aware we are all immigrants, and feel called to assure others the opportunities our families have had. Our mission as a church is to

spread God's loving message to all regardless of race or national origin. By unlawfully seizing authority given to Congress, the Defendants have redirected funding which directly impacts our local community. In the larger picture, this incident is seen as possibly the first step in taking other illegal actions which may directly impact our freedom and culture, and overshadow and impair the Christian message we are living in this community.

17. Daughters of Charity of St. Vincent de Paul, USA

The Daughters of Charity of Saint Vincent de Paul are an international community of about 16,500 Catholic sisters who devote our lives to serving the poorest and most abandoned individuals in today's society. The Daughters of Charity, USA, many of whom are immigrants themselves, serve in 27 U.S. states, Washington, D.C. and Canada.

Since 2014, families have been arriving with increased frequency to the U.S./Mexico Border. The Daughters of Charity who minister and/or live in El Paso and Harlingen, Texas, and Reynosa, Mexico, walk with them. We provide pastoral accompaniment within immigrant detention facilities, as well as legal and social assistance after they are released. Our experiences with the immigrant population demonstrate that they are good people who present no danger and have no history of causing violence. They are immigrating to survive and they have become blessings to our communities.

Instead of bridges, political leaders promote funding for more walls. Border walls destroy the ecosystem and economy of the border towns; force vulnerable immigrants to take more dangerous routes; and provide no actual, additional safety or deterrence of refugee flow. The Daughters of Charity, believe that additional funding for the border wall is a blinding manifestation of immoral politics, cultural exclusion and unwarranted fear. Jesus taught us that what we do reveals what we are. Promoting this wall says we are weak and fearful. It is an epic failure to act as followers of Christ and violates the values of those who proudly claim to live in the home of the brave.

18. East End Temple (New York City)

East End Temple is a Reform Jewish congregation located in lower Manhattan in New York City that is dedicated to issues regarding immigration and immigrants' rights. With members of the congregation who are immigrants themselves or are descendants of recent immigrants, the congregation is particularly committed to the principle and commandment to welcome the stranger.

19. El Paso Monthly Meeting of the Religious Society of Friends

The El Paso (Texas) Monthly Meeting of the Religious Society of Friends (Quakers) is a forty-year old organization but the roots of Quakers go back to seventeenth-century England. Friends strive to practice the ways of simplicity, peace, integrity, community and equality. Included in those values is our support for family-based immigration, the diversity visa, and strengthening access to asylum. El Paso Monthly Meeting of the Religious Society of Friends wishes to sign on as an amicus curiae in support of the State of California's motion for a preliminary injunction barring the federal government from diverting funds from the Department of Defense and the Department of the Treasury toward construction of a wall on the southern border. Along with others, we stand to lose when the executive branch usurps the role of our elected representatives to budget for expenses. In

particular, the building of more border wall seems unnecessary and potentially ineffective and belligerent.

20. Episcopal City Mission

Episcopal City Mission builds relationships and collective power across the Commonwealth of Massachusetts for racial and economic justice as the expression of God's transforming love. We do this by developing, convening, mobilizing, and funding prophetic leaders in Episcopal communities, grassroots organizations and faith-rooted organizations.

At Episcopal City Mission ("ECM") we believe that all life was created in the image of God and reveals God's loving presence. We follow Jesus, one who embodied love and justice by honoring the people most overlooked by society and challenging systems of separation that denied sacredness. We follow in the way of Jesus when we serve as God's heart, hands and feet in the world today. President Trump's decision to build a wall with government funding targets those people with whom we are most called to demonstrate solidarity. In addition, this action stands in direct opposition to ECM's commitment to honor life, follow Jesus, and build communities that care for the oppressed and seek the common good.

21. Episcopal Diocese of Long Island

The Episcopal Diocese of Long Island consists of 140 parish churches from the Brooklyn Bridge to the end of Suffolk County. The Bishop of the Diocese fully supports this effort for a preliminary injunction to stop the administration (federal government) from mis-directing and illegally using Defense Department and Treasury Funds to construct an immoral, impractical and useless border wall. The administration's fixation with constructing this wall is representative of the administration's sinful and unlawful scapegoating of asylum seekers to promote an un-American, protectionist, nationalist agenda. It must not be allowed to happen.

22. Episcopal Diocese of Western Massachusetts

The Episcopal Diocese of Western Massachusetts is an aggregate of 50+ congregations and community-based ministries. Our diocese spans from the Berkshires in the west to Worcester County in the center of the Commonwealth. As bishop I am the lawful and spiritual leader and the bridge between our diocese and The Episcopal Church. The President's use of government funds for building the southern border wall is a clear violation of the Congress' power of the purse. The situation at our southern border may quite rightly be seen as a crisis as the President's policy shifts have stranded asylum seekers in Mexico for an indeterminate time. The impact of his change to national policy has endangered the lives of people who seek safety here. What has been done to the children under orders from the President, is immoral and an affront to human dignity. I join this amicus brief on behalf of the Episcopalians in Western Massachusetts who have promised to uphold the dignity of every human being.

23. First Congregational Church of Kalamazoo

The First Congregational Church of Kalamazoo is an Immigrant Welcoming Congregation.

We are opposed to these actions on theological and moral grounds. We are committed to providing sanctuary to those being unjustly persecuted by the government. We believe budgets are moral documents and that it is never acceptable to fabricate a "crisis" in order to use important funding to build the so-called border wall. Lying is a sin and is beneath the dignity of the United States of America.

24. First Congregational United Church of Christ (Albuquerque, New Mexico)

We are a sanctuary church. Our mission is to live God's love, justice, and inclusion. We are clear that a wall is not loving, it is not just, and it is not inclusive. Our faith tells us to build bigger tables to welcome the stranger. Our God does not call us to build walls, but to be hospitable to all people.

25. Franciscan Action Network

Franciscan Action Network (FAN), a faith-based organization with 53 institutional members and over 12,000 individuals in all 50 states, wishes to sign on as an amicus curiae in opposition to funding construction of a wall on the U.S. southern border.

The proposed wall is contrary to faith values of compassion, solidarity, and care for creation. Migration of people has been a reality and human right since biblical times. While extension of the wall will do little to stop human migration, it will result in further separation of families, severance of wildlife migration routes, and destruction of thousands of acres of natural habitat. We heed the warning of Pope Francis on March 31, 2019: "Those who build walls will become prisoners of the walls they put up."

26. Franciscan Friars of the Province of St. Barbara

The Franciscan Friars (O.F.M.) is a Catholic religious order founded by St. Francis of Assisi. The Friars of the Province of St. Barbara are geographically located in California, Arizona, Washington, and Guaymas, Sonora, Mexico. We have a long tradition of ministering to migrants and are very familiar with the problems facing migrants in their home countries and in the United States. Pope Francis has told Donald Trump and his advisers that his wall is "not Christian" and that we should build bridges, not walls. The friars of our Province agree with Pope Francis's comments. We believe further that the border wall being pursued by the Trump Administration is not a solution to the problems facing either U.S. residents or migrants and that the money being spent illegally by the Administration to build the wall could be put to far more productive uses.

27. Greater New York Labor-Religion Coalition

The Greater New York Labor-Religion Coalition is an interfaith worker rights and economic justice advocacy organization. We stand for the full worker and human rights of low wages and immigrant workers. We deplore the treatment of asylum seekers and refugees at the border, violating both religious ethics and international law. The situation on the border is humanitarian crisis, deserving of our compassionate response, not a punitive inhumane "emergency" violating human rights.

28. Hispanic Apostolate Catholic Diocese of Baton Rouge

The Hispanic Apostolate of the Catholic Diocese of Baton Rouge is an organization whose mission is to promote the integration of our Hispanic brothers and sisters into the life of the Catholic Diocese of Baton Rouge. In keeping with that mission, we believe that the construction of a wall on the southern border, using funds designated for more worthy uses, would cause senseless harm, and therefore enthusiastically endorse the Religious Organizations amicus brief.

29. Interfaith Alliance of Iowa

Interfaith Alliance of Iowa is a progressive voice for people of faith and no faith celebrating religious freedom by championing the rights of individuals, promoting policies that protect both religion and democracy, and empowering diverse voices to challenge extremism.

Our nation and the state of Iowa is strengthened by the rich cultures and varied gifts of those who come from diverse countries. Those who come into our country as immigrants, refugees, and asylum seekers are looking for a better life for their families, to earn a good living, for their children to receive a good education, to worship freely as they choose, and to be welcomed as neighbors into communities in which they can thrive. These goals are no different than those who immigrated decades and centuries before from many of our families. Building a wall is antithetical to the values that uphold the American Dream. A wall is a political ploy but it also does grave harm to our democracy and the ideals to which we aspire. Misusing the power of the presidency on the backs of those seeking refuge simply for political gain is morally corrupt.

The Interfaith Alliance of Iowa believes in the American Dream and we believe that welcoming the stranger, while utilizing logical and effective laws that ensure a speedy and fair process, is necessary to protecting that dream for all who seek it. A wall does nothing other than tear our nation apart and is un-American in its conception.

30. Islamic Society of Central Jersey

The Islamic Society of Central Jersey ("ISCJ") is an organization of Muslim Americans that provides religious, educational and social services to its members, as well as to the community at large. ISCJ is a non-political, non-profit, religious organization that encourages its members to be model citizens of the United States.

ISCJ stands against the border wall as it goes directly against the tenets promulgated by our Prophets: Jesus, Moses and Muhammad amongst others. We should always stand by in support to those in need. "Those needy ones . . . who are hindered from moving about the earth in search of their livelihood especially deserve help. . . . And whatever wealth you will spend on helping them, Allah will know of it. (2:273).

31. Leadership Conference of Women Religious

The Leadership Conference of Women Religious ("LCWR") is an association of leaders of congregations of Catholic women religious in the United States. LCWR has nearly 1300 members, who represent approximately 38,800 women religious. Catholic sisters began coming to these shores

almost 300 years ago as immigrants to serve immigrant populations and continue to this day to minister to those seeking safety from persecution and refuge from harm. Founded in 1956, LCWR assists its members to collaboratively carry out their service of leadership to further the mission of the Gospel in today's world.

As women of faith, we believe that all people are created in God's image and worthy of respect, and that the right of each person to practice her or his religion is sacred. President Trump's attempt to usurp Congress's power to appropriate funds violates the U.S. Constitution and further strengthens the power of the executive. We fear that such concentration of power threatens the rights of individuals to the free exercise of religion. Furthermore, attempts by an increasingly powerful executive to wall-out those seeking refuge and asylum in the United States severely limits our ability to heed God's call to welcome the stranger and care for those in need (Mt 25:35-40) thus impinging on our right to the free exercise of religion.

32. Metropolitan New York Synod of the Evangelical Lutheran Church in America

The Metropolitan New York Synod is the regional expression of the Evangelical Lutheran Church in America, a member church of the Lutheran World Federation—A Communion of Churches. Lutherans are a diverse group of people, convinced that the Holy Spirit is leading us toward unity in the household of God. As Lutherans, we are worshipping God, helping friends and neighbors, celebrating diversity, feeding the hungry, working for justice, and advocating for peace. When we serve others and address social issues that affect the common good, we live out our Christian faith. There are nearly 200 congregations across New York City, Long Island, and in the counties of Westchester, Putnam, Orange, Rockland, Sullivan and Dutchess. The Rev. Donald McCoid serves as the Lutheran Bishop of the Metro New York area.

The Metropolitan New York Synod of the Evangelical Lutheran Church in America is party to the amicus brief for two reasons. First, building the proposed border wall would divert funds from our military. Many Lutherans serve as officers, chaplains and enlisted members of the armed forces. We cannot condone the diversion of well-considered funds allocated by congress intended to support our military because such diversion would be a harm to Lutheran members of the military. Second, building the proposed border wall would separate communities along the border. Many Lutherans live in towns, villages and communities that straddle both sides of the border. Religious life is among the many elements of life intertwined in these areas. This border wall would separate people who otherwise pray together, worship God together, study the Bible together, tend to each other's needs together. Further, these intertwined Lutheran communities, working closely with other religious communities, have been a source of stability, unity and security in these border areas. The proposed border wall take away the right to exercise religion in these manners, and so we cannot support either the building of this proposed wall by diverted funds or otherwise.

33. Muslim Advocates

Muslim Advocates is a national legal advocacy and educational organization that works on the front lines of civil rights to guarantee freedom and justice for Americans of all faiths. Muslim Advocates advances these objectives through litigation and other legal advocacy, policy engagement, and civic

education. Muslim Advocates also serves as a legal resource for the American Muslim community, promoting the full and meaningful participation of Muslims in American public life. Muslim Advocates has an active docket of immigrants' rights cases, and has represented both Muslim and non-Muslim plaintiffs in matters that relate directly to border issues, and has spoken out against racist, anti-immigrant, and anti-Muslim rhetoric related to the border wall in recent months. The issues at stake in this case relate directly to Muslim Advocates' work fighting for an inclusive society that ensures that all members of our communities are welcome and able to thrive in this country. This includes opposing policies, like the border wall, that inevitably will lead to more civil rights violations and a less welcoming society for Muslim and non-Muslim immigrants alike.

34. Muslim Bar Association of New York

Muslim Bar Association of New York ("MuBANY") is one of the nation's largest and most active professional associations for Muslim lawyers. MuBANY provides a range of services for the legal community and for the larger Muslim community. One of MuBANY's missions is to improve the position of the Muslim community at large by addressing issues affecting the local and national Muslim population, through community education, advancing and protecting the rights of Muslims in America, and creating an environment that helps guarantee the full, fair and equal representation of Muslims in American society. MuBANY works actively to combat anti-Muslim and anti-Islamic stereotypes in the media, courts, law enforcement and the greater community. MuBANY is especially concerned by the increasing fear and hysteria used by government officials against immigrant communities as a justification to construct a border wall. Particularly, as nearly two-thirds of Muslim Americans identify as immigrants.

35. Muslim Urban Professionals (Muppies)

Muppies, Inc., also known as Muslim Urban Professionals ("Muppies"), is a nonprofit, charitable organization dedicated to empowering and advancing Muslim business professionals to be leaders in their careers and communities. Its mission is to create a global community of diverse individuals who will support, challenge, and inspire one another by providing a platform for networking, mentorship, and career development.

Muppies represents an engaged group of Muslim professionals that believe the rights of all Americans, including minorities, should be protected. We oppose any policy or actions that result in a reduction of opportunity and freedom for any individuals or groups.

36. National Council of Jewish Women

The National Council of Jewish Women ("NCJW") is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that NCJW resolves to work for "Comprehensive, humane, and equitable immigration, refugee, asylum, and naturalization laws, policies, and practices that facilitate and expedite legal status and a path to citizenship for more individuals." Consistent with our Principles and Resolutions, NCJW joins this brief.

37. NETWORK Lobby for Catholic Social Justice

NETWORK Lobby for Catholic Social Justice is a national organization founded by Catholic Sisters in 1972. For 45 years we have worked at the intersection of faith and politics. NETWORK Lobby for Catholic Social Justice believes the federal budget is a moral document that must reflect the values of our nation. The Trump administration's plan to use federal funds to construct a border wall and increase immigration enforcement must be rejected as it contradicts our nation's founding principles. The administration's goal is to restrict the flow of immigrants and refugees, create a larger deportation force, and vastly expand private detention centers under the misguided pretext of national security. Such expenditures will lead to greater family separation and create terror in immigrant and border communities. As people of faith, we are called to love our neighbor. The perpetuation of suffering brought on by the administration's policies offend the dignity of all human beings and violate our faith teachings.

38. New Mexico Faith Coalition for Immigrant Justice

The New Mexico Faith Coalition for Immigrant Justice is a faith based group that was formed over eight years ago as a response to attacks on our immigrant communities during the last administration. Since its formation, the Coalition has been deeply committed to supporting the immigrant families in New Mexico through the hardships of deportation and detention and has been outspoken against unjust and inhumane immigration laws, advocating for laws that reflect the higher values of the dignity of the person, unity of the family, richness in diversity, and the freedom of the pursuit of purpose. Among the many services we provide to the immigrant community are direct service: connecting families to legal and social resources, faith-based community education of immigrant issues, border awareness programs, micro-loans for immigration form submittals, court accompaniment for families, and refugee hospitality program: picking up and finding a place to stay for asylum seekers and asylees released from the Cibola detention center.

As an organization focused on bringing diverse spiritual voices to the table in ensuring a life of dignity for migrants and refugees, the New Mexico Faith Coalition for Immigrant Justice stands in support of this amicus brief. Remembering the words of Lutheran pastor Martin Niemöller ("First they came for...") it is important to ensure the separation of powers so minority groups cease to be targeted, compromising the health and survivability of our democracy. In New Mexico, as in most states, there are ample examples we see of Muslim refugees, Latin American asylum seekers and undocumented migrants and other minority groups being targeted by Immigration enforcement and other government agencies. As such, we believe it is imperative that the balance of powers be more strongly followed so as to avoid dangerous appropriations out of line with the desires and well-being of the residents of our country.

39. New Sanctuary Coalition

The New Sanctuary Coalition ("NSC") is an immigrant-led organization that coordinates volunteer efforts to provide legal and social support for many hundreds of immigrants, their families, and their communities. NSC is grounded in New York's faith-based and social justice communities, NSC aims to stop the inhumane system of deportation and detention through accompaniment to mandatory ICE check-ins and immigration court hearings; legal support and referrals through clinics

staffed by volunteer lawyers and trained laypeople; assistance with asylum applications; advice on pro se defense at court hearings; provision of a bond fund; rights trainings, and advocacy to increase detained immigrants' access to legal defense tools.

40. New York Justice for Our Neighbors (United Methodist Church)

New York Justice for Our Neighbors is a faith-based legal services ministry of The United Methodist Church that provides free legal services to indigent immigrants who need to adjust their status. Consistent with the Social Principles of The United Methodist Church, New York Justice for Our Neighbors believes that resources should be committed to addressing the root causes of migration rather that building a wall. Moreover, scripture compels us to treat the foreigner as the citizen among us; a border wall is inconsistent with that position.

41. New York State Council of Churches

The New York State Council of Churches has been in existence since the late 19th Century and currently is comprised of eight denominations (American Baptist Churches USA, Episcopal Church, Evangelical Lutheran Church of America, New York Yearly Meeting of the Religious Society of Friends (Quaker), Reformed Church in America, Presbyterian Church (USA), United Church of Christ, United Methodist Church) and approximately 7,000 congregations from those denominations in every part of New York State.

The New York State Council of Churches states in its constitution that "It's fitting that Christians should manifest their unity by joining together to proclaim the gospel of Jesus Christ and to show God's good and just purposes throughout New York State. Therefore, we covenant to care for one another, safeguard the presence of vital Christian communities, provide hospitality to all, proclaim the gospel boldly in each place, and declare God's just will among the powers and principalities."

Given our mission, we have a compelling interest to serve as Amici to protect the freedoms of our congregations and its lay and clergy leaders that they may freely exercise their first amendment rights to welcome the stranger, advocate for marginalized and vulnerable people and seek their welfare. Such advocacy is central to our goal to offer the good news of the Gospel in word and deed in a broken world and to provide effective pastoral care to our congregants and those in the society as a whole. All of our denominations have well developed theological positions to advocate for immigrants who have, over the years, been subjected to discrimination and marginalization. We have advocated for government policies and laws which prevent this discrimination and allow for human flourishing.

We are deeply grieved by the lawless conduct of the President in unilaterally reallocating federal funds appropriated by Congress to an unauthorized use in order to prevent immigrants from finding protection, shelter and freedom in the United States of America. The prospect of future actions by the President that circumvent the Constitutional requirements for allocating and using tax money threatens to undermine our system of checks and balances. If unrestrained, such conduct can and is likely to be used in ways that harm the poor, the vulnerable and the stranger in our midst, and that will undermine the ability of our congregants and their lay and clergy leaders to offer the good news of the Gospel.

42. Parish of the Epiphany

On behalf of the Parish of the Epiphany, I wish to join our voices in support of the amicus brief that opposes the building of a border wall with public funding. As a welcoming Episcopal community committed to working for the dignity of every human being, we believe that Christ calls us to love our neighbors—all of them—and to extend welcome to the stranger, giving the greatest honor to those held in lowest esteem. The present Administration's insistence on building a wall on the US-Mexican border, in defiance of the will of Congress, undermines the most vulnerable segments of society: the desperate people, among them religious activists and members of small religious groups, who flee to our country for refuge, and US residents whose services will be cut due to the diversion of funding. This action directly contradicts our Christian values and we strongly oppose both the building of the wall and the weakening of our democratic institutions.

Our Mission Statement

We are a welcoming Episcopal community, united in God, called to seek and serve Christ in all persons and to transform our world through love and generosity. Christ calls us to be reconcilers and to offer hospitality to the stranger, and to reach out to those living on the margins. May God give us all the grace to live out this imperative.

43. Pacific Northwest Conference of the United Church of Christ

The Pacific Northwest Conference of the United Church of Christ ("PNCUCC") is an organization of approximately 80 churches in Washington State, North Idaho and Alaska. Our Constitution and Bylaws open with this scriptural guidance; "The Lord has told us what is good. What God requires of us is this: to do what is just, to show constant love, and to live in humble fellowship with our God." The Pacific Northwest Conference is happy to sign on to this amicus because of a resolution we passed in 2017. In the summary of the resolution we stated "...that every immigrant and refugee has inherent dignity and human rights. Every immigrant and refugee should be able to live in safety, live without fear, and have access to basic necessities and opportunities."

44. Presbyterian Church (U.S.A.)

Reverend J. Herbert Nelson, II, Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) ("PCUSA") joins this brief as the senior ecclesiastical officer of the PCUSA. The PCUSA is a national Christian denomination with nearly 1.6 million members in over 9500 congregations, organized into 170 presbyteries under the jurisdiction of 16 synods. Through its antecedent religious bodies, it has existed as an organized religious denomination within the current boundaries of the United States since 1706.

This brief is consistent with one hundred and twenty-six years of policies adopted by the General Assembly of the Presbyterian Church (U.S.A.) wherein we have pressed our government for better treatment of immigrants and refugees. As taught in Exodus 22:21-24 "21 You shall not wrong or oppress a resident alien, for you were aliens in the land of Egypt. 22 You shall not abuse any widow or orphan. 23 If you do abuse them, when they cry out to me, I will surely heed their cry; 24 my wrath will burn, and I will kill you with the sword, and your wives shall become widows and your children orphans." The Bible. New Revised Standard Version. Ex 22:21-24. This is but one of the

many instances where we are taught, in fact, encouraged, to be welcoming of others into our midst. The citizens of this country, which was founded on the backs of immigrants fleeing persecution in their lands of origin, must find space in their midst for others just like those that came before them. Widows, orphans, or aliens, all can be related to. It is time for us to come together and build the possibilities of hope in places where there is great despair. Isn't that what Jesus did? Jesus stood with those who are outcasts and broken, despised, dejected, damned and demeaned. Jesus reminds us that our calling is to be with the least of these. We are accountable to a gospel that we believe calls us to draw closer to the one who gave his own life for us, so we may no longer live in bondage. We are a people of faith, who believe in Jesus Christ. And as such, we stand firm against principalities that would dare take away people's freedoms. If we do not do this work, may God have mercy on our souls.

The General Assembly does not claim to speak for all Presbyterians, nor are its policies binding on the membership of the Presbyterian Church. However, the General Assembly is the highest legislative and interpretive body for the denomination, and it is the final point of decision in all disputes. As such, its statements are considered worthy of the respect and prayerful consideration of all the denomination's members.

45. Presentation Sisters at Caminando Juntos

Presentation Sisters' Hispanic Ministry, Caminando Juntos, has an 18-year history of welcoming the Latinos to the Sioux Falls, SD area by providing immigration services, reunifying unaccompanied minors with families, connecting people to social resources, teaching English to adults and creating cultural connections within the broader community. We minister from the gospel mandate, "I was a stranger and you welcomed me." (Matt. 25:35) We strongly believe that it is clearly the role of Congress to appropriate funds and to authorize the use of those funds. This role is outside of the authority of the Executive Branch of our Government and the President's attempt to use funds previously appropriated and designated for other purposes is a violation of the principle of separation of powers which is fundamental to our Democracy.

We also believe that both border security and laws are necessary to support the rule of law. However, our faith challenges us to consider both the human and financial cost of building a wall at the U.S.-Mexico border. We agree with the U.S. Bishops when they say, "construction of such a wall will only make migrants, especially vulnerable women and children, more susceptible to traffickers and smugglers." We believe that more financial resources should be spent to address the reasons people are so desperately leaving their countries. Our faith calls us to build bridges of dialogue and diplomacy with countries from which migrants are fleeing, and work toward compassionate immigration reform across borders.

46. Romemu

Romemu is a Jewish community that seeks to integrate body, mind, and soul in a progressive, fully egalitarian community committed to tikkun olam, or social action, and to service that flows from an identification with the sacredness of all life. As a spiritual community grounded in the twin values of tikkun olam (social action) and a Divine connection meant to inspire us to live more holy and engaged lives, we feel that it is our duty and responsibility to speak out against injustice. As a

Jewish community engaged with our historical narratives, we know that a large part of our own story has been shaped by being refugees and foreigners in strange lands. It is for this reason that the most repeated injunction in the Torah is the commandment to take care of and love the stranger. We know from our own families and historical stories what it is like to be strangers, and we are grateful and loyal to this country for the opportunities and blessings that it has provided. We have an obligation as religious, moral, and compassionate individuals to make sure that America continues to be a place where those marginalized can find economic security, freedom, and hope.

On behalf of Romemu, we would like to be a signatory to the amicus brief protesting the creation of the wall on our southern border. We protest the criminalization and vilification of economic and political refugees. Many in the Romemu community are children and grandchildren of Holocaust survivors, pogroms and other displacements in other parts of the world. Furthermore, the diversion of monies from the Department of Defense and the Treasury for an altogether different purpose like a wall is a threat to our constitution and the rule of law.

No less than 36 times does the Torah mention how we are to treat the "stranger", as it is said in the Book of Exodus 22:20: “You shall not wrong a stranger or oppress them, for you were strangers in the land of Egypt.”

47. Saint Peter’s Church, Evangelical Lutheran Church in America

Saint Peter’s Church is an active parish community of the Evangelical Lutheran Church of American in Midtown Manhattan of 750 diverse members engaged in a myriad programs to shape life in the city through worship, visual and performing arts, fellowship, and advocacy. We are a publicly declared sanctuary congregation. Our church joins this amicus brief because the members of this community rely on the religious liberty granted by the Constitution of the United States. The protection of religious liberty is ensured by the three co-equal branches of the government. When one branch of government usurps the authority of another branch of government, the Constitution itself is challenged and in is jeopardy. Because of our reliance on religious liberty and the Constitution in which the right of religious liberty is granted, we can in no way condone any action which undermines the authority of the three co-equal branches of government for the very protection of the Constitution is at stake. As Lutherans in the United States, we are all immigrants from other countries: in the 1700s and 1800s predominately from Europe and Scandinavia (Saint Peter’s early heritage), in the 1900s predominately from Africa, Asia and the Middle East, and in the late 1990s and early 2000s predominately from Central and South America, the Middle East and several Asian Island nations (Saint Peter’s current heritage). In nearly all cases these Lutheran immigrants to the United States were fleeing untenable religious situations in their country of origin. We both know the perils of unfriendly or unstable government, as well as the welcome provided by religious sisters and brothers in the various Lutheran churches in the United States. We wish for this religious liberty to be protected.

48. Sisterhood of Salaam Shalom

The Sisterhood of Salaam Shalom is opposed to using funds to build border walls. Our mission is to build relationships to put an end to hate. We build bridges and tear down walls. Putting up walls is against what we believe this country stands for. All of us entered this country, whether directly or

through our relatives, with the goal of living in a land that provides equal values and freedom for all. We will stand behind all efforts to maintain the values of our forefathers and mothers. We will continue to tear down those walls and will do what is needed to ensure that new walls are not constructed.

49. Southwest Conference of the United Church of Christ

Established in 1964 to serve Arizona, New Mexico, and El Paso, Texas, the 49 congregations and communities comprising the Southwest Conference of the United Church of Christ are extravagantly welcoming and affirming followers of Christ called to embody God's unconditional love and justice in the world. We declared ours to be a Sanctuary ministry setting in 2017 responding to the theological statements and calls for action of the United Church of Christ's twentieth, twenty-second, twenty-third, twenty-sixth, twenty-ninth, and thirty-first General Synods. We affirm the dignity and worth of migrants, call for an end to their deaths, support their communities, renounce militarization of border communities, and affirm the need for the United States to enact compassionate and comprehensive immigration reform that protects migrants' human rights. We embrace the Biblical mandate to offer welcome and hospitality to people fleeing danger. Any government effort to restrict the flow of people fleeing danger is directly contrary to these Biblical teachings about caring for the poor and oppressed. The United States government does not have the right under the Constitution to use an unsupported claim of a border emergency to interfere with the practice of our religious beliefs.

50. T'ruah: The Rabbinic Call for Human Rights

T'ruah: The Rabbinic Call for Human Rights is a network of 1,800 rabbis and cantors from all streams of Judaism that, together with the Jewish community, act on the Jewish imperative to respect and advance the human rights of all people. Grounded in Torah and our Jewish historical experience and guided by the Universal Declaration of Human Rights, we call upon Jews to assert Jewish values by raising our voices and taking concrete steps to protect and expand human rights in North America, Israel, and the occupied Palestinian territories. T'ruah's opposition to illegal border wall construction is based in Jewish tradition and history. The Torah teaches the obligation to love the immigrant, just as God loves and cares for the immigrant: "The ger (immigrant) who sojourns with you shall be like a citizen unto you, and you shall love this person as yourself, for you were gerim in the land of Egypt. I am Adonai, your God." (Leviticus 19:34) The ancient rabbis taught that the city of Sodom was considered the epitome of evil because the residents made laws prohibiting kindness to strangers. In addition, within the Jewish community, many families are alive today because of the relatively open immigration policies of the late 19th and early 20th centuries. And too many Jews died after being trapped in Europe when the borders closed in 1924. We well understand the potentially fatal consequences of xenophobia that criminalizes immigrants and militarizes borders.

51. Temple Israel of Hollywood (CA)

Temple Israel of Hollywood, Los Angeles was founded upon a dedication to social justice, through both thought and action. Leading Jewish thinkers, including Rabbis Mordechai Kaplan, Leo Baeck and Stephen S. Wise, gave sermons here about important social issues. In 1965, the Reverend Dr. Martin Luther King Jr. spoke movingly from the Temple's pulpit about segregation,

poverty, freedom, and human dignity. Ten years later, at the end of the Vietnam War, Bob Dylan sang "Blowin' in the Wind" at a Temple seder.

We support the brief on the basis of two principles -

1. Only the Congress of the United States as defined by the US Constitution has the power to allocate funds for any purpose and that the President's decision to ignore a majority vote of the US Congress against allocating funds to build the so-called security wall is unconstitutional;

2. We believe that the so-called "Trump Security Wall" is unnecessary and that there are better and more effective and humane ways for the United States to manage immigration and process political asylum claims. As a Jewish community, we are commanded to welcome the stranger, and as an American community, we are compelled to honor those who apply for political asylum based on a well-founded fear of persecution should the individual return to his/her home country. To deny even the application of political asylum and to prevent such individuals from even entering the United States, as the Trump Administration has threatened to do, is contrary to American law and tradition.

52. Trinity Church Wall Street

The Rector, Church-Wardens and Vestrymen of Trinity Church in the city of New-York ("Trinity Church Wall Street") is a growing and inclusive Episcopal parish of more than 1,200 members that seeks to serve and heal the world by building neighborhoods that live Gospel truths, generations of faithful leaders, and sustainable communities. The parish is guided by its core values: faith, integrity, inclusiveness, compassion, social justice, and stewardship. Members come from the five boroughs of New York City and surrounding areas to form a racially, ethnically, and economically diverse congregation. More than 20 worship services are offered every week at its historic sanctuaries, Trinity Church and St. Paul's Chapel, the cornerstones of the parish's community life, worship, and mission, and online at trinitywallstreet.org. The parish welcomes approximately 2.5 million visitors per year.

Trinity Church Wall Street is a member of The Episcopal Church and supports the advocacy initiatives of the national Church, including those directed toward issues of migration, refugees and immigration. Specifically, Trinity Church Wall Street is working to promote and support the priority issue areas identified by The Episcopal Church: maintaining family unity; building a pathway to citizenship; protecting minors qualifying under the Development, Relief, and Education for Alien Minors Act ("DREAMers"); establishing long-term solutions for Temporary Protected Status ("TPS") holders; and enacting reasonable and compassionate enforcement and border security measures. "For more than a century The Episcopal Church has been engaged in the ministry of welcoming immigrants, walking with them as they begin their new lives in our communities and advocating for immigration policies that protect families from separation, offer meaningful access to citizenship, and respect the dignity of every human being." The Episcopal Church Office of Government Relations, Immigration, *available at*: https://advocacy.episcopalchurch.org/immigration?0.

In addition, Trinity Church Wall Street has undertaken its own initiatives in this area by offering direct assistance to refugees, immigrants and asylum seekers, and through the promotion of policies and programs aimed at assisting members of those communities. Over the past two years, Trinity

Church Wall Street has engaged in the following activities in support of migrant communities within New York City and throughout the United States:

- Organized a delegation of clergy to travel to the border in El Paso, Texas, and Juarez, Mexico, to learn about the plight of refugees and support other clergy and faith-based organizations serving immigrants released from Immigration and Customs Enforcement ("ICE") detention;
- Convened a conference entitled "Undocumented" to teach members of the public about various forms of migration, asylum and TPS holders and how to best support immigrants and refugees;
- Partnered with dozens of non-profit organizations across New York City to host the "City of Refuge," a series of events highlighting the need for more humane refugee policies, which included multiple marches, teach-ins, interfaith religious services, and an overnight a "tent city" held in the Trinity Church Wall Street churchyard;
- Partnered with New York non-profits and legislators to advocate for policies to ensure that detention centers holding minor children are responsible for reporting to the public regarding the number and status of the children in their custody;
- Supported individual asylum seekers in connection with their interactions with ICE and customs authorities to ensure they are treated fairly and humanely by the immigration system;
- Demonstrated against family separation by participating in the "End Family Separation NYC Rally and March";
- Promoted vigils and advocacy events concerning inhumane detention policies;
- Through grantmaking, supported organizations that advocate for immigrants and refugees, including the New York Immigration Coalition, The Robert Daniel Jones Refugee Shelter, Freedom for Immigrants, and others.

The Trump Administration's efforts to build a border wall and to divert funds properly allocated for other government functions for the construction of the wall is antithetical to the religious and moral mission of Trinity Church Wall Street. Trinity Church Wall Street is committed to supporting refugee and immigrant populations regardless of legal status, the President's efforts to curtail migration into the United States through construction of a wall at the southern border runs counter to our religious and humanitarian mission.

53. Unitarian Universalist FaithAction of New Jersey

Unitarian Universalist FaithAction of New Jersey is a not-for-profit advocacy organization representing 90% of all Unitarian Universalist congregations in the state of New Jersey. Grounded in our Unitarian Universalist faith, we confront systemic injustice and build a more compassionate society by:

- Educating ourselves and others on social and political issues
- Mobilizing individuals and congregations to act for justice
- Advocating for equitable and sustainable public policy at state and local levels in New Jersey.

We envision a just New Jersey free from systemic oppression and greed, full of engaged people committed to each other, to our communities, and to the earth.

Guided by our first principle, "Respect for the inherent worth and dignity of each person," we reject the current overly politicized and patently unjust Federal policy towards immigrants seeking asylum and/or a path to eventual citizenship in the U.S. The administration's diversion of taxpayer dollars to build a border wall—against the stated wishes of Congress—is only the latest in a series of actions of executive overreach, misguided Homeland Security priorities and the morally bankrupt pursuit of political gains on the backs of thousands of otherwise peaceable, productive migrants to our shores.

54. Unitarian Universalist Mass Action Network

Unitarian Universalist Mass Action is our State Action Network in Massachusetts. We organize and mobilize the 20,000 Unitarian Universalists in our state to live our values and principles. Unitarian Universalist Mass Action opposes the Trump Administration's use of taxpayer funds to build a monument of hate, ignorance and waste - also known as a border wall. The border wall that already exists was meant to deter border crossings, but what it does is contribute to thousands of cruel, painful deaths in the desert. The border wall is not only ineffective, it violates human rights by causing irreparable harm and suffering. We oppose the use of all public funds to further what we see as crimes against humanity.

55. Unitarian Universalist Service Committee

The Unitarian Universalist Service Committee ("UUSC") is a non-sectarian human-rights organization powered by grassroots collaboration. Currently based in Cambridge, Mass., UUSC began its work in 1939 when Rev. Waitstill and Martha Sharp took the extraordinary risk of traveling to Europe to help refugees escape Nazi persecution. A moral commitment to the rights and dignity of persons seeking refuge from violence, discrimination, persecution, and natural disasters has been at the center of our organization's mission for nearly 80 years. That history, coupled with our mission to advance human rights and dismantle systems of oppression, calls us to ensure that the United States' immigration system upholds the rights of all migrants and the integrity of our asylum processes. Specifically, our work with grassroots partners in the border region leads us to believe that the appropriation of additional funds for physical barriers along the U.S.-Mexico border, particularly in the context of dehumanizing rhetoric from our nation's leaders about immigrants and refugees who transit across this border, will be used to reduce pathways to seek asylum and cause more unjust suffering and loss of life, as migrants and asylum-seekers are forced to attempt dangerous crossings in increasingly remote and inhospitable areas.

56. United Methodist Women

United Methodist Women is one of the largest Protestant denominational faith organizations for women with approximately 800,000 members whose mission is fostering spiritual growth, developing leaders and advocating for justice. Our work includes service to women, children and youth in marginalized communities in the United States and support for such work around the world.

Throughout our 150 year history we have worked to follow Jesus's commandment to love God and love our neighbor regardless of race, status or religious beliefs. We have a duty to welcome the stranger. The policies of this administration regarding persons at our southern border are particularly harmful to women, children and youth and diverting funds to build a barrier rather that funding needed operations will increase this harm and make it harder for religious communities to offer care and support for those affected. United Methodist Women joins faith groups in support of an amicus brief challenging this illegal method of achieving these policies.

57. University Christian Ministry at Northwestern University

University Christian Ministry ("UCM") is a campus ministry of Northwestern undergraduate and graduate students who try to make faith relevant in daily life. UCM is an honest, safe, and inclusive community following the example of Jesus. We embrace openness, strive to love God, and serve others to the best of our ability. In keeping with those values, we welcome Northwestern students into our community regardless of immigration status, and believe that the construction of a southern border wall is a senseless injustice.

58. West End Synagogue

West End Synagogue in New York, NY has signed on to this brief. We are a diverse group of individuals and families committed to exploring Jewish life and creating an intellectually challenging, spiritually vibrant, and mutually supportive community. Utilizing the principles of Reconstructing Judaism, we celebrate the richness and diversity of Jewish tradition through study, prayer, meditation, music and *tikkun olam*, or acts of repairing the world. Our social action tradition has emphasized acts of kindness, activist work on behalf of social justice, and advocacy. Our support of California's motion is very much in this tradition and in the Torah's admonition to welcome the stranger.

We believe that the efforts of the executive branch to take fiscal authority from the Congress violates the separation of powers and the appropriations clause of the Constitution. Concentration of power in a strong executive has been used throughout history to curtail freedom of worship and to persecute religious minorities. The history of the Jews speaks to this danger. From the persecution of Jews by Pharoah in Egypt to persecution in Europe throughout much of the modern era to the Holocaust, political leaders have used their power to deprive us of our freedom. We have already seen the current administration limit immigration of one religious minority, Muslims. The executive's effort to re-appropriate moneys without Congress' approval to build a wall sets a dangerous precedent that could be used against religious minorities.