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Oral Argument Held January 14, 2021

February 2, 2021

BY ECF

Mark J. Langer
Clerk, U.S. Court of Appeals for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: Supplemental Authority in
Gomez v. Trump, No. 20-5292

Dear Mr. Langer:

Pursuant to Rule 28(j), Plaintiffs write to advise the Court that notwithstanding previous indications that President Biden would promptly “sign an executive order rescinding the proclamation[s] that suspended certain immigrant and work visas,”¹ the Administration has not taken such action.

The President today instead issued an Executive Order that directs the Administration to “review,” “[w]ithin 90 days” any “agency actions” “that may be inconsistent with” the President’s immigration policy.² The order does not mention the Proclamations at issue here, which are not “agency actions.” The Proclamations are set to lapse on March 31. 86 Fed. Reg. 417 (2020).

¹ Camilo Montoya-Galvez, *Biden to rescind Trump’s pandemic-era limits on immigrant and work visas, top adviser says*, CBS News (Jan. 28, 2021), <https://cbsn.ws/3t9cUyG>.

² Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans (Feb. 2, 2021), <https://bit.ly/2YE0ZKZ>.

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Plaintiffs respectfully submit that the Administration's decision to leave the Proclamations in effect provides further support for their request that this Court grant immediate injunctive relief from the Proclamations. *See* Plaintiffs Br. 60; Reply 29.

While the Proclamations are inflicting acute irreparable harm on all of the named Plaintiffs (Plaintiffs Br. 60-65), the harm to the diversity-visa Plaintiffs and the more than 3,200 other class members who received visas in September (*see* ECF 151, at 4) is particularly urgent. These individuals' visas will begin to expire **as early as March 10**, and *all* of them will expire before the Proclamations lapse by their own terms on March 31. The State Department has stated that it will not renew expired 2020 diversity visas. Absent prompt relief from the Proclamations—granted in time to make and carry out international travel arrangements during a pandemic—thousands of visa-holders will suffer the irreparable harm of forever losing their opportunity to immigrate. *See* JA746-47.

Given these Plaintiffs' and class members' "unusually strong showing" of irreparable harm, Plaintiffs respectfully submit that an injunction is warranted even if this Court were less than certain about the merits of Plaintiffs' claims. *See Davis v. Pension Benefit Guar. Corp.*, 571 F.3d 1288, 1291 (D.C. Cir. 2009).

Respectfully submitted,

/s/ Cleland B. Welton II

Cleland B. Welton II

Counsel for Appellants

Cc: Counsel of Record (via ECF)

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2021, I filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the D.C. Circuit by using the CM/ECF system, which will serve all counsel of record.

/s/ Cleland B. Welton II

Cleland B. Welton II

Counsel for Appellants