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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON and
STATE OF MINNESOTA,

Plaintiffs,

v.

DONALD TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of the Department of
Homeland Security; REX W.
TILLERSON, in his official capacity
as Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

CIVIL ACTION NO. 2:17-cv-00141-JLR

STATE OF MINNESOTA'S
RESPONSE TO DEFENDANTS'
NOTICE OF FILING OF
EXECUTIVE ORDER

On March 6, 2017, Defendants filed a "Notice of Filing of Executive Order." ECF No. 108. Defendants attached an Executive Order dated March 6, 2017 entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("Second Executive Order"). ECF No. 108-1. Defendants stated that they are "preparing to enforce the provisions" of this Second Executive Order beginning on March 16, 2017, because they had unilaterally

1 determined that “[t]his Court’s injunctive order does not limit the Government’s ability to
 2 immediately begin enforcing” the Second Executive Order. ECF No. 108 at 1, 14.

3 In response, Plaintiff State of Minnesota writes separately to point out that, under
 4 applicable caselaw, Defendants cannot unilaterally modify a preliminary injunction. A
 5 preliminary injunction remains in effect until it is modified or dissolved by the Court. *See*
 6 *Sharp v. Weston*, 233 F.3d 1166, 1170 (9th Cir. 2000) (party seeking relief from injunction
 7 “bears the burden of establishing that a significant change in facts or law warrants revision or
 8 dissolution of the injunction”). The appropriate procedure therefore is for Defendants to file a
 9 motion to modify the preliminary injunction if they seek to change it.
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 12 DATED this 9th day of March, 2017.

13 Respectfully submitted,

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 15 LORI SWANSON
 16 Attorney General
 17 State of Minnesota

18 /s/ **Jacob Campion**

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 20 Solicitor General

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2017, I electronically filed the foregoing State of Minnesota's Response to Defendants' Notice of Filing of Executive Order using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: March 9, 2016

/s/ Jacob Campion
JACOB CAMPION