

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HIAS, INC., <i>et al.</i> ,)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 8:19-cv-3346-PJM
)	
DONALD TRUMP, in his official capacity as)	
President of the United States, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

BRIEF OF AMICI JEWISH COUNCIL FOR PUBLIC AFFAIRS, CATHOLIC CHARITIES USA, THE GREATER MILWAUKEE SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA, THE ST. LOUIS JEWISH COMMUNITY RELATIONS COUNCIL, AND OTHER FAITH-BASED ORGANIZATIONS IN SUPPORT OF PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

This Amicus brief is being submitted in support of Plaintiff’s Motion for Summary Judgment by an interfaith coalition of organizations. Specifically, this brief is filed by the following entities as lead Amici: the Jewish Council for Public Affairs, Catholic Charities USA, the Greater Milwaukee Synod of the Evangelical Lutheran Church in America, and the St. Louis Jewish Community Relations Council. The brief is joined by 25 additional Amici identified in the Motion for Leave to File Amicus Brief. The interests of all Amici have been set forth in the Motion for Leave to File Amicus Brief filed even-date herewith.

I. Our Faiths Command Us to Welcome Refugees

Aiding refugees is a basic tenet of many religious traditions, including the various traditions to which Amici adhere, and a core mission for many religious organizations.

Judaism

Within Jewish law, few tenets are repeated as much as the commandment; “When a stranger resides with you in your land, you shall not wrong him. The stranger who resides with

you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the Land of Egypt. I am the Lord your God.” (Leviticus 19:33-34). This tenet is repeated no less than 36 times in the Torah (the first five books of the Bible), the holiest of Jewish texts.

It is said that Abraham kept the flaps of his tent open so that he might be able to see people coming from far distances and be prepared to welcome travelers. “Abraham sat in the tent door And Abraham lift up his eyes, and looked, and, lo, three men stood before him, and when he saw them, he ran to meet them from the tent door, and bowed himself toward the ground. And he fetched butter and milk and meat, and stood by them while they ate. And he called out to Sarah to hustle up and make some bread for the strangers.” *Genesis Ch. 18*. The rabbis of *Pirke Avot* (1:5) teach, “Let your house be open wide, always treating the poor as members of your own family. Rabbi Huna had the custom of opening the door of his house when he was about to start his meal, and saying: “Anyone who is hungry may come in and eat.” (*Taanit* 20b).

According to Rabbi Eliezer in the Talmud (Baba Metsia 59b) the Torah “warns against the wronging of a *ger* (a stranger).” Rabbi Lord Jonathan Sacks, former Chief Rabbi of Britain, has stated: “Why should you not hate the stranger? – asks the Torah. Because you once stood where he stands now. You know the heart of the stranger because you were once a stranger in the land of Egypt. If you are human, so is he. If he is less than human, so are you. You must fight the hatred in your heart as I once fought the greatest ruler and the strongest empire in the ancient world on your behalf. I made you into the world’s archetypal strangers so that you would fight for the rights of strangers”

“(Jews) today define *ger*, the stranger, as those whose liberties and lives are threatened simply because of the color of their skin, their gender identity, their country of origin, or their

religious beliefs.” *StL JCRC Statement on Racial Equality*, <https://jcrestl.org/what-we-do/official-positions.html/title/november-2018-racial-equity>.

Christianity:

The New Testament begins with Matthew's story of Joseph and Mary's escape to Egypt with their newborn son, Jesus, because the paranoid and jealous King Herod wanted to kill the infant. (Mt 2:13-15). Indeed, in the original Greek, the Angel of the Lord instructs Joseph to “flee” into Egypt using the (transliterated) word “pheuge,” from which the word “refugee” derives. Jesus Himself lived as a refugee because His own land was not safe.

The Bible also describes how the early Church’s message spread in part as a result of persecution, which caused early members of the Church to flee as refugees. (Acts 8:1-4 (“On that day a great persecution broke out against the church in Jerusalem, and all except the apostles were scattered throughout Judea and Samaria. . . . Those who had been scattered preached the word wherever they went.”)).

Caring for the needy and persecuted is considered one of the central missions of the Christian faith. This mission is highlighted in the Gospel of Matthew, when Jesus says that He will reward those who cared for the needy, "For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in" (Mt 25:35). And when those who cared for the needy ask when they did those things for Jesus, He says, “Truly I tell you, whatever you did for the least of these brothers of Mine, you did for Me.” (Mt 25:40). Jesus thus instructs His followers not only to provide service to the needy and downtrodden, He also suggests that the needy and downtrodden should be treated as Christ Himself.

Similarly, in the Book of Luke, Jesus affirms that in order to receive the reward of eternal life, His followers should love God and also “love your neighbor as yourself.” When a lawyer asks which neighbor he must love to inherit eternal life, Jesus responds by telling the parable of the good Samaritan. (Luke 10:25-37). In that parable, a traveler is attacked, robbed, stripped of his clothes, and left half dead. Two men pass by without helping him. But a Samaritan – a group that had a history of recent conflict with the Jews – provided aid. The Samaritan bandaged him, took him to an inn, gave the innkeeper extra money, and offered to pay his expenses if the man was looked after. Jesus then affirmed that the good Samaritan – the man who helped the traveler in need – was the traveler’s neighbor, and therefore had acted in accordance with God’s law. Jesus instructed His followers to “Go and do likewise.” Thus, Christians are instructed to aid those in need, including travelers in need.

And the Book of James talks about the importance of acts, as opposed to simply providing sympathy. “What good is it, my brothers and sisters, if someone claims to have faith but has no deeds? Can such faith save them?” (James 2:14). James talks about the emptiness of merely providing good wishes to those in need of clothing or food. “If one of you says to them, ‘Go in peace; keep warm and well fed,’ but does nothing about their physical needs, what good is it? In the same way, faith by itself, if it is not accompanied by action, is dead.” (James 2:16-17). Accordingly, the Bible instructs its followers to actually provide care for the needy.

The Apostle Paul asserts the absolute equality of all people before God: "There is neither Jew nor Greek . . . for you are all one in Christ Jesus" (Gal 3:28). The New Testament teaches that in Christ, the human race is one before God, equal in dignity and rights.

-- Catholicism

Saint Pope John Paul II stated in his 1990 Lenten Message: “Concern for refugees must lead us to reaffirm and highlight universally recognized human rights, and to ask that the effective recognition of these rights be guaranteed to refugees. Thus it is a matter of guaranteeing to refugees the right to establish a family or to be reunited with their families: to have a stable, dignified occupation and a just wage; to live in dwellings fit for human beings; to receive adequate health care. . . .” More recently, Pope Francis has repeatedly stated that the Catholic Church’s response to migrants and refugees “may be articulated by four verbs: to welcome, to protect, to promote and to integrate.”

On the website of the United States Conference of Catholic Bishops is a wide variety of resources regarding the teachings of the Catholic Church regarding Immigration and Refugees. Included is a statement of the “Three Basic Principles of Catholic Social Teaching on Immigration.” The first principle is: “People have the right to migrate to sustain their lives and the lives of their families.” While the second principle recognizes that a country has the right to control migration, the Third Principle requires that it do so “with justice and mercy.” Pope Francis also recognized September 29, 2019’s World Day of Migrants and Refugees and explained, “It is not just about migrants...it is not only about foreigners...it is about all those in existential peripheries who, together with migrants and refugees, are victims of the throwaway culture. The Lord calls us to practice charity towards them. He calls us to restore their humanity, as well as our own, and to leave no one behind.”

-- Lutheranism

The Evangelical Lutheran Church in America, of which GMS is a part, is consistent with the Catholic Church in its approach to providing service for refugees. In its statement of core

values, the Lutheran Immigration and Refugee Service refers back to Matthew 25: “‘When I was a stranger, you welcomed me.’ Rooted in faith, LIRS believes that we are called to welcome those fleeing persecution and seeking refuge in the United States.”GMS Bishop Paul D. Erickson has stated: “Lutherans in Wisconsin and many other people of faith and good will have a strong commitment to aiding in the resettlement of refugees in Wisconsin. People in our congregations are experienced at gathering resources and providing the support to help refugees become integrated into the life and freedom of this country. As people of deep faith, we believe we are called to stand with the sojourner, welcome the stranger, and love our neighbors – whether they be next door or halfway across the globe...”

II. Faith Traditions’ Experience with Migration and Refugees in the United States

Judaism -- The St. Louis

The Jewish concern regarding denial of refugee resettlement is largely informed by the Jewish experience of having been expelled from cities and countries throughout Europe, often after Jews had lived there for centuries, and being denied entry by other European cities and countries. Ultimately, many Jews found refuge in this country.

However, American Jews can point to a much more recent example of the harm which occurs when refugees are denied resettlement within the United States, the plight of the *St. Louis*. In May 1939, the German ship *St. Louis* sailed for Cuba with 937 passengers, almost all of whom were German Jews fleeing from the Third Reich. Most of these passengers had applied for US visas, and were planning to stay in Cuba only until those visas could be processed and granted. But the political climate in Cuba had changed by the time the *St. Louis* arrived in Cuba, and all but a few passengers (those who already had valid US visas, several Spanish citizens and a

couple of Cuban nationals) were denied entry to Cuba, even though all of the Jewish passengers had been issued Cuban transit visas before leaving Germany.

The *St. Louis* was ordered out of Cuban waters on June 2, 1939, and sailed toward Miami. Some of the passengers cabled President Franklin D. Roosevelt asking for refuge. He never responded to their cables, although a State Department official cabled the *St. Louis* stating: passengers must “await their turns on the waiting list and qualify for and obtain immigration visas before they may be admissible into the United States.” US officials refused to permit entry to any of the refugees aboard the *St. Louis*. Running out of food and water, the *St. Louis* left for Europe on June 6, 1939. While Great Britain, the Netherlands, Belgium and France agreed to take the passengers in, all but Great Britain were occupied by the Nazis during World War II. 254 of the passengers on the *St. Louis* perished in the Holocaust. As is stated on the web-site of the U.S. Holocaust Museum, “(T)he voyage of the *St. Louis* illustrates what can happen when individuals, institutions or government leaders do not take meaningful action to aid or rescue refugees fleeing persecution and violence.”

The United States government apologized for its failure to admit the refugees aboard the *St. Louis* in 2012, but it was far too late to benefit the refugees aboard the *St. Louis*.

The Catholic Church

The United States Conference of Catholic Bishops’ Migration and Refugee Services division (USCCB/MRS) continues to uphold its mission statement for refugees: “Grounded by our belief in Jesus Christ and Catholic teaching, Migration and Refugee Services (MRS) fulfills the commitment of the U.S. Catholic bishops to protect the life and dignity of the human person. We serve and advocate for refugees, asylees, migrants, unaccompanied children, and victims of human trafficking.” According to a Center for Migration Studies 2018 report, since 1980,

USCCB/MRS has settled nearly one-third of all refugees in the United States — more than any nation other than the United States (Kerwin 2014, 128) —through the national network of Catholic Charities agencies (members of Amici Catholic Charities USA).

USCCB/MRS's Parishes Organized to Welcome Immigrants and Refugees (POWIR) program recruits volunteers to mentor, train, and assist refugees. The program provided modest grants to 52 Catholic Charities agencies and recruited more than 14,500 volunteers, to establish over 450 parish and community partnerships, generating \$8.1 million in cash and in-kind donations and services on behalf of 31,000 refugees from over 50 countries.

GMS

LSS has welcomed and resettled more than 10,000 refugees to Wisconsin since 1974. GMS congregations and congregants have worked closely with LSS to assist with resettlement. LSS provides comprehensive resettlement services to refugees fleeing from war and persecution around the globe, providing high-quality services, including initial housing, food, clothing, school enrollment for children, English lessons, and assistance with job placement.

III. Amici's Current Refugee Resettlement Work and Likely Harm to that Work if the Executive Order is Implemented

Amici (and in the case of JCPA and Catholic Charities USA, their member agencies or affiliates) either directly provide local refugee resettlement services under contract with Resettlement Agencies, provide other services in support of refugee resettlement, and/or advocate for resettlement of refugees in the United States and within various localities. In developing and staffing their programs, as discussed below, Amici have substantially relied upon existing resettlement statutes and regulations. As argued in Plaintiffs' Memorandum in Support of their Motion for Preliminary Injunction (pp. 27-28), these reliance interests were not

adequately considered by Defendants prior to issuance of the challenged Executive Order and implementing regulations.

As a result of the Order and regulations, Amici's refugee resettlement programs will likely be substantially curtailed or even eliminated, frustrating Amici's missions and causing irrevocable harm to Amici and similarly situated faith-based organizations. "(O)bstacles [that] unquestionably make it more difficult for [an organization] to accomplish [its] primary mission" constitute irreparable harm.

Catholic Charities Resettlement Work

The number of Catholic Charities agencies providing services to refugees has fluctuated due to the current Administration's drastic immigration policies. In 2016, 71 agencies provided refugee resettlement services to 23,411 refugees. In 2017, 73 agencies provided services to 16,476 refugees. In 2018, 69 agencies provided services to 6,349 refugees. In 2019, 55 agencies provided services to 6,621 refugees. Finally, to date in the current fiscal year, only 50 agencies have provided services to 1,082 refugees in the entire United States. The efforts of Catholic Charities and other local resettlement agencies has a proven track record of success in integrating refugees. "In FY 2015, 67 percent of the 29,765 refugee participants in the US Department of Health and Human Services, Office of Refugee Resettlement (HHS/ORR) Matching Grant public-private partnership program achieved economic self-sufficiency [meaning they were able to provide for their families without federal or state cash assistance] within 120 days and 82 percent within 180 days (HHS/ORR 2017, 20)."

If the Executive Order is implemented, then Catholic Charities agencies will effectively be prevented from fulfilling the mission of the Church "to welcome, to protect, to promote and to

integrate” refugees in the United States by policies that run counter to Catholic social teaching.

GMS Resettlement Efforts

LSS continues to provide comprehensive resettlement services to refugees fleeing from war and persecution around the globe, as described in section III of this brief. It partners in these efforts with GMS congregations and congregants. LSS staff devoted to refugee resettlement has been reduced in the last several years from 14 to 11 due to restrictions on the number of refugees accepted into the United States imposed by the current administration, and has stopped placing refugees in Madison, Wisconsin as a result. GMS is joining this brief because of the harm to its refugee ministries that will likely result if the challenged Executive Order is implemented.

Should the Executive Order result, as is likely, in reducing the number of refugees resettled in Wisconsin, this will result in even more reductions in LSS staff, and will deny opportunities for Synod congregants to engage in refugee ministries. Bishop Erickson has recently stated: “Resettling refugees is a central component of how we as Lutheran Christians live out our calling to love our neighbors. To place additional restrictions on this work, in addition to the many layers of vetting and oversight that already exist, would restrict our ability to live out our faith in word and deed.”

JCPA Advocacy

JCPA continues to advocate at a national level for uniform, compassionate and humane protocols and criteria to process refugee and asylum claims to ensure that the United States is accessible and welcoming to those fleeing persecution in their country of origin. It also advises its local Jewish Community Relations Council members on programs and advocacy opportunities to support refugee resettlement. Local JCRCs which are members of JCPA run

programs to assist with resettlement of refugees (e.g., the efforts of the StL JCRC described below).

Reform Judaism's Activities Relating to Refugees

A number of Amici are a part of the Reform Jewish Movement, including the Union of Reform Judaism, the Central Conference of American Rabbis, the Women of Reform Judaism, and the Men of Reform Judaism. The Reform Jewish Movement, through the work of the Religious Action Center of Reform Judaism (RAC), advocates for just and compassionate policies to welcome refugees and asylum seekers and supports robust refugee admissions to the U.S. annually. The RAC mobilizes Reform Jewish congregations and communities across the U.S. to speak out in support of refugee resettlement and raise awareness in their communities. In addition to advocacy, Reform congregations across the United States provide direct support to refugees by sponsoring families and providing training and other resources to refugees in their communities. Should the proposed executive order go into effect, the efforts of the RAC and Reform congregations to provide support and education in their communities would be greatly inhibited.

StL JCRC Camp

The Jewish Coalition for New Americans (JCNA), a committee of StL JCRC has held a day camp at the International Institute (IISTL), a local St. Louis resettlement agency, for the past three years and has already begun planning to hold the camp again in the summer of 2020. StL JCRC believes strongly in welcoming new Americans to St. Louis and supporting them by removing roadblocks to their settlement and success in this country, which is why it created this camp in response to a need at the International Institute. The JCNA Day Camp is a four-week, half day camp held between the spring and fall school semesters, enabling New American

parents to continue English classes and gain job training unencumbered by worries of child care. The camp provides an opportunity for the children to gain English skills, learn more about American culture, and develop a supportive peer community.

Should the proposed Executive Order and implementing regulations go into effect, there is a strong likelihood that the number of new Americans resettled in the St. Louis area will be greatly diminished, given the large number of local jurisdictions in the St. Louis region. The St. Louis Metropolitan Statistical Area includes 6 counties and the independent City of St. Louis in Missouri, and 8 counties in Illinois. There are 89 separate municipalities within St. Louis County, alone, as well as large swaths of unincorporated areas. It is unknown whether the state of Missouri would consent to resettlement of refugees in the state, much less the various local jurisdictions. Reduction, or even elimination, of refugee resettlement within the St. Louis area would frustrate the purpose of StL JCRC's camp.

IV. Conclusion

Based upon strong convictions of faith, Amici support the provision of refuge within the United States for those who suffer from persecution in their country of origin. Many of Amici (or their members or affiliates) are directly involved in providing local resettlement services to refugees under contract with national Resettlement Agencies or providing other services to refugees to assist in their resettlement in the United States, while others have engaged in focused advocacy in support of refugee resettlement. Amici engage in these efforts as part of their faith mission. As demonstrated above, Amici will be irreparably harmed if the Preliminary Injunction requested by Plaintiffs is not granted.

Respectively submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 13th day of December, 2019, that a true copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system to all counsel of record.

/s/ Michael E. Tucci