

COHEN & GRESSER LLP

800 Third Avenue
New York, NY 10022
+1 212 957 7600 phone
www.cohengresser.com

Mark S. Cohen
212 957 7601
mcohen@cohengresser.com

February 13, 2017

VIA ECF

The Honorable Carol Bagley Amon
United States District Court
Eastern District of New York
225 Cadman Plaza East
New York, New York 11201

Re: *Darweesh et al. v. Trump et al.*, Case No. 17-cv-00480-CBA

Dear Judge Amon:

This law firm and the law firm of Munger, Tolles & Olson LLP represent the Association of American Universities (“AAU”), an association of leading research universities distinguished by the breadth and quality of their research and graduate education programs. We write on behalf of that organization to seek permission to file an *amicus curiae* brief in the above-referenced case. In the alternative, pursuant to Rule 3(A) of this Court’s Individual Rules, we request a pre-motion conference to address leave to file such a brief.

For more than a century, the AAU has worked to advance the international standing of United States research universities. Today, the organization includes 62 leading public and private research universities in the United States and Canada. The 60 AAU universities in the United States award nearly one-half of all U.S. doctoral degrees and 55 percent of those in the sciences and engineering. AAU programs and projects address institutional issues facing its member universities, as well as government actions that affect these and other universities.

The January 27, 2017 Executive Order is exactly the kind of government action that affects AAU’s member universities and others throughout the United States. As AAU President Mary Sue Coleman explained, the

new order barring the entry or return of individuals from certain countries is already causing damage and should end as quickly as possible. The order is stranding students who have been approved to study here and are trying to get back to campus, and threatens to disrupt the education and research of many others....

Hon. Carol Bagley Amon
February 13, 2017
Page 2

....

Other countries have set the goal of surpassing the United States as the global leader in higher education, research, and innovation. Allowing them to replace this country as the prime destination for the most talented students and researchers would cause irreparable damage, and help them to achieve their goal of global leadership.

See Statement by Association of American Universities President Mary Sue Coleman, <http://www.aau.edu/news/article.aspx?id=18366>. The AAU's *amicus* brief would address the direct impacts that the Executive Order has already had on American universities and the threats that it poses to those universities in the future if it remains in effect.

“District courts have broad discretion in deciding whether to accept amicus briefs.” *In re HSBC Bank, USA, N.A., Debit Card Overdraft Fee Litig.*, 14 F. Supp. 3d 99, 103 (E.D.N.Y. 2014) (citation omitted). “An amicus brief should normally be allowed when ... the amicus has unique information or perspective that can help the court beyond the held that the lawyers for the parties are able to provide.” *Andersen v. Leavitt*, Case No. 3-cv-6115, 2007 WL 2343672, at *2 (E.D.N.Y. Aug. 13, 2007) (internal citation and quotation marks omitted). “The court is more likely to grant leave to appear as an amicus curiae in cases involving matters of public interest.” *Id.* (quoting 4 Am.Jur.2d Amicus Curiae § 3 (updated May 2007)).

Because the AAU has a unique perspective that can aid the court in its consideration of this case, and because this case involves a matter of public interest, we respectfully request the Court's permission to file an *amicus* brief on the date Plaintiff's briefs are due or an alternative date selected by the Court. In the alternative, we request a pre-motion conference with the Court to address leave to file such a brief.

Respectfully submitted,



Mark S. Cohen
Oliver S. Haker
Cohen & Gresser LLP
800 Third Avenue
New York, NY 10022

Hon. Carol Bagley Amon
February 13, 2017
Page 3

Chad Golder
Sarah G. Boyce
Munger, Tolles & Olson LLP
1155 F Street, NW
Washington D.C. 20004
Pro hac vice applications to be submitted

Brad D. Brian
Michael R. Doyen
Munger, Tolles & Olson LLP
355 South Grand Ave. 35th Floor
Los Angeles, CA 90071
Pro hac vice applications to be submitted

cc: All Counsel of record (via ECF)