

No. 17-35105

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF WASHINGTON, et al.,
Plaintiffs-Appellees, v.

DONALD TRUMP, President of the United States, et
al., Defendant-Appellants.

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE WESTERN
DISTRICT OF WASHINGTON

**MOTION FOR EXTENSION OF TIME TO FILE
AMICUS CURIAE BRIEF OF THE ANTI-
DEFAMATION LEAGUE IN SUPPORT OF THE
PLAINTIFFS-APPELLEES**

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MOTION TO EXTEND TIME & DEEM BRIEF TIMELY-FILED

The undersigned respectfully moves this Court for a request an extension of time to file the amicus curiae brief concurrently filed and for an order deeming the brief timely filed. This motion is filed pursuant to FRAP, Rule 26 and the declaration of Shelley A. Carder

Dated: February 6, 2017

Respectfully submitted,

/s/ Shelley A. Carder

/s/ John B. Harris

/s/ Steven M. Freeman

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DECLARATION OF SHELLEY A. CARDER

I, Shelley A. Carder, declare and state, as follows:

1. I am a resident of the County of San Diego, State of California and am a member of the law firm of Procopio, Cory, Hargreaves & Savitch, LLP in the position of Senior Counsel. I make this declaration based on matters within my personal knowledge, save and except for those matters based on information and belief, which I

believe to be true, and if called would and could testify thereto under penalty of perjury under the laws of the United States.

2. I am an attorney admitted to practice in the State of California and before the Ninth Circuit Court of Appeals. My bar no. is 13755. I last appeared before this Court in the matter of Dennis Wilcox v. Hi-Desert Memorial Healthcare, et al., Case No. 0:13-cv-55299.

3. Yesterday, I had the privilege of being asked to participate in the filing of an *amici curiae* brief by the e Anti-Defamation League (“ADL”) opposing the motion to stay the Temporary Restraining Order (TRO) issued by the U.S. District Court for the Western District of Washington.

4. Unfortunately, I was unable to log in to my ECF/Pacer account to accomplish the filing. I began trying to gain access early in the evening yesterday, Sunday February 5, 2017, waited through the system maintenance downtime and tried again after midnight, attempting to get the brief filed by the 1:00 AM deadline. Despite my best efforts, I received an error message that my PACER user account is currently inactive. One of the error windows I received said: :”For information on how to make your account status active, contact the PACER Service Center at (800) 676-6856 Monday through Friday between 8 AM and 6 PM CT. . .” Another error message I received said: “You logged in to the CM/ECF Document Filing System with a PACER account that does not have e-filing privileges. Please choose one of the following

options to continue.” Although I attempted to link my PACER account from my old firm, Di Caro, Coppo & Popcke, and did just about everything else I could think of, I could not gain access. In fact, I also attempted to set up an new account and my boss, Richard D. Barton attempted to do so, as well. Despite our best efforts, we could not gain access to the e-filing system.

5. This morning, I called PACER at or about 8 AM and went through several steps and was told that the Court was not recognizing my account. I next called the Court and received the recorded message that I am required to send an e-mail to 'cmecf_ca9help@ca9.uscourts.gov'. This was accomplished by 9:03 a.m. I next spoke with a motions clerk regarding how to seek relief and file this request for extension of time and an order deeming the brief of the Anti-Defamation League timely filed.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 6th day of February 2017 at San Diego, California.

Respectfully submitted,

/s/ Shelley A. Carder

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