IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10135-LTS

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

By this motion, Plaintiffs seek a preliminary injunction to stop Defendants from implementing a January 20, 2025 Executive Order (the "EO") that purports to strip citizenship from thousands of Americans with the stroke of a pen.[1] The EO is as illegal as it is unprecedented—and the harms that would flow from its implementation are immense. A preliminary injunction is necessary to preserve the *status quo* and avoid immeasurable harm to Plaintiffs.

Defendant Trump issued the EO within hours of his inauguration as President. Contrary to the explicit language of the U.S. Constitution and to settled Supreme Court precedent, the EO declares that as of February 19, 2025, broad swaths of individuals born on American soil will no longer be considered citizens. It directs federal agencies, including Defendants U.S. Department of State and U.S. Social Security Administration, to stop issuing documents recognizing United States citizenship for such individuals.

But a President has no such power. Birthright citizenship is explicitly written into the U.S. Constitution and protected by federal statute. If this unparalleled assault on the sanctity and integrity of U.S. citizenship is allowed to go into effect, it would create a permanent underclass and return our nation to the dark days of *Dred Scott*—the ignoble Supreme Court decision that denied citizenship to enslaved people and that the Fourteenth Amendment was enacted to rebuke. 60 U.S. 393, 404 (1858).

Plaintiffs are among the many thousands who would be immediately and irreparably harmed by the EO. O. Doe is an expectant immigrant mother, due in March 2025, whose child's

[1] The Executive Order, entitled "Protecting the Meaning and Value of American Citizenship," is attached as Exhibit A to the Complaint. *See* ECF No. 1-1.

citizenship—with all the many benefits that entails—is at imminent risk. Plaintiffs Brazilian Worker Center and La Colaborativa are two non-profit organizations whose membership includes numerous individuals who would similarly suffer severe harm if the EO were implemented. As demonstrated in this brief and through concurrently-filed declarations,[2] Plaintiffs more than surpass the four-part standard for issuance of a preliminary injunction. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (outlining likelihood of success on the merits, irreparable harm, balance of equities, and public interest as requisite factors for injunctive relief).

First, Plaintiffs' likelihood of success on the merits is extremely high. The EO is flatly contrary to a) the plain language of the Citizenship Clause of the Fourteenth Amendment; b) binding U.S. Supreme Court authority; and c) federal statutory law that codifies the protections of the Citizenship Clause. *See infra* at 6-9. The EO also violates the Administrative Procedure Act (APA). *See infra* at 10-11.[3]

[2] *See* Declaration of O. Doe ("Doe Dec."); Declaration of Gladys Vega, the President and CEO of Plaintiff La Colaborativa ("Vega Dec."); Declaration of Lenita Reason, the Executive Director of Plaintiff Brazilian Worker Center ("Reason Dec."); Declaration of Leon Rodriguez, former Director of United States Citizenship and Immigration Services ("Rodriguez Dec."); Declaration of Dr. Fiona S. Danaher, M.D., M.P.H., pediatrician for Massachusetts General Hospital ("Danaher Dec."); Declaration of Dr. Rose L. Molina, M.D., M.P.H., obstetrician-gynecologist at The Dimock Center (a federally qualified community health center) and Beth Israel Deaconess Medical Center ("Molina Dec."); Declaration of Carol Galletly, PhD, an expert who has performed nationwide empirical research at the intersection of public health and immigration ("Galletly Dec."); Declaration of Professor Daniel Kanstroom at Boston College Law School, who has trained federal and state judges, prosecutors and attorneys in the intricacies of immigration law ("Kanstroom Dec."); Declaration of Katherine Culliton-González, the former Officer for Civil Rights and Civil Liberties at the U.S. Department of Homeland Security ("Culliton-Gonzalez Dec."); Declaration of Armen H. Merjian of Housing Works, a non-profit organization in New York dedicated to ending the twin crises of homelessness and HIV ("Merjian Dec.").

[3] By this motion, Plaintiffs move for relief based on their claims under the Citizenship Clause, 8 U.S.C. § 1401, and the APA. Plaintiffs' complaint also pleads a cause of action under the Fifth Amendment. Plaintiffs do not move for preliminary relief on that ground but reserve the right to pursue it as the litigation progresses.

Second, the harm that Plaintiffs will suffer if the EO is not enjoined is both irreparable and massive. The act of stripping someone of their citizenship is so grave that the Supreme Court has called it "a form of punishment more primitive than torture" that "amounts to the total destruction of the individual's status in organized society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958). Citizenship lies at the heart of a person's identity; de-naturalization is highly stigmatizing and forces those subject to it to live with the uncertainty and fear that comes with the imminent threat of banishment from their native country. *See, e.g.*, *Fedorenko v. United States*, 449 U.S. 490, 525 n.14 (1981) (all citizens are lawfully entitled "to enjoy the benefits of citizenship in confidence and without fear"). *see also Obergefell v. Hodges*, 576 U.S. 644, 663 (2015) (affirming the centrality of "individual dignity and autonomy").

Declarations accompanying this Motion attest to the magnitude of this harm. Plaintiff O. Doe—like thousands of others in her position throughout the country—testifies how she now lives in intense fear that her child will be born stateless, thrust at birth into a highly vulnerable, unsafe, and precarious position and stripped of the protections of citizenship. Plaintiffs Brazilian Worker Center and La Colaborativa aver about similar impending harm for their members, whose children—citizens under the Fourteenth Amendment—will now have "their legal status and rights… constantly questioned and challenged." Reason Dec. ¶14; *see also* Vega Dec. ¶11 (describing "panic" of members facing prospect of children who should be recognized as citizens instead being "stigmatized, excluded, and alienated in the only country they know as home").

The intense anxiety that Plaintiff Doe and Plaintiffs' members are currently experiencing is entirely justified, because the practical impacts of de-naturalization are so enormous. As the former Director of United States Citizenship and Immigration Services (USCIS) puts it in his declaration, children "would become instantly deportable by virtue of having no recognized

immigration status in the United States. Many would be rendered stateless, because they would also have no ties to any other country." Rodriguez Dec. ¶8.

The harms cascade from there. As doctors from leading medical institutions attest, stripping children of their citizenship immediately puts them at much greater health risk. *See* Danaher Dec. ¶7 (MGH pediatrician testifying that "[e]liminating birthright citizenship would not only expand the population of undocumented children with reduced access to healthcare….; it would create a new, more vulnerable subpopulation of stateless children"); Molina Dec. ¶¶9-10 (Beth-Israel OB-GYN describing how "a child's citizenship status significantly impacts their access to healthcare and health outcomes…. Infants are among the most vulnerable populations…."). Loss of citizenship has a similarly dramatic impact on access to such basic necessities as safe housing and food. *See* Merjian Dec. ¶¶ 4-7 (describing enormous housing access gulf between those with citizenship and those without); Danaher Dec. ¶9.

As to the third and fourth factors of the preliminary injunction test—the balance of harms and the public interest—those "merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). "There is generally no public interest in the perpetuation of unlawful agency action." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016). These factors weigh even more heavily in Plaintiffs' favor than in the usual case where the government is the defendant, due to the extreme disruption that would occur throughout American society if the bedrock principle of birthright citizenship were eroded. *See* Rodriguez Dec. ¶7 (former Director of USCIS describing how the EO "would immediately cause significant disruption and chaos throughout many different facets of American life….because we as a nation have built up numerous different systems that are designed on the foundational premise that a birth certificate reflecting birth within the United States constitutes proof of U.S. citizenship."); *see also*

Kanstroom Dec. ¶12 (immigration specialist describing how "[t]he consequences of even a short-lived Executive Order of this type would involve intolerable legal chaos"); Galletly Dec. ¶¶6-8 (outlining grave public health impacts).

If the EO is allowed to take effect, even if it is later enjoined, it will distort and contort American society with a conception of citizenship that has been outlawed by the Constitution, prohibited by Supreme Court precedent, and rejected by Congress. It will cause grievous harm to Plaintiffs and thousands of others like them. Plaintiffs therefore respectfully urge the Court to exercise its broad equitable powers to enter a preliminary injunction to "freez[e] the status quo…." *CellInfo, LLC v. Am. Tower Corp.*, 352 F.Supp. 3d 127, 135 (D. Mass. 2018); *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006).

FACTUAL AND PROCEDURAL BACKGROUND

On January 20, 2025, Defendant Trump issued the challenged Executive Order, which purports to strip citizenship from children born in the United States whose mother is "unlawfully present" or whose presence is "unlawful but temporary" and whose father is not a citizen or a lawful permanent resident. EO, Sec. 2(a). It states that it shall apply to persons born within the United States after 30 days from the date of the order (February 19, 2025). *Id*. Sec. 2(b).

Plaintiffs filed this action the same day that the EO was issued. The following day, a coalition of States ("the States") filed an action in this same District, also challenging the EO.[4] On January 21, 2025, the States filed a Motion for Preliminary Injunction. *State of New Jersey et al. v. Trump*, Dkt. 3. On January 23, 2025, the Honorable John C. Coughenour issued a 14-day

[4] *State of New Jersey et al. v. Trump et al*., 25-CV-10139 (D. Mass. filed Jan. 21, 2025). At the time of this filing, the States' case is pending before this Court as a related case; however, the Court has ordered the States to show cause why the case should not be returned to the Clerk for random assignment. Dkt No. 26.

Temporary Restraining Order in the U.S. District Court of the Western District of Washington in a case also challenging the EO. *State of Washington et al. v. Trump et al.*, 25-CV-0127, Dkt. 43 (W.D. Wash. Jan. 23, 2025).

ARGUMENT

I. Legal Standard

"When assessing a request for a preliminary injunction, a district court must consider (1) the movant's likelihood of success on the merits; (2) the likelihood of the movant suffering irreparable harm; (3) the balance of equities; and (4) whether granting the injunction is in the public interest." *Norris on Behalf of A.M. v. Cape Elizabeth Sch. Dist.*, 969 F.3d 12, 22 (1st Cir. 2020) (citations and quotations omitted). "The decision whether to grant relief is based on a balancing of the different factors, with likelihood of success playing a pivotal role." *Largess v. Supreme Judicial Court for Mass.*, 373 F.3d 219, 223 n.2 (1st Cir. 2004).

II. Plaintiffs Are Likely to Succeed On The Merits.

A. Plaintiffs Are Likely To Succeed On Their Citizenship Clause Claim.

It is well-settled that the Citizenship Clause bestows American citizenship upon anyone born in the United States regardless of their parentage, subject to only a few rare and well-defined exceptions. The Supreme Court has espoused this broad interpretation for over a century, and its holding is amply supported by the plain text and history of the Fourteenth Amendment. In flagrant disregard of these principles, the EO operates to deny citizenship status to an enormous class of people who are entitled to that status by virtue of their birth on U.S. soil. The President simply does not have the power to limit the constitutional guarantee of birthright citizenship in this way. As a result, the EO is a blatant violation of the Fourteenth Amendment.

The text of the Citizenship Clause is straightforward. It states that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." U.S. Const. amend. XIV, § 1. The text of the Amendment includes no hereditary or racial prerequisite to citizenship—a very intentional choice by the Reconstruction Congress that wrote it. As the Supreme Court has explained, one of the drafters' aims in "giving permanence and security to citizenship in the Fourteenth Amendment" was to overturn the Court's 1858 decision in *Dred Scott v. Sandford*, which endorsed an explicitly racist and hereditary view of American citizenship. *See Afroyim v. Rusk*, 387 U.S. 253, 262 (1967).[5]

Thus, under the Citizenship Clause, the citizenship of those born in the United States is limited only by the qualifying language "subject to the jurisdiction thereof." U.S. Const. amend. XIV, § 1. That meaning is easily ascertained by reference to history, ordinary usage, and—most importantly—long-settled Supreme Court precedent. All three support that the word "jurisdiction" refers to the United States' sovereign lawmaking authority. With that in mind, "subject to the jurisdiction thereof" refers to anyone to whom United States law applies. Or, put another way, it excludes only those with some kind of recognized immunity from American law.

During Congressional debate over the meaning of the Citizenship Clause, the Clause's proponents made statements indicating they understood it to codify the prevailing common law view of birthright citizenship in effect prior to *Dred Scott*.[6] That common law view known as "jus

[5] The Court's infamous opinion in *Dred Scott* held that only individuals descended from people considered "citizens" by the framers were entitled to citizenship at birth, and that this excluded the descendants of slaves who had been, at the time of the framing, "subjugated by the dominant race" and considered "subordinate." *Dred Scott*, 60 U.S. at 404.

[6] *See* Michael D. Ramsey, *Originalism and Birthright Citizenship*, 109 Geo. L.J. 405, 441 n.173 (2020) (quoting statement of Clause's drafter); James C. Ho, *Defining "American": Birthright Citizenship and the Original Understanding of the 14th Amendment*, 9 Green Bag 2d 367, 369-371 (2006) (quoting statements from Congressional debate); Jonathan C. Drimmer, *The Nephews*

soli," had been widely embraced by early American courts and stood for the proposition that citizenship is acquired by birth within the sovereign's territory.[7] Supreme Court Justice Joseph Story discussed this broad conception of territorial birthright citizenship in 1830, writing that "[n]othing is better settled at the common law than the doctrine *that the children even of aliens born in a country*, while the parents are resident there under the protection of the government, and owing a temporary allegiance thereto, are *subjects by birth*." *Inglis v. Trs. of Sailor's Snug Harbor*, 28 U.S. 99, 164 (1830) (Story, J.) (emphasis added). Justice Story also outlined that there are only a few exceptions to jus soli citizenship, including the children of ambassadors and invading soldiers who are not "subject[s]" of the state when within the territory. *Id.* at 155-156.

Jus soli and its exceptions comport with the idea of sovereign "jurisdiction" that Chief Justice John Marshall outlined in 1812. In a case called *The Schooner Exchange v. McFadden*, the Chief Justice explained that "[t]he jurisdiction of the nation within its own territory is necessarily exclusive and absolute" except as applied to foreign "sovereign[s]," "ministers," and "troops" who have some degree of immunity from local laws. 11 U.S. 116, 136-140 (1812). He then elaborated on the applicability of U.S. law to foreigners more generally, writing that "[w]hen private individuals of one nation spread themselves through another … it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction … if such individuals … were not amenable to the jurisdiction of the country." *Id.* at 144. This supports not only that the term "jurisdiction," as used in the early 19th century, referred to American lawmaking power, but also that foreigners were generally considered subject to that "jurisdiction."

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of Uncle Sam: The History, Evolution, and Application of Birthright Citizenship in the United States, 9 Geo. Immigr. L.J. 667, 696 n.211 (1999) (quoting and citing Congressional statements).

[7] *See United States v. Wong Kim Ark*, 169 U.S. 649-664 (1898) (citing cases); Ho, *supra* note 2 at 369, 369 n.15 (2006) (citing cases); Drimmer, *supra* note 2 at 683-685 (citing cases).

The Supreme Court's 1898 decision in *United States v. Wong Kim Ark* definitively established that Congress intended "subject to the jurisdiction thereof" to enshrine the jus soli principle of broad, territorial birthright citizenship into the Constitution. 169 U.S. 649 (1898). The Plaintiff in that case, Wong Kim Ark, was born in San Francisco to non-citizen parents from China who were living and working in the United States. In 1894, as an adult, he left the United States for a temporary visit to China. When he returned, Customs denied him entry into the country under the Chinese Exclusion Acts, which "prohibit[ed] persons of the Chinese race, and especially Chinese laborers, from coming into the United States...." *Id.* at 653. Wong challenged his exclusion in federal court, and the case turned on whether he was "subject to the jurisdiction" of the United States when he was born in the U.S. to non-citizen parents. *Id.*

The Court found that he was. It exhaustively discussed the history of birthright citizenship in England, the American colonies, and the early United States, and concluded that "[t]he real object of the fourteenth amendment of the constitution, in qualifying the words 'all persons born in the United States' by the addition 'and subject to the jurisdiction thereof,' would appear to have been to exclude, by the fewest and fittest words" the classes of people whose children had been excluded from birthright citizenship at common law, like the "children of diplomatic representatives." *Id.* at 682. Emphasizing the Citizenship Clause's broad applicability, the Court held that it includes "the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States" and that "[e]very citizen or subject of another country, while domiciled here, is within the allegiance and the protection, and consequently subject to the jurisdiction, of the United States." *Id.* at 693.

All of this establishes beyond doubt that the EO's policy of refusing to recognize citizenship based solely on parentage violates the Fourteenth Amendment. Pursuant to *Wong Kim*

Ark, the citizens targeted by the EO are *ipso facto* American citizens due to their birth within the United States, regardless of the immigration status of their parents. *See Wong Kim Ark*, 169 U.S. at 682. However much Defendant Trump may disagree with the Fourteenth Amendment's expansive guarantee of birthright citizenship, that right attaches at the time of birth on American soil and cannot be "shifted, canceled, or diluted at the will of the Federal Government." *Afroyim*, 387 U.S. at 262.

B. Plaintiffs Are Likely To Succeed On Their Claim Under 8 U.S.C. § 1401.

The Citizenship Clause's broad grant of birthright citizenship is also codified by 8 U.S.C. §1401. This statutory provision was originally enacted in 1940 when *Wong Kim Ark* had long been the settled law of the land, and it mirrors the language of the Citizenship Clause, stating that "The following shall be nationals and citizens of the United States at birth: a) a person born in the United States, and subject to the jurisdiction thereof ...." Because the EO violates the Citizenship Clause, it also violates the parallel statutory protections of 8 U.S.C §1401. *See Bostock v. Clayton County*, 580 U.S. 644, 654 (2020) (noting that courts must interpret a statute "in accord with the ordinary public meaning of its terms at the time of its enactment").

C. Plaintiffs Are Likely To Succeed On Their Claim Under The Administrative Procedure Act.

Similarly, because the EO directs federal agencies to act unconstitutionally and contrary to federal statute, it is also unlawful under the APA. Pursuant to the Act, courts must hold unlawful and set aside agency action that is arbitrary and capricious, unconstitutional, contrary to statute, and without observance of procedure required by law. 5 U.S.C. § 706(2)(A-D). The EO bars all executive departments and agencies from issuing documents recognizing United States citizenship to individuals targeted by the EO. EO, Sec. 2(a). It also directs Defendants Rubio and King, among other agency heads, to ensure that no one within their agency "act, or forbear from acting, in any

manner inconsistent with this order." *Id.* §3(a). This agency action directly conflicts with the Citizenship Clause and 8 U.S.C. § 1401, for the reasons set forth above. *See supra* at 11-15. Accordingly, it must be held unlawful and set aside. 5 U.S.C. § 706; *see also Franklin v. Massachusetts*, 505 U.S. 788, 828 (1992) ("Review of the legality of Presidential action can ordinarily be obtained in a suit seeking to enjoin the officers who attempt to enforce the President's directive"); *Chamber of Com. of U.S. v. Reich*, 74 F.3d 1322, 1326–27 (D.C. Cir. 1996) (explaining that agency action implementing an executive order does not insulate it from judicial review under the APA); *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 770 (9th Cir. 2018) (same).

III. In The Absence of Preliminary Relief, Plaintiffs Will Suffer Irreparable Harm.

Forcibly robbing Americans of their citizenship would trigger a destabilizing cascade of harm and suffering. As documented in supporting declarations, the harm is multifaceted and compounding. The harm would also be immediate, "particularly on the health, legal stability, and well-being of children born to immigrant parents." Vega Dec. ¶ 5.

A. The EO Would Make Children Deportable At Birth And Render Many Of Them "Stateless"

To begin with, the EO would render newborns covered by the EO deportable at birth, without any immigration status. As a former Director of the United States Citizenship and Immigration Services explains, "Babies who are born after February 19, 2025 and fall into the categories listed in the EO would … have no immigration status at all. We simply do not have any legal structures in place in the United States to recognize such babies as anything other than U.S. citizens." Rodriguez Dec. ¶8. They would thus become "instantly deportable." *Id.* ¶9.

Plaintiff Doe, for example, is originally from Haiti and cannot return due to political instability and the well-documented "collapse of Haiti." Doe Dec. ¶¶ 1-2. The abject fear she feels for her child is thus fully justified. *Id*. ¶¶ 8, 11 ("[A]fter learning about the Executive Order, I was overwhelmed with anxiety….How can I keep my child safe from being deported to a collapsed Haiti?"). Organizational Plaintiffs' members are experiencing similar panic at the prospect that their babies, once born, would be instantly deportable. Vega Dec. ¶14 ("raising children deemed 'stateless or lacking full citizenship rights would cause immense stress and anxiety").[8] Subjecting U.S. citizen children and their families to the possibility that the children may be deported at any time is brutal, cruel, and unlawful. *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (noting the utmost importance of the right "to stay and live and work in this land of freedom"); *Padilla v. Kentucky*, 559 U.S. 356, 357 (2010) (noting the importance of "preserving the right to remain in the United States") (citation and internal quotation omitted). Any ultimate adjudication in Plaintiffs' favor in this case would be too late if their U.S.-born children were deported in the meantime—the epitome of irreparable harm. *See Padilla*, 559 U.S. at 374 (recognizing the "seriousness of deportation" and "the concomitant impact of deportation on families…"); Kanstroom Dec. ¶13 ("Wrongful

[8] The very idea that the United States would deport babies even though their mothers are legally here in the country is repugnant, but similar conduct is not unknown to Defendants. *See* Ankush Khardori, *How America Forgot About One of Trump's Most Brutal Policies*, Politico (Oct. 28, 2024), https://www.politico.com/news/magazine/2024/10/28/trump-immigration-family-separation-00185512 (detailing family separation policy). Moreover, within the first days of his current administration, Defendant Trump has authorized immigration enforcement in hospitals, and has stated that no one is off limits. *See* Brian Mann, *Churches, schools are no longer off limits to agents rounding up undocumented migrants*, NPR (Jan. 22, 2025), https://www.npr.org/2025/01/22/nx-s1-5269859/churches-schools-are-no-longer-off-limits-to-agents-rounding-up-undocumented-migrants

deportations not only cause tremendous emotional distress; but they are physically dangerous and extremely difficult to rectify once a U.S. citizen is sent to a foreign country.").

Moreover, because many children subject to the EO, like Plaintiff Doe's child, would have no ties to any other country, they would be rendered "stateless," a grievous harm in and of itself. Doe Dec. ¶7; Kanstroom Dec. ¶17 ("Many [covered by the EO] would be stateless, and thus without the protection of any government at all."); *see also Afroyim*, 387 U.S. at 268 (noting that stateless status is a harm). This lack of any status leads to its own set of injuries: "Statelessness eliminates not just social citizenship but also medical citizenship." Danaher Dec. ¶¶7-8 (internal quotations and citations omitted) (concluding that stateless individuals "tend to experience worse health outcomes and shorter lifespans"). "The health burdens of statelessness would further exacerbate existing racial inequities in pediatric health outcomes, not only among directly affected children, but among U.S. citizen children as well." *Id.* ¶ 10.

Moreover, these harms would fall not just upon the child covered by the EO, but upon whole families: "The prospect of raising children deemed 'stateless' or lacking full citizenship rights would cause immense stress and anxiety, undermining the mental health and stability of entire families." Vega Dec. ¶1; Doe Dec. ¶¶ 9-10.

If the EO is not blocked, children would become second-class citizens in their own country of birth—an unbearable and stigmatizing condition forbidden by the Constitution. *Plyler v. Doe*, 457 U.S. 202, 213 (1982); *see also* Reason Dec. ¶8 (Plaintiffs are "afraid to expose their newborn children to additional scrutiny, stigma, or discrimination."); Vega Dec. ¶13 ("Our members are deeply concerned about the emotional toll this policy would take on their children, who may grow up feeling stigmatized, excluded, and alienated in the only country they know as home."). The result would be that "[c]hildren born in the U.S. would

essentially be relegated to a subordinate caste of native-born Americans." Kanstroom Dec. ¶17. This loss of reputation and dignitary harm is irreparable. *See Ross-Simons of Warwick, Inc. v. Baccarat, Inc.*, 102 F.3d 12, 20 (1st Cir. 1996); *Camel Hair & Cashmere Inst. of Am., Inc. v. Associated Dry Goods Corp*., 799 F.2d 6, 16 (1st Cir. 1986) (remanding for the issuance of a preliminary injunction to safeguard "protectable interest" in reputation).

B. Children Subject To The EO Would Be Stripped Of The Numerous Benefits Of U.S. Citizenship.

"Citizenship is a most precious right." *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 159 (1963). It confers "full membership of a community" and "a unique bundle of privileges and benefits," Kanstroom Dec. ¶¶ 5-6, all of which would be lost if the EO were to go into effect. Concrete benefits that would be lost include the ability to travel freely with a U.S. passport. *Id*. ¶13 ("Families of newborn children routinely apply for passports sometimes for emergency reasons to visit and help to care for sick relatives or to attend funerals with their young U.S.-born children."). Other rights that would be lost include "the right to reside in the United States, the right not to face deportation under any circumstances, the right to vote in federal elections, the right to hold certain political offices and government positions, the ability to leave and to re-enter the United States freely unencumbered by immigration criteria and processes, and eligibility for various public benefits." Kanstroom Dec. ¶6; *see also* Merjian ¶12 (noting "very real risk of plunging huge numbers into a downward spiral").

C. Children Subject To The EO Would Suffer Compromised Health and Decreased Housing Access.

Implementation of the EO would also put children's health at risk, because health outcomes are directly tied to citizenship. *See* Danaher Dec. ¶4 ("A growing body of scientific literature demonstrates that policies of exclusion based on immigration status harm children in

immigrant families by directly and indirectly diminishing access to public benefits such as healthcare, nutrition, and educational opportunities, while promoting bullying, fear, and chronic stress.") (citing authorities); *see also* Molina Dec. ¶9 ("A child's citizenship status significantly impacts their access to healthcare and health outcomes.").

This is in part because certain health programs are only available to citizens or those with other defined immigration status. *Id*. (noting that "U.S. citizenship ensures eligibility for vital programs like Medicaid and the Children's Health Insurance Program (CHIP), providing preventive care, immunizations, and treatment that support healthy development."); *see also* Danaher Dec. ¶5 ("Income-eligible children whose immigration status bars eligibility for public health insurance programs are uninsured at more than seven times the rate of comparable children with U.S. citizenship."). In addition, fear and uncertainty often prevent non-citizen immigrants from accessing even healthcare to which they are entitled. Vega Dec. ¶10 (individuals "who are undocumented may delay or avoid seeking medical care altogether due to confusion, fear of deportation, or stigma, putting their children at heightened risk for untreated conditions and developmental delays.").[9]

All of these adverse health outcomes are foreseeable harms for children who would be stripped of their citizenship under the EO. As courts have often recognized, interruption of healthcare is harmful and irreparable, as it "cannot adequately be compensated for either by a later-issued permanent injunction, after a full adjudication on the merits, or by a later-issued

[9] This lack of adequate healthcare is particularly perilous for infants. Molina Dec. ¶11 ("Infants with citizenship are more likely to access routine care without barriers, leading to better management of chronic conditions, early detection of issues, and overall improved health. By contrast, infants without citizenship often face restricted access, delays in care, and greater exposure to health disparities. These obstacles can result in untreated conditions, undermining their well-being.").

damages remedy." *See, e.g., Rio Grande Cmty. Health Ctr., Inc.*, 397 F.3d 56, 76 (1st Cir. 2005) (preliminary injunction averted harm to low-income medically underserved populations).

The immediate harm from implementation of the EO also extends to housing insecurity and the deprivation of benefits essential to the American social safety net. For example, "citizenship confers upon families the ability to secure subsidized or public housing." Merjian Dec. ¶4. Experts have consistently found that "[i]n both public and private housing markets, United States citizens tend to fare better than non-citizens, particularly those who are undocumented." *Id*. (noting "undocumented individuals are ineligible for most housing assistance programs, such as Section 8 and myriad state and local housing voucher and subsidy programs"). Since "stable housing is the wellspring to education, employment, health, wealth accumulation, and prosperity," Defendants are placing families in jeopardy. *Id*. (noting that "without stable housing, it is impossible to store medication and fresh food, regularly attend medical appointments, and to maintain a strict medical regimen"). In fact, "[l]ack of legal status renders families of the undocumented disproportionately impecunious, and as a result, such families are often forced to live in overcrowded, unsafe, unsanitary, and unstable conditions. *Id*. ¶ 9. Thus, the EO "would cause endless pain and suffering to countless individuals and their families and only exacerbate a homelessness crisis that has reached staggering proportions in municipalities throughout the United States." *Id*. ¶12.

IV. The Public Interest and Balance of Equities Weigh Heavily in Plaintiffs' Favor.

The third and fourth factors typically considered by the Court—the balance of harms and the public interest—"merge when the Government is the opposing party." *Nken*, 556 U.S. at 435. In this case, both factors together weigh heavily in favor of Plaintiffs. "There is

generally no public interest in the perpetuation of unlawful agency action. To the contrary, there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *League of Women Voters of United States,* 838 F.3d at 12 (internal quotations and citations omitted). The public interest weighs in favor of allowing injunctive relief because it is "always in the public interest to prevent the violation of a party's constitutional rights." *Dorce v. Wolf*, 506 F. Supp. 3d 142, 145 (D. Mass. 2020) (internal citations and quotations omitted).

Here, the public interest would be significantly harmed by the chaos the EO will bring about, not only to the targeted individuals but to everyone. Although the Administration's targets are immigrants, elimination of birthright citizenship will significantly burden people of all immigration statuses. As the former head of USCIS explains, for example, the process for obtaining a Social Security card after a child's birth is currently simple, facilitated by hospitals through the Enumerated at Birth program. Rodriguez Dec. ¶11; Molina Dec. ¶5 (same). However:

> The EO would change all that—not just for undocumented individuals but for everyone. Even in the case of a baby born to two U.S. citizen parents, a birth certificate reflecting a birth within the United States would no longer establish the baby's citizenship. The parents would have to prove their own status first. Even if it were deemed acceptable for citizen-parents to do so by producing their own birth certificates (which would appear illogical, if that does not serve as proof for individuals born after February 19, 2025), that would be an extraordinarily cumbersome process compared to what exists today.
>
> Moreover, it is not clear to whom they would produce those documents: to the hospitals where their child's birth occurred (which have no training or ability to manage such a process)? To the local jurisdiction where their child was born? To the one where they reside? The state? To a federal agency? There does not currently exist in the United States a centralized database of U.S. citizens. Even if one could be created, and a process for determining who goes into it, that most certainly could not be accomplished within 30 days. Thousands of people would be required to hire immigration attorneys to help with this process, at immense burden and cost.

Rodriguez Dec. ¶¶ 12-13; *see also* Kanstroom Dec. ¶12 ("the consequences of even a short-lived Executive Order … would involve intolerable legal chaos and potentially irremediable harm to individuals, families, and communities."); Culliton-González Dec. ¶6 (same).

Public health would similarly be compromised—to the detriment of everyone. Galletly Dec. ¶6 ("[p]ublic health disease control efforts could be undermined as undocumented immigrants seek to avoid detection"); *see also* Danaher Dec. ¶9 (noting "unmet basic needs have been shown to drive up emergency room, urgent care, and mental health visits among children").

On the opposite side of the balance, there is no injury to the government at all in preserving the *status quo* that has existed in this country for over 150 years. Injunctive relief is particularly appropriate where it "causes minimal hardship to the government or injury to the public." *Savino v. Souza*, 459 F. Supp. 3d 317, 332 (D. Mass. 2020) (granting preliminary injunction); *see also Alongi v. AMCO LLC*, No. 15-CV-12349, 2015 WL 12766154, at *1 (D. Mass. Sept. 23, 2015) (noting that issuance of preliminary injunction would "not cause undue inconvenience or loss" to defendant); *Rio Grande Cmty. Health Ctr.*, 397 F.3d at 77 (finding that preliminary injunction against the government "can hardly be considered substantial interference"); *League of Women Voters of United States*, 838 F.3d at 12 (granting preliminary injunction because it would "not substantially injure other interested parties") (internal citations and quotations omitted); *McBreairty v. Sch. Bd. of RSU 22*, 616 F. Supp. 3d 79, 98 (D. Me. 2022) (granting relief); *Westenfelder v. Novo Ventures (U.S.), Inc.*, 797 F.Supp. 2d 188, 191 (D. Mass. 2011) (same).

Finally, the public interest is served by a judicial ruling that makes clear that a President cannot unilaterally revoke citizenship. Just the issuance of the EO has caused widespread panic

within immigrant communities. It is already "creat[ing] a chilling effect, deterring immigrant families from seeking critical services, such as health care…." Vega Dec. ¶15; Reason Dec. ¶8 ("Several expecting mothers have arrived at [Plaintiff's] Welcome Center seeking stable housing and other resources, but they are already saying that they are hesitant to seek help because of the Executive Order.").

There is no harm to Defendants from complying with the explicit terms of the Constitution and maintaining the principle of birthright citizenship that has existed in this country for generations, and the public interest is served by an injunction preserving that *status quo*.

CONCLUSION

For all of the foregoing reasons, Plaintiffs urge the Court to enter an order preliminarily enjoining Defendants from implementing the challenged Executive Order.

Dated: January 23, 2025

Respectfully submitted,

/s/ _*Oren Sellstrom*_____

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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2025, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/*Oren Sellstrom*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

C C C

DECLARATION OF O. DOE

I, O. Doe, make the following declaration based on my personal knowledge and declare under the penalty of perjury that the following is true and correct:

1. I am originally from Haiti, and I am 7 months pregnant with my second daughter. I am due on or around March 23, 2025.
2. My husband and I have Temporary Protected Status (TPS) and pending asylum applications, which we have because of the collapse of Haiti.
3. My first daughter was born in the United States and is seven years old.
4. My family and I cannot safely return to Haiti, especially after the assassination of the Haitian President and serious political instability, including coups d'état.
5. The hardships include the social and economic collapse of the country, which makes it dangerous and life-threatening to return for myself and my family, including my soon-to-be-born child.
6. That's why we now live in the United States, for our own safety and the safety of my children, including the baby I am now carrying.
7. I now understand that my child will be born in a stateless condition due to the new Executive Order, "Protecting the Meaning and Value of American Citizenship," on birthright citizenship.
8. On Monday, after learning about the Executive Order, I was overwhelmed with anxiety. Deeply concerned about how this might affect my baby, I reached out to a health center for support and connected with a therapist. They were able to schedule me for future appointments.
9. I feel utterly helpless knowing that my baby's citizenship could be at risk solely because of my husband's and my immigration status.

10. Despite both my children being born on U.S. soil, my youngest will be unable to exercise the rights of U.S. citizenship. She will be treated as a second-class citizen and will have less access to resources.
11. This is extremely demoralizing and frightening, and I am very scared for the safety of my child. How can I keep my child safe from being deported to a collapsed Haiti?
12. This is a country made of immigrants. It does not belong to one racial group. I pray that the Executive Order is stopped by the courts, as this is something that has been established in this country for over a century.
13. As a person who has fled turmoil and upheaval, I know firsthand that my child needs the full protection of U.S. citizenship. This is essential. It's indispensable.

Signed under pains and penalty of perjury, this 23 day of January 2025.

[redacted]

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10135-LTS

DECLARATION OF GLADYS VEGA

I, Gladys Vega, am the President & CEO of La Colaborativa, and I make this declaration based on my personal knowledge and information provided by our members. I declare under penalty of perjury that the following is true and correct:

1. La Colaborativa is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts with a principal place of business at 318 Broadway, Chelsea, MA 02150.
2. La Colaborativa is a membership organization with a mission to enhance the social, environmental, and economic health of the Chelsea community and its people.
3. La Colaborativa represents a community largely composed of Latinx immigrants, including many undocumented individuals and members of mixed-status families. For decades, the organization has championed the rights of immigrant families—both those

with and without legal status—who are integral to sustaining urban economies like Chelsea's. Many served as essential workers at the height of the COVID pandemic.

4. Our organization serves hundreds of immigrant mothers and expecting mothers, many of whom are Temporary Protected Status (TPS) recipients, Deferred Action for Childhood Arrivals (DACA) recipients, asylum applicants, or have other immigration statuses such as parole. Many of these mothers have children born in the United States and are citizens by birth.
5. The Trump Administration's Executive Order, "Protecting the Meaning and Value of American Citizenship," to eliminate birthright citizenship would inflict profound harm on our members and their families, particularly on the health, legal stability, and well-being of children born to immigrant parents.
6. Many of our members rely on hospitals to assist with critical documentation, such as obtaining Social Security numbers and birth certificates for their newborns. This Executive Order would interfere with those processes, delaying access to essential services.
7. Any interruption in these longstanding processes would create additional and significant burdens on our organization and staff, who will have to intervene to help our members in the absence of other support. This will entail diverting resources from our current programming and priorities to address the unfolding crisis in our membership.
8. Just today, our staff has started responding to dozens of member inquiries and concerns, especially surrounding birthright citizenship.
9. For example, one of our members, "Daisy," a 31-year-old Chelsea resident originally

from Honduras, is eight months pregnant. Both she and her husband are asylum seekers. Daisy worries that without U.S. citizenship, her child would be ineligible for medical insurance or public assistance, leaving the family to face overwhelming medical bills they cannot afford. This would place an even greater strain on a family already struggling financially, potentially causing long-term hardships for both Daisy and her baby

10. Another member, "Angela, "a 32-year-old Chelsea resident originally from El Salvador, has lived in the U.S. for 10 years and is currently eight months pregnant. Both Angela and her husband are undocumented. Angela is deeply concerned about the Executive Order, fearing that her baby might lack proper documentation, which could limit their opportunities and jeopardize their future. The stress of these uncertainties, coupled with her advanced pregnancy, has heightened both the emotional and financial pressures on her family during an already challenging time.

11. The panic and stress at the community level make sense because citizenship status is often a prerequisite for accessing many benefits and federally funded healthcare programs. Without citizenship, our member's newborns may face restricted access to preventive care, vaccinations, and other critical health services, exacerbating health disparities.

12. Our members who are undocumented may delay or avoid seeking medical care altogether due to confusion, fear of deportation, or stigma, putting their children at heightened risk for untreated conditions and developmental delays.

13. Our members are deeply concerned about the emotional toll this policy would take on their children, who may grow up feeling stigmatized, excluded, and alienated in the

only country they know as home.

14. The prospect of raising children deemed "stateless" or lacking full citizenship rights would cause immense stress and anxiety, undermining the mental health and stability of entire families.

15. The Executive Order has already created a chilling effect, deterring immigrant families from seeking critical services, such as health care, out of fear that doing so could jeopardize their children's status or attract unwanted scrutiny.

16. This climate of fear forces many families to withdraw from essential public programs and avoid engaging with institutions, which undermines community trust and exacerbates health and economic disparities among immigrant populations.

17. As an organization, we are already experiencing the surge in demand for assistance, including navigating complex legal systems, advocating for children’s rights, and addressing the fallout of delayed or denied services. These resources could otherwise be directed toward empowering families and advancing systemic change.

18. We strongly oppose any policy that would strip children of their birthright citizenship, as it undermines fundamental principles of fairness, equality, and human dignity. Such a policy would not only harm individual families but also erode the social fabric and foundational values of our nation.

Signed under pains and penalty of perjury, this 23 day of January 2025.

Gladys Vega

President & CEO

La Colaborativa

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF THE BRAZILIAN WORKER'S CENTER

I, Lenita Reason, am the Executive Director of the Brazilian Worker Center, and I make this declaration based on personal knowledge and information provided by our members. I declare under penalty of perjury that the following is true and correct:

1. The Brazilian Worker Center (BWC) is a women-led non-profit organization dedicated to supporting immigrants in defending and advancing their labor and immigrant rights, particularly those of domestic workers. The BWC's principal place of business is 14 Harvard Avenue in Boston.
2. The BWC represents a community largely comprised of Latinx immigrants, with a focus on the Brazilian population. Since 1995, the organization has provided support to families, both those with and without legal status, as they navigate life in the United States through various programs and initiatives designed to address their specific challenges and enhance their well-being.

3. The BWC is a membership organization dedicated to empowering immigrants and advocating for economic and social justice within the Greater Boston region. Members pay an annual fee of $50. However, this fee can be waived if the potential member is low-income and is unable to pay. The process is streamlined for individuals or families experiencing trauma or crisis, such as domestic violence or homelessness, to make membership accessible for vulnerable members.
4. The BWC organization offers comprehensive training programs on workplace rights and provides holistic community support services. These services include but are not limited to assistance with rent support applications, school enrollment, English as a Second Language (ESL) classes, and communication with federal agencies, such as the U.S. Citizenship and Immigration Services.
5. The BWC is also currently engaged with the State of Massachusetts to provide support to newly arrived immigrants in the U.S. As a part of this initiative, the BWC has been designated as a Welcome Center for these immigrant families.
6. The Welcome Center is dedicated to serving as a central point of entry for these families, connecting them with essential resources, such as emergency housing, services, and transportation to ensure a safe and secure transition.
7. Our members have expressed deep concern regarding the Trump Administration's Executive Order, "Protecting the Meaning and Value of American Citizenship," to eliminate birthright citizenship.
8. Many of our immigrant mothers already have so much fear about reaching out for help, even when it is for life-saving resources. Several expecting mothers have arrived at our Welcome Center seeking stable housing and other resources, but they are already saying

that they are hesitant to seek help because of the Executive Order. They are afraid to expose their newborn children to additional scrutiny, stigma, or discrimination.

9. Take, for instance, "Catarina," a 36-year-old Brazilian immigrant and member, who is eight months pregnant. Her arrival in the U.S. has interrupted her access to regular prenatal care, relying instead on services provided by the BWC. Both Catarina and her husband are undocumented. She has expressed intense fear and anxiety upon learning about the Executive Order and the potential consequences it may have for her child.
10. Like Catarina, many of our members, including other undocumented women who are pregnant or planning to grow their families in the future, have approached us with confusion and panic. They are uncertain about how the Executive Order will be enforced, who it affects, and whether their future children will be able to obtain a passport or other federal documents recognizing their child's citizenship.
11. Many of the BWC's members are navigating unique challenges as part of mixed-status families, balancing the need to care for their U.S.-born children while managing their own precarious immigration statuses. Many families are also in lengthy and prolonged immigration proceedings, such as asylum and other types of relief that may take multiple years to come to a final decision or adjudication.
12. The Executive Order would force the BWC to stretch its resources further, addressing a surge in demand for assistance with federal documentation and legal challenges that would disproportionately impact already vulnerable families.
13. The threat of eliminating birthright citizenship is already creating a climate of mistrust, making it harder for organizations like the BWC to connect immigrant families with the resources they need to thrive, such as education, healthcare, and housing support.

14. The BWC is particularly concerned about the long-term consequences for children of immigrant parents, who may grow up in an environment where their legal status and rights are constantly questioned and challenged.
15. By serving as a central resource hub for immigrant families, the BWC has seen firsthand how policies targeting immigrants create ripple effects, leading to economic instability and social isolation within communities.
16. The BWC's work is rooted in the belief that all families deserve dignity, stability, and a chance to build a better future, values that are directly threatened by the Executive Order.
17. Eliminating birthright citizenship would add an unnecessary layer of bureaucracy, disproportionately affecting low-income and marginalized families who already face systemic barriers to accessing vital services.
18. The BWC stands committed to protecting the rights of all immigrant families, recognizing that the strength of its community depends on the inclusion and support of every individual, regardless of their citizenship or immigration status.

Signed under pains and penalty of perjury, this 23 day of January 2025.

Lenita Reason

Lenita Reason

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-CV-10135

DECLARATION OF LEON RODRIGUEZ

I, Leon Rodriguez, declare and state as follows:

1. Throughout my career, I have gained personal knowledge of how birthright citizenship is critical to many different facets of American life. The experience from which I draw for this declaration includes my work as a federal prosecutor; my service as the County Attorney for Montgomery County, Maryland; and my experience as the Director of the United States Citizenship and Immigration Services.

Background

2. I am an attorney licensed to practice law in the District of Columbia, Maryland, and New York. I began my career as a prosecutor, first in Brooklyn, New York (1988-1994); then

at the U.S. Department of Justice in Washington, D.C. (1994-1997); and then as an Assistant U.S. Attorney in Pennsylvania (1997-2001). One of my main focus areas in my work as a prosecutor was healthcare. I later worked as the Chief of Staff, Deputy Assistant Attorney in the Civil Rights Division of the Department of Justice (January 2010-September 2011) and as the Director of the U.S. Department of Health and Human Services, Office for Civil Rights (2011-2014).

3. From 2014 to 2017, I served as the Director of the United States Citizenship and Immigration Services (USCIS).

4. I am currently a partner at Seyfarth Shaw LLP, where I am a founding member of the firm's Immigration and Compliance specialt

Eliminating Birthright Citizenship On February 19, 2025 Would Result In Chaos

5. I am aware that on January, 20, 2025, President Trump issued an Executive Order entitled "Protecting the Meaning and Value of Am things, the EO states that it shall be the policy of the United States that no federal agency shall issue documents recognizing U.S. citizenship to certain categories of people who heretofore have been recognized as citizens by virtue of their birth in the United States. This includes a person born in the United pSrteasteenst 'wl whose presence is "lawful but temporary" a permanent resident.

6. The EO states that it shall apply to people born within the United States after 30 days from the date of the order (February 19, 2025).

7. If the EO were allowed to go into effect on that date, it would immediately cause significant disruption and chaos throughout many different facets of American life. That

is because we as a nation have built up numerous different systems that are designed on the foundational premise that a birth certificate reflecting birth within the United States constitutes proof of U.S. citizenship. Birthright citizenship underpins our daily life in ways that most people scarcely think about, because it has been taken as a given for generations. Removing that fundamental premise on February 19, 2025 would wreak havoc in many different ways.

8. Starting at the most basic level, there is currently no other immigration status for the babies whose citizenship would no longer be recognized under the EO. Babies who are born after February 19, 2025 and fall into the categories listed in the EO would therefore have no immigration status at all. We simply do not have any legal structures in place in the United States to recognize such babies as anything other than U.S. citizens.

9. The resulting disruption would be immediate and severe. All of the babies who fall into the categories listed in the EO—a number that would grow daily—would become instantly deportable by virtue of having no recognized immigration status in the United States. Many would be rendered stateless, because they would also have no ties to any other country.

10. Moreover, parents would have no way of adj
Because our entire immigration system has developed over the last century (and more) on the foundational premise that such children are U.S. citizens, there is no mechanism for adjustment of their status. This would cause immense problems, not just for children but for parents put in a position of trying to navigate their family through this void.

11. Although the chaos and disruption would fall most heavily on the families of children specifically listed in the EO, it would extend across all of American society. For example,

there is currently a relatively seamless cooperation between hospitals (where births are recorded) and federal agencies that recognize immigration status. Through the Enumeration At Birth (EAB) program, parents who have just had a baby can sign a simple form while still in the hospital, authorizing the hospital to report that information to the Social Security Administration (SSA) for issuance of a Social Security number and card.[1] SSA reports that approximately 99% of all new parents do this.

12. The EO would change all that—not just for undocumented individuals but for everyone. Even in the case of a baby born to two U.S. citizen parents, a birth certificate reflecting a birth within the United States would no lo parents would have to prove their own status first. Even if it were deemed acceptable for citizen-parents to do so by producing their own birth certificates (which would appear illogical, if that does not serve as proof for individuals born after February 19, 2025), that would be an extraordinarily cumbersome process compared to what exists today.

13. Moreover, it is not clear to whom they would produce those documents: to the hospitals where their ch(which have no training or ability to manage such a process)? To the local jurisdiction where their child was born? To the one where they reside? The state? To a federal agency? There does not currently exist in the United States a centralized database of U.S. citizens. Even if one could be created, and a process for determining who goes into it, that most certainly could not be accomplished within 30 days. Thousands of people would be required to hire immigration attorneys to help with this process, at immense burden and cost.

[1] *See* Bureau of Vital Statistics, State Processing Guidelines for Enumeration at Birth (Social Security Administration Nov. 2024), available at https://www.ssa.gov/dataexchange/documents/Updated%20State%20Processing%20Guidelines%20for%20EAB.pdf

14. That is just one example of the chaos and disruption that would occur if the EO were allowed to go into effect on February 19, 2025. Many other facets of American life are similarly built upon the foundational premise that a birth certificate reflecting birth in the United States serves as proof of U.S. citizenship. Passports, employment authorization, drivers licenses, public benefit programs: the processes for accessing all of these benefits and entitlements have been designed and operated over the last century based on the premise that a birth certificate reflecting birth in the United States is proof of citizenship. If that premise is removed, then those systems will become instantly unmanageable and unworkable. And there is nothing in place to replace them. This harms not just the children directly affected, but whole families: if a child loses access to healthcare benefits, for example, parents will be put in the position of trying to secure alternative care—or managing the problematic health outcomes that result for their child if alternative care cannot be secured.
15. In the United States, birthright citizenship has been in place for generations and has been relied upon by federal, state, and local agencies in creating systems that underpin many facets of our daily lives. Whether or not such entrenched systems could ever be replaced by ones that do not rely on birthright citizenship, this most certainly cannot be done by February 19, 2025. Allowing the EO to go into effect on that date would therefore cause significant disruption and harm in numerous different ways.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 23rd day of January 2025 in Washington, D.C.

/s/ Leon Rodriguez

IN THE UNITED STATES DISTRICT COURT
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O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF FIONA S. DANAHER, M.D., M.P.H.

I, Fiona S. Danaher, M.D., M.P.H., make the follow declaration based on my personal knowledge and declare under the penalty of perjury that the follow is true and correct:

1. I am a pediatrician with over 12 years of experience working with children and families. I graduated from Mount Sinai School of Medicine in New York with M.D. and M.P.H. degrees in 2012. I completed my pediatric residency at Massachusetts General Hospital for Children in 2015. My residency training included extensive experience interviewing and conducting physical exams of children and adolescents to treat both medical and psychiatric conditions.
2. I have been board certified and fully licensed as a pediatrician in the state of Massachusetts since 2015. Since then I have been working as a primary care pediatrician at MGH Chelsea Pediatrics, where a substantial proportion of my work

focuses on the care of children in immigrant families. I also worked for 7 years as a child abuse pediatrician for Massachusetts General Hospital.

3. Since 2020, I have directed the MGH Center for Immigrant Health, which serves as a hub to foster excellence in clinical care, education, advocacy and research to improve the health and wellbeing of immigrants.

Health Outcomes Tied to Citizenship

4. A growing body of scientific literature demonstrates that policies of exclusion based on immigration status harm children in immigrant families by directly and indirectly diminishing access to public benefits such as healthcare, nutrition, and educational opportunities, while promoting bullying, fear, and chronic stress.[1,2]

5. Decreased access to healthcare is one of the best studied impacts. Income-eligible children whose immigration status bars eligibility for public health insurance programs are uninsured at more than seven times the rate of comparable children with U.S. citizenship.[3] Lack of insurance renders healthcare cost-prohibitive, leading to lower preventive healthcare utilization and delays in needed medical

[1] Crookes DM, Stanhope KK, Kim YJ, Lummus E, Suglia SF. Federal, State, and Local Immigrant-Related Policies and Child Health Outcomes: a Systematic Review. J Racial Ethn Health Disparities. 2022 Apr;9(2):478-488. doi: 10.1007/s40615-021-00978-w. Epub 2021 Feb 8. PMID: 33559110; PMCID: PMC7870024.
[2] Perreira KM, Pedroza JM. Policies of Exclusion: Implications for the Health of Immigrants and Their Children. Annu Rev Public Health. 2019 Apr 1;40:147-166. doi: 10.1146/annurev-publhealth-040218-044115. Epub 2019 Jan 2. PMID: 30601722; PMCID: PMC6494096.
[3] Lacarte V. 2022. Immigrant Children's Medicaid and CHIP Access and Participation: A Data Profile. Washington, DC: Migration Policy Institute. https://www.migrationpolicy.org/sites/default/files/publications/mpi_chip-immigrants-brief_final.pdf

and dental care for non-citizen children, with particular disparities noted in states that have not extended public insurance eligibility to undocumented children.[4,5,6,7]

6. Multiple studies have found that the upfront costs of public insurance programs for children are recouped in adulthood through decreased emergency room utilization and hospitalizations, lower mortality, increased educational attainment and increased wage income leading to higher tax contributions.[8,9,10] The American Academy of Pediatrics thus recommends that Medicaid and CHIP eligibility be extended to all children, regardless of immigration status.[11]

Effects of Executive Order Eliminating Birthright Citizenship

7. Eliminating birthright citizenship would not only expand the population of undocumented children with reduced access to healthcare in the U.S.; it would create a new, more vulnerable subpopulation of stateless children with no domestic or foreign government charged to protect their rights and wellbeing. As

[4] Pillai D, Artiga S, Hamel L, et al. Health and health care experiences of immigrants: The 2023 KFF/LA Times survey of immigrants. KFF. Published September 17, 2023. https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-and-health-care-experiences-of-immigrants-the-2023-kff-la-times-survey-of-immigrants/
[5] Blewett LA, Johnson PJ, Mach AL. Immigrant children's access to health care: differences by global region of birth. J Health Care Poor Underserved. 2010 May;21(2 Suppl):13-31. doi: 10.1353/hpu.0.0315. PMID: 20453374; PMCID: PMC3174684.
[6] Rosenberg J, Shabanova V, McCollum S, Sharifi M. Insurance and Health Care Outcomes in Regions Where Undocumented Children Are Medicaid-Eligible. Pediatrics. August 2022; 150 (3): e2022057034. 10.1542/peds.2022-057034
[7] Jewers M, Ku L. Noncitizen Children Face Higher Health Harms Compared With Their Siblings Who Have US Citizen Status. *Health Affairs*. 2021;40(7):1084-1089. doi:https://doi.org/10.1377/hlthaff.2021.00065
[8] Brown DW, Kowalski AE, Lurie IZ. Long-Term Impacts of Childhood Medicaid Expansions on Outcomes in Adulthood. *The Review of Economic Studies*. 2019;87(2):792-821. doi:https://doi.org/10.1093/restud/rdz039
[9] Wherry LR, Miller S, Kaestner R, Meyer BD. Childhood Medicaid Coverage and Later-Life Health Care Utilization. *Rev Econ Stat*. 2018 May;100(2):287-302. doi: 10.1162/REST_a_00677. Epub 2018 May 4. PMID: 31057184; PMCID: PMC6497159.
[10] Goodman-Bacon A. The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes. *American Economic Review*. 2021;111(8):2550-2593. doi:https://doi.org/10.1257/aer.20171671
[11] Kusma JD, Raphael JL, Perrin JM, Hudak ML. Medicaid and the Children's Health Insurance Program: Optimization to Promote Equity in Child and Young Adult Health. *Pediatrics*. 2023;152(5). doi:https://doi.org/10.1542/peds.2023-064088

described by the U.S. Department of State, people who are stateless "have no legal protection and no right to vote, and… often lack access to: education; employment; health care; registration of birth, marriage, or death and property rights. Stateless people may also encounter travel restrictions, social exclusion, and heightened vulnerability to sexual and physical violence, exploitation, trafficking in persons, forced displacement, and other abuses."[12] The estimated 10 million stateless individuals living worldwide tend to experience worse health outcomes and shorter lifespans, prompting the U.S. to join the Global Alliance to End Statelessness and pledge at the UNHCR- convened 2019 High-Level Segment on Statelessness to "engage in strong U.S. diplomacy to advocate for the prevention and reduction of statelessness and to provide U.S. humanitarian assistance to help protect stateless persons."[13] The U.S. Department of State has called on other nations to eliminate "discrimination in nationality laws and practice" and to strengthen political will to address "gaps in national laws that are causing statelessness."[14]

8. Statelessness eliminates not just "social citizenship" but also "medical citizenship,"[15] and the harmful effects of eliminating birthright citizenship would extend beyond the stateless children to U.S. citizens. In "mixed-status" immigrant families, for example, U.S. citizen children with non-citizen siblings are less likely to have health insurance or a usual source of care, are more likely to utilize

[12] Statelessness - United States Department of State. United States Department of State. Published January 16, 2025. Accessed January 20, 2025. https://www.state.gov/statelessness
[13] Ibid.
[14] Ibid.
[15] Kingston LN, Cohen EF, Morley CP. Debate: Limitations on universality: the "right to health" and the necessity of legal nationality. *BMC International Health and Human Rights*. 2010;10(1). doi:https://doi.org/10.1186/1472-698x-10-11

emergency departments for care, and are less likely to receive the routine schedule of preventive care measures recommended by the American Academy of Pediatrics and American Academy of Pediatric Dentistry.[16] Children who do have public or private insurance are less likely to have a usual source of care if they have an uninsured sibling.[17]

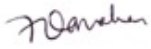
9. The chilling effects of restrictive anti-immigrant policies extend beyond directly affected families, with declines in public health insurance enrollment noted even in immigrant families where all children are U.S. citizens.[18] Such chilling effects can also decrease utilization of other important public benefits with no immigration status requirements, such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).[19] Unmet basic needs have been shown to drive up emergency room, urgent care, and mental health visits among children.[20]

10. Data from the National Health Interview Survey demonstrate that children from marginalized/minoritized racial backgrounds, who are heavily represented among both children enrolled in public health insurance programs and children in immigrant families, already experience more limited access to healthcare and are

[16] Hudson JL, Abdus S. Coverage And Care Consequences For Families In Which Children Have Mixed Eligibility For Public Insurance. *Health Affairs*. 2015;34(8):1340-1348. doi:https://doi.org/10.1377/hlthaff.2015.0128
[17] Percheski C, Bzostek S. Health insurance coverage within sibships: Prevalence of mixed coverage and associations with health care utilization. *Soc Sci Med*. 2013;90:1-10. doi:https://doi.org/10.1016/j.socscimed.2013.04.021
[18] Twersky SE. Do state laws reduce uptake of Medicaid/CHIP by U.S. citizen children in immigrant families: evaluating evidence for a chilling effect. *Int J Equity Health*. 2022;21(50):1-14. doi:https://doi.org/10.1186/s12939-022-01651-2
[19] Vargas ED, Pirog MA. Mixed-Status Families and WIC Uptake: The Effects of Risk of Deportation on Program Use. *Social Science Quarterly*. 2016;97(3):555-572. doi:https://doi.org/10.1111/ssqu.12286
[20] Black LI, Ng AE, Zablotsky B. Stressful life events and healthcare utilization among U.S. children aged 2–17 years. National Health Statistics Reports; no 190. Hyattsville, MD: National Center for Health Statistics. 2023. DOI: https://dx.doi.org/10.15620/cdc:130311.

less likely to report excellent or very good health compared to white, non-Hispanic children.[21] The health burdens of statelessness would further exacerbate existing racial inequities in pediatric health outcomes, not only among directly affected children, but among U.S. citizen children as well.

Signed under pains and penalty of perjury, this 20th day of January 2025.



Fiona S. Danaher, M.D., M.P.H., F.A.A.P.

[21] Brooks T, Gardner A. *Snapshot of Children with Medicaid by Race and Ethnicity, 2018*. Georgetown University McCourt School of Public Policy Center For Children and Families; 2020. Accessed January 20, 2025. https://ccf.georgetown.edu/wp-content/uploads/2020/07/Snapshot-Medicaid-kids-race-ethnicity-v4.pdf

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF ROSE L. MOLINA, M.D., M.P.H.

I, Rose L. Molina, M.D., M.P.H. make the following declaration based on my personal knowledge and declare under the penalty of perjury that the following is true and correct:

Background

1. I am a board-certified obstetrician-gynecologist at The Dimock Center (a federally qualified community health center) and Beth Israel Deaconess Medical Center.
2. I am an Associate Professor of Obstetrics, Gynecology, and Reproductive Biology at Harvard Medical School. I am the Faculty Director of the Health Equity Theme and the Medical Language Program at Harvard Medical School.
3. I completed the Global Women's Health Fellowship at Brigham and Women's Hospital and obtained a Master of Public Health in Clinical Effectiveness from Harvard T.H. Chan

School of Public Health.

Processing of Social Security Applications in Hospitals

4. As an obstetrician-gynecologist and as a mother, I am familiar with the process by which families obtain Social Security numbers/cards for their newborns. The process is very straightforward because a hospital's certification that a child was born in the United States has traditionally been all that is needed for the federal government to issue a child a Social Security card as a U.S. citizen

5. The Enumeration at Birth (EAB) program is a collaborative initiative between hospitals, state agencies, and the Social Security Administration (SSA). This program allows parents to obtain a Social Security number for their newborns during the birth registration process at hospitals.

6. The EAB eliminates the need to gather documents and visit a Social Security office, as the hospital transmits the necessary birth information electronically to the SSA. The EAB program is voluntary. However, SSA reports that nearly all parents—approximately 99%—utilize EAB to obtain a Social Security number for their child.[1] This is consistent with the high rates of usage that I have seen in my practice.

7. Through the EAB, the hospital provides parents with a very simple form to fill out (Form SSA-2853).[2] After the hospital submits the birth registration information, the SSA mails the child's Social Security card with a Social Security number to the parents within a few

[1] *See* Social Security Administration, *Bureau of Vital Statistics: Updated State Processing Guidelines for the Enumeration at Birth Program, at 4* (Nov. 2024), https://www.ssa.gov/dataexchange/documents/Updated%20State%20Processing%20Guidelines%20for%20EAB.pdf.
[2] *Id.* at 5.

weeks. In Massachusetts, SSA currently estimates that parents should receive the card in approximately two weeks.[3]

8. This streamlined process ensures that families receive their child's Social Security card efficiently, facilitating tasks such as adding the child to health insurance policies, claiming tax benefits, or opening a savings account.

Health Outcomes Associated With Citizenship

9. A child's citizenship status significantly impacts their access to healthcare and health outcomes. U.S. citizenship ensures eligibility for vital programs like Medicaid and the Children's Health Insurance Program (CHIP), providing preventive care, immunizations, and treatment that support healthy development. While some states have programs to provide medical services to non-citizen children, there remain gaps between health access for citizen and non-citizen children.

10. Infants are among the most vulnerable populations, requiring frequent healthcare visits in their early months to ensure healthy development. Limited access to healthcare significantly increases their risk of adverse outcomes, including low birth weight complications and a higher likelihood of infant mortality.[4]

11. Infants with citizenship are more likely to access routine care without barriers, leading to better management of chronic conditions, early detection of issues, and overall improved health. By contrast, infants without citizenship often face restricted access, delays in care,

[3] Social Security Administration, *How Long Does It Take to Get My Child's Social Security Number?,* https://www.ssa.gov/faqs/en/questions/KA-01969.html (last visited Jan. 17, 2025).
[4] *See* Institute of Medicine, Committee on the Consequences of Uninsurance, *Health Insurance is a Family Matter*, 6 (2002), https://www.ncbi.nlm.nih.gov/books/NBK221019/.

and greater exposure to health disparities. These obstacles can result in untreated conditions, undermining their well-being.[5]

Effects of Executive Order Eliminating or Eroding Birthright Citizenship:

12. Allowing the elimination or erosion of birthright citizenship through an Executive Order would significantly disrupt the efficient relationship between hospitals, state agencies and the federal government. It would also create immediate and long-term harm to children. Even in states like Massachusetts, where basic care may be accessible, non-citizen infants may face delays, limited coverage, and difficulties navigating employer-based insurance, harming medical outcomes.
13. Allowing the elimination or erosion of birthright citizenship through an Executive Order would disrupt the timely issuance of essential documentation for children at birth, as facilitated by the EAB program. This would happen not only for children of undocumented parents, but for all children. Children born to citizen parents would need to find some way to establish the citizenship of their parents. Currently, that is not necessary because being born in the United States establishes citizenship.
14. Allowing the elimination or erosion of birthright citizenship through an Executive Order would restrict access to vital healthcare services for infants, a particularly vulnerable population, as social science research shows they are more susceptible to health risks and complications. Any bureaucratic barriers that impede access to healthcare can become highly problematic very quickly.
15. Allowing the elimination or erosion of birthright citizenship through an Executive Order

[5] *Id.*

would also add to the chilling effect of immigrant families being discouraged to seek out necessary medical attention, leading to missed preventive services and untreated conditions. Even where families are entitled to receive care, where there is confusion and uncertainty, we see families foregoing needed care.

Signed under pains and penalty of perjury, this 19th day of January 2025.

Rose L. Molina, M.D., M.P.H.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF CAROL GALLETLY

I, Carol Galletly, make the following declaration based on my personal knowledge and declare under the penalty of perjury that the following is true and correct:

Background

1. I am an Associate Professor at a private medical school, pharmacy school, and graduate school of sciences. I hold a PhD in Health Education, as well as a JD, from the Ohio State University.
2. My research applies empirical methods to guide the development of sound law and policy on critical issues at the intersection of individual behavior and public health. My research addresses topics including sexual health, HIV seropositive status disclosure, stigma, and the assessment of structural-level HIV prevention interventions.
3. Among other areas of study, my work focuses on the interaction between public

health and immigration law.

The Interaction Between Public Health and Immigration Status

4. Persons whose immigration status is undocumented may be afraid of being identified and thus may avoid interacting with public health representatives. Their legal fears may prompt them to go "undergound," out of the reach of public health. Concerns about confidentiality, collaborations between public health officials and immigration enforcement, and running afoul of immigration-related laws and regulations can prompt them to avoid traditional public health epidemic response measures—disease testing, prompt treatment, vaccination, and contact tracing. This can increase morbidity and mortality within the population as a whole.

5. Undocumented immigrants' fear of being identified may make them reluctant to provide the information necessary for public health contact. Yet contact with individuals is critical to reduce transmission and prevent morbidity and mortality. Immigrants' concerns about being identified can extend to undocumented family members, co-workers, and others. They may be afraid lest undocumented others are identified. These others who may have been exposed but not contacted are denied the benefit of disease testing and of transmission information and may unknowingly risk the forward infection of a disease that public health officials are attempting to contain.

Effects of Executive Order Eliminating Birthright Citizenship

6. If, based on an Executive Order, Social Security stopped issuing social security numbers or cards to people with a US birth certificate because this document was no longer sufficient to establish citizenship, public health would be compromised. The

number of undocumented residents in the US would be greatly expanded. Public health disease control efforts could be undermined as undocumented immigrants seek to avoid detection. Further, undocumented persons face barriers to healthcare and safe employment, contributing to the spread of disease.

Signed under pains and penalty of perjury, this 20th day of January 2025.

/s/ Carol Galletly JD, PhD

Carol Galletly

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF DANIEL KANSTROOM

I, Daniel Kanstroom, make the following declaration based on my personal knowledge. I declare under the penalty of perjury that the following is true and correct:

Background and Experience

1. I am Professor of Law with tenure, Faculty Director of the Rappaport Center for Law & Public Policy, and Dean's Distinguished Scholar at Boston College Law School. My areas of academic expertise include Human Rights, Refugee Law, Immigration Law, and Administrative Law.

2. In addition to my academic work, I founded the Boston College Immigration and Asylum Clinic. I served for more than a decade as Co-Director of the Boston College Center for Human Rights and International Justice. I created the Post-Deportation Human Rights

Project to conceptualize and develop a new field of law, while representing U.S. deportees abroad and undertaking empirical studies of the effects of deportation on families and communities.

3. Together with my students, I have litigated many immigration and asylum cases and provided counsel for hundreds of clients over more than 40 years of practice as a lawyer. I have also organized innumerable public presentations in schools, churches, community centers, courts and prisons, and advised community groups. I have trained federal and state judges, prosecutors and defense attorneys in the intricacies of US immigration law.

4. I have published widely in the fields of U.S. immigration law, criminal law, and European citizenship and asylum law. I am the author of Aftermath: Deportation Law and the New American Diaspora (Oxford University Press) and Deportation Nation: Outsiders in American History (Harvard University Press). I am a co-editor of The New Deportations Delirium (NYU Press) and Constructing "Illegality": Immigrant Experiences, Critiques, and Resistance (Cambridge University Press). I have also published dozens of law review articles, book reviews, and essays.

The Meaning and Importance of U.S. Citizenship

5. Citizenship is a universal politico-legal aspect of the modern world of nation states. Every state has a unique set of criteria for citizenship and for various statuses of noncitizens. In general terms, citizenship everywhere confers what one well-known scholar referred to in 1950 as "full membership of a community." T.H. Marshall, *Citizenship and Social Class and Other Essays* (1950) p. 8.

6. In all states, the specific legal aspects of citizenship vary. U.S. citizenship confers a unique bundle of privileges and benefits. These include the right to reside in the United States, the right not to face deportation under any circumstances, the right to vote in federal elections, the right to hold certain political offices and government positions, the ability to

leave and to re-enter the United States freely unencumbered by immigration criteria and processes, and eligibility for various public benefits.

7. Although many U.S. constitutional rights do not depend upon citizenship status (e.g. the right to due process of law and the rights of those charged with crimes), it is clear that U.S. citizenship is an essential element of American identity and a foundational element of American social cohesion. It facilitates social, community, and economic integration through tangible and intangible characteristics. Thus, although it is something of an overstatement to say, as Justice Earl Warren once did, that citizenship is "the right to have rights," there are many arenas of U.S. law and politics in which this is clearly true. Perez v. Brownell, 356 US 44, 46 (1958).

The Consequences of an Executive Order Challenging Birthright Citizenship

8. Citizenship, as noted, is both an abstract, theoretical politico-legal concept and a forensic question of proof. Unlike many other states, the U.S. does not have a centralized, national database of U.S. citizens. Most U.S. citizens demonstrate their citizenship with a state-issued birth certificate showing they were born in the U.S. As a matter of longstanding precedent under the Common Law and, most specifically, the Fourteenth Amendment of the U.S. Constitution, birth on U.S. soil *definitively* and *conclusively* proves one's citizenship, with only a very few, highly technical, rare exceptions. This system is simple and basic and was designed as such for important reasons of inclusion, equal protection, and avoidance of the development of a caste of multi-generational noncitizens.

9. As the U.S. Supreme Court noted, in the seminal 1898 case that first definitively interpreted the scope of the Fourteenth Amendment:

> "The Amendment, in clear words and in manifest intent, *includes the children born within the territory of the United States, of all other persons*, of whatever race or color, domiciled within the United States. Every citizen or subject of another country, while domiciled here, is within the allegiance

> and the protection, and consequently subject to the jurisdiction, of the United States…" United States v. Wong Kim Ark, 169 U.S. 649, (1898) (emphasis added)

10. U.S. immigration law, by contrast, is exceedingly complex, as many courts have recognized over many decades. Assessment of the legal status of a particular person often involves highly technical legal and factual analyses that, as one court famously noted, would "cross the eyes of a Talmudic scholar." Cervantes v. Perryman, 954 F. Supp. 1257, 1260 (1997) Birthright citizenship is one of the very few "bright lines" in immigration law and, of course, one of the most consequential. Its elimination by Executive Order would portend an immense amount of legal chaos and inevitable, irremediable harm. This is true whether the elimination or complexification of birthright citizenship is attempted as a substantive matter of law or, more subtly, as an impediment to the sorts of simple bureaucratic practices that have marked the field for centuries.

11. As the Supreme Court noted more than a half century ago, citizenship is "no light trifle to be jeopardized at any moment…" Afroyim v. Rusk, 387 U.S. at 257 (1967). This would be so even if it were the Congress that had tried to do so under one of its general or implied grants of power." *Id.* This is even more true in regard to an Executive Order. As the Court noted in *Afroyim*,

> "The very nature of our free government makes it completely incongruous to have a rule of law under which a group of citizens temporarily in office can deprive another group of citizens of their citizenship." *Id.* at 262.

12. The consequences of even a short-lived Executive Order of this type would involve intolerable legal chaos and potentially irremediable harm to individuals, families, and communities.

13. For one thing, it would predictably lead to wrongful, illegal arrests of people thought to be "aliens." Wrongful deportations not only cause tremendous emotional distress; but they

are physically dangerous and extremely difficult to rectify once a U.S. citizen is sent to a foreign country. Moreover, thousands of people apply for federal government documents every day, many of which depend upon proof of U.S. citizenship. Families of newborn children routinely apply for passports sometimes for emergency reasons to visit and help to care for sick relatives or to attend funerals with their young U.S.-born children. Many parents also apply for Social Security cards for their children at birth to facilitate eligibility for a wide array of public benefits. Thousands of older workers, in turn, apply for Social Security benefits. As the website of the Social Security Administration intones:

> "If you were not born in the U.S., proof of U.S. citizenship or lawful alien status. We must see the original document(s), or copies certified by the agency that issued them. We cannot accept documents if they have expired. We cannot accept photocopies or notarized copies." https://www.ssa.gov/benefits/retirement/planner/applying5.html

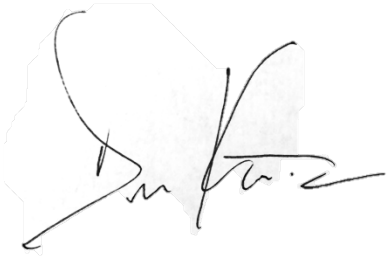
14. All of these processes and many more rely on broad, unquestioning acceptance of the norm of Fourteenth Amendment U.S. citizenship, regardless of the legal status of one's parents (except for diplomats and, perhaps, "enemy aliens" in a time of armed conflict.) A U.S. birth certificate conclusively answers the issue of one's citizenship and has done so efficiently and effectively for more than 150 years.

15. If all of this were changed—or even called into question by an Executive Order, there would be significant legal chaos and disruption. Any clerk at any level of any municipal, state or federal system might decline to issue a birth certificate or decline to recognize its legal validity as proof of citizenship. Immigration enforcement agents and those with whom they collaborate would be confused and would inevitably err. No one would know how to demonstrate citizenship. Would one have to prove the "legality" of one's parents' status? An Executive Order of this type thus implicates an enormously complicated set of legal and factual issues for which there is no training or guidance that could remotely be deemed sufficient as a matter of due process or equal protection of the laws to avoid terrible harms in practice.

16. Indeed, the chaos would extend far beyond the children of undocumented parents. Unless there were equally intolerable invidious discrimination based on race, national origin, linguistic ability, etc. [which is also foreseeable under such circumstances] *everyone* would have to demonstrate their citizenship with reference to the legal status of their parents. It is completely foreseeable that many thousands would suffer harms or at the very least, live for long periods of time in a bureaucratic morass of legal uncertainly and precarity.

17. Even if the Executive Order were eventually overturned by the U.S. Supreme Court, the disruptions and harms in the meantime would be immense. Many children born in the U.S. would lack legal status for indeterminate periods of time. Many would be stateless, and thus without the protection of any government at all. They would be unable to attain legal status or naturalize for many years, if ever. Children born in the U.S. would essentially be relegated to a subordinate caste of native-born Americans. *This was precisely the situation that the Fourteenth Amendment was designed to eliminate.* Indeed, it is well-established by Supreme Court precedent and scholarly research that a primary jurisprudential aim of the Fourteenth Amendment was to remove not only the specific holding—but *all vestiges* of the explicitly racist and exclusionary reasoning of the infamous case of Dred Scott v. Sandford, 60 U.S. (19 How.) 393 (1857). In contrast, an Executive Order that questions birthright citizenship threatens to take us back to pre-Civil War harms that we had long thought were historical relics.

Signed under the pain and penalties of perjury this 20 day of January 2025.



Daniel Kanstroom

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF KATHERINE CULLITON-GONZÁLEZ

I, Katherine Culliton-González, make the following declaration based on my personal knowledge and declare under the penalty of perjury that the following is true and correct:

Background

1. From Jan. 2021-Sept. 2022, I was a Presidential Appointee serving as Officer for Civil Rights and Civil Liberties (CRCL) at the Department of Homeland Security (DHS). In this statutory role, I supported the mission of the Department to secure the Nation while preserving our values, including liberty, fairness, and equality under the law.
2. Prior to and after my time at DHS, I have served in a variety of roles in the federal government and in the non-profit sector and national bar associations, and developed significant expertise in civil rights and citizenship, including through peer-reviewed research. I am an attorney and graduated as valedictorian of American University law school in May 1993. I am providing this declaration in my personal capacity.

The Importance of Birthright Citizenship to American Democracy

3. As I documented in my 2012 *Harvard Human Rights Law Journal* article, *Born in the Americas: Birthright Citizenship and Human Rights*, limiting birthright citizenship would be antithetical to American democracy, as it is clearly unconstitutional and would upend 157 years of American constitutional norms put in place through the Reconstruction Amendments that were enacted to replace the odious and discriminatory ideas of the *Dred Scott* and previous decisions limiting equal access to citizenship based on race.
4. Limiting birthright citizenship would also undermine the promises of the Civil Rights Act of 1964 and the Immigration and Nationality Act of 1965, which eliminated basing access to citizenship on race or national origin. The great majority of the millions of families and children targeted are people of color, with the majority being Latino.
5. Contrary to popular belief, the United States is not exceptional in providing birthright citizenship. As I documented in 2012, every nation in the Americas except for the Dominican Republic provides birthright citizenship as part of their constitutional promise of equality and democracy. The promise of freedom in the Americas contrasts with the former European monarchies that tried to colonize the people of this hemisphere, including Black and Indigenous peoples provided birthright citizenship as a fundamental promise of constitutional democracy. The U.S. followed suit with the Fourteenth Amendment and the subsequent 1898 Supreme Court decision in *Won Kim Ark*.

Effects of Executive Order Eliminating Birthright Citizenship

6. The executive order has clear discriminatory impacts and is disruptive to many aspects of American life including the safety and security of millions of American families and communities. There is no comprehensive list of U.S. citizens, making it impossible to implement without massive mistakes likely resulting in deportation of U.S. citizens and

misusing resources meant for national security, public safety, health and education.

7. It can be extremely difficult and costly to access a social security card or a passport, and the fear and confusion introduced by this executive order will make access to these documents even more difficult for every child and especially for children of color, who are the majority of the next generation of Americans, across our nation.
8. Foreign policy and economic implications include that Latin American nations may no longer reciprocate by providing citizenship documents for the children of American citizens living abroad, such as the 1.6 million U.S. citizens living in Mexico, disrupting their access to education, health care, ability to work, and property rights.

Signed under pains and penalty of perjury, this 20th day of January 2025.

Katherine Culliton-González

Katherine Culliton-González

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

O. DOE; BRAZILIAN WORKER CENTER, INC.; LA COLABORATIVA, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; U.S. SOCIAL SECURITY ADMINISTRATION; MARCO RUBIO, in his official capacity as Secretary of State; MICHELLE KING, in her official capacity as Acting Commissioner of U.S. Social Security Administration, Defendants.	Civil Action No. 25-10136-LTS

DECLARATION OF ARMEN H. MERJIAN

DECLARATION OF ARMEN H. MERJIAN

I, Armen H. Merjian, make the following declaration based on my personal knowledge and declare under the penalty of perjury that the following is true and correct:

Background

1. I am a graduate of Yale University (*magna cum laude* 1986) and Columbia Law School (Harlan Fiske Stone Scholar 1990), and I am licensed to practice law in Connecticut, New York, and several federal courts.

2. Currently, I am the Senior Staff Attorney at Housing Works, Inc. (Housing Works) in New York, a position that I have held for the last 27 years. Housing Works is a nonprofit organization dedicated to ending the twin crises of homelessness and HIV.

3. The Housing Works Legal Department assists clients in two areas of practice: (a) individual client services, which assists indigent clients with their civil legal needs, including, chiefly, housing issues and public benefits, and (b) impact litigation on matters of importance to the community, including public benefits and housing discrimination. In my capacity as Senior Staff Attorney, I supervise the individual client services and lead the impact litigation. I also regularly speak in city, state, and national fora, and publish in law review articles, books, and other media on issues that include public benefits and housing issues.

Housing Outcomes Associated with Citizenship

4. In both public and private housing markets, United States citizens tend to fare better than non-citizens, particularly those who are undocumented. For example, undocumented individuals are ineligible for most housing assistance programs, such as Section 8 and myriad state and local housing voucher and subsidy programs. In addition, public housing and project-based rental assistance all restrict eligibility for citizens and documented immigrants. If,

however, at least one member of the household is eligible, the entire household may live in the unit, though the rent is prorated. What this means is that citizenship confers upon families the ability to secure subsidized or public housing. This is critical to the health, safety, and lives of these immigrant families, for stable housing is the wellspring to education, employment, health, wealth accumulation, and prosperity. At Housing Works, we say that "housing is healthcare," for without stable housing, it is impossible to store medication and fresh food, regularly attend medical appointments, and to maintain a strict medical regimen.

5. To take another example, the FEMA Individuals and Households program is available only to individuals with eligible immigration status or households with at least one eligible adult or child. For those facing emergencies, and for those who have often lost everything, the presence of an eligible child can mean the difference between homelessness and stable housing.

6. Here in New York City, families with at least one documented family member are eligible to receive housing from the New York City Housing Authority and Section 8. Undocumented family members are responsible for paying their portion of the rent. Hence, in a family with one citizen child and two undocumented parents, the family is provided with 33% of the subsidy allotted for a family of three. This can make all the difference in providing the family with a chance to thrive, and to ensure the proper development of the child.

7. Similarly, citizenship renders children eligible for all of the programs provided to citizens, including Medicaid, the Supplemental Nutrition Assistance Program (SNAP), child care, and numerous additional federal, state, and local programs. Such programs, combined with safe and secure housing, can make all the difference in the lives of children of the undocumented, and of their families.

8. Each of these affects the other: most immigrants are renters, and throughout the United States, low-income individuals pay a disproportionately high percentage of their income toward rent. The provision of benefits and services, such as Medicaid and SNAP, helps to ensure that families are not rendered unable to meet their rental obligations as a result of the high cost of childcare, child medical care, and food, to take three examples.

9. For those excluded from public housing and thus forced into the private rental market, the situation is dire. Lack of legal status renders families of the undocumented disproportionately impecunious, and as a result, such families are often forced to live in overcrowded, unsafe, unsanitary, and unstable conditions. Such families are also more vulnerable to exploitation and to unscrupulous practices by landlords.

10. For example, in New York, many families with undocumented family members find themselves unwittingly renting unsafe and illegal apartments, such as illegal basement apartments. Among other things, these apartments are vulnerable to devastating flooding, and it is my understanding that undocumented individuals have even died as a result of such flooding. These families, together with their children, find it difficult or impossible to assert their housing rights, and to secure, for example, critical repairs to unsafe, unsanitary, and often uninhabitable conditions.

Effects of Executive Order Eliminating Birthright Citizenship

11. Over five million U.S. citizen children live with an undocumented family member. If, based upon an executive order, the Social Security administration stopped issuing Social Security numbers and cards to those with a United States birth certificate, and/or if birth certificates were no longer sufficient to establish citizenship, the ability of households with

undocumented individuals, including myriad children, would be severely compromised and restricted.

12. Anything that increases bureaucratic barriers decreases access to housing. Given that, as noted, safe and secure housing is a wellspring to health, education, employment, and childhood development, for example, this poses the very real risk of plunging huge numbers into a downward spiral, in which the inability to access housing leads to homelessness, job loss, lack of childcare, lack of medical coverage, lack of food assistance, lack of educational opportunity, and a host of related maladies. It would cause endless pain and suffering to countless individuals and their families and only exacerbate a homelessness crisis that has reached staggering proportions in municipalities throughout the United States.

Signed under pains and penalty of perjury, this 21st day of January 2025.

Armen H. Merjian