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12
13 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15
16 COUNTY OF SANTA CLARA,

17 Plaintiff,

18 v.

19 DONALD J. TRUMP, President of the United
20 States of America, JOHN F. KELLY, in his
official capacity as Secretary of the United States
21 Department of Homeland Security, JEFFERSON
B. SESSIONS, in his official capacity as
22 Attorney General of the United States, JOHN
MICHAEL “MICK” MULVANEY, in his
23 official capacity as Director of the Office of
24 Management and Budget, and DOES 1-50,

25 Defendants.

CASE NO.: 17-cv-00574

**JOINDER OF PLAINTIFF-INTERVENOR
YOUNG WOMEN’S CHRISTIAN
ASSOCIATION OF SILICON VALLEY IN
COUNTY OF SANTA CLARA’S MOTION
FOR A PRELIMINARY INJUNCTION**

Date: April 5, 2017
Time: 2:00 p.m.
Dept.: Courtroom 2
Before: Hon. William H. Orrick

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1 Pursuant to Federal Rule of Civil Procedure 65, Plaintiff-Intervenor Young Women’s Christian
2 Association of Silicon Valley (“Plaintiff-Intervenor” or “YWCA Silicon Valley”) hereby joins Plaintiff
3 County of Santa Clara’s (“Plaintiff” or “Santa Clara”) (collectively, “Plaintiffs”) motion for a
4 preliminary injunction preventing the enforcement of Section 9 of Executive Order 13768, entitled
5 “Enhancing Public Safety in the Interior of the United States” (the “Executive Order”). By this joinder
6 and through the accompanying Declaration of Ann Marie Pate (“Pate Declaration” or “Pate Decl.”),
7 YWCA Silicon Valley presents facts and argument pertaining to its critical interests in the granting of
8 the requested injunction.

9 This joinder is based upon the accompanying Memorandum of Points and Authorities, the
10 pleadings and papers contemporaneously filed in support of YWCA Silicon Valley’s Motion for
11 Permissive Intervention, the pleadings and papers filed in support of Santa Clara’s Motion for
12 Preliminary Injunction, the Pate Declaration, any oral argument this Court may allow, and any other
13 matter of which this Court takes notice.

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. INTRODUCTION**

16 YWCA Silicon Valley joins in Santa Clara’s motion for preliminary injunction to prevent the
17 enforcement of Section 9 of Executive Order 13768, “Enhancing Public Safety in the Interior of the
18 United States” (the “Executive Order”), issued by Defendant President Donald J. Trump on January 25,
19 2017. The Executive Order purports to authorize the President and his executive agents with
20 unprecedented, unlimited, and unconstitutional power to deprive “sanctuary jurisdictions” of all federal
21 funding. For the reasons detailed in Santa Clara’s motion, Santa Clara and YWCA Silicon Valley are
22 likely to succeed on the merits of their claims that the Executive Order violates separation of power
23 principles, exceeds the limitations of the spending power, and violates the Fifth Amendment.

24 In addition, YWCA Silicon Valley and the vulnerable population it serves will suffer immediate
25 and irreparable harm absent an injunction against the enforcement of this unlawful presidential
26 overreach. The Executive Order threatens YWCA Silicon Valley’s financial stability and its ability to
27 continue to deliver critical services to its clients. Not only that, the Executive Order creates a clear

1 danger that substantial federal funds already committed to YWCA Silicon Valley will be cut off by
2 reason of an executive branch designation of Santa Clara County or other jurisdictions as a “sanctuary
3 jurisdiction.” This looming threat makes it impossible for YWCA Silicon Valley to plan rationally for
4 the provision of services relied on by thousands of vulnerable people throughout Santa Clara County.
5 Given the nature and severity of this likely injury—constitutional violations coupled with the
6 deprivation of social services essential to the health and safety of its clients—the balance of hardships
7 and the public interest favor a preliminary injunction.

8 **II. BACKGROUND**

9 **A. YWCA Silicon Valley Provides Critically Important Programs and Social Services.**

10 Plaintiff-Intervenor YWCA Silicon Valley is a nonprofit corporation located in San Jose,
11 California. Founded in 1905, it seeks to eliminate racism and empower women through a variety of
12 programs, including assistance for women who have been victims of sexual assault, domestic violence
13 and human trafficking. Pate Decl. ¶ 3; Complaint in Intervention ¶ 18. YWCA Silicon Valley
14 provides critical services, education, and other resources to approximately 18,000 people in Santa Clara
15 County. Pate Decl. ¶¶ 3-4. For example, YWCA Silicon Valley facilitates a 24-hour hotline serving
16 victims of sexual assault, domestic violence, and human trafficking (*id.* ¶ 13); and it operates rapid
17 rehousing services, a shelter facility, and counseling services that are specifically designated to serve
18 the needs of such individuals (*id.*). If these services have to be eliminated or curtailed, the victims they
19 serve will face greater exposure to ongoing violence and greater risk of homelessness. *Id.*

20 **B. YWCA Silicon Valley Depends on Federal Funds Threatened by the Executive** 21 **Order.**

22 Federal funds represent approximately 37.5% percent, or \$2.656 million, of YWCA Silicon
23 Valley’s annual budget. *Id.* ¶ 6. Those funds are received via multiple channels, including directly
24 from the federal government, and flowing through the State of California, the County of Santa Clara,
25 the City of San Jose, and other municipalities and townships in Santa Clara County. *Id.* Among other
26 programs, YWCA Silicon Valley’s federal grants enable it to provide support line advocates for
27 victims of domestic violence, advocates as part of a sexual assault response team, and counseling and
28

1 support for sexual assault and domestic violence victims. *Id.* ¶ 7. Typically, these funds are received
2 in the form of reimbursements for funds that YWCA Silicon Valley has spent in compliance with the
3 terms of a grant. *Id.* ¶ 7. In addition, YWCA supports rapid rehousing for its clients using federal funds
4 that are received directly from federal agencies at the recommendation of Santa Clara County. *Id.* ¶ 8.

5 **C. The Executive Order Prevents YWCA Silicon Valley from Making Budgeting and**
6 **Programming Decisions.**

7 The threatened loss of federal funding triggered by the Executive Order has already thrown
8 YWCA Silicon Valley's operations into turmoil. *See id.* ¶¶ 10-13. Among other complications, it
9 cannot plan for the programs and services that it intended to provide in the future and it cannot hire
10 personnel or incur obligations with third parties. *Id.* ¶¶ 11-12. The uncertainty resulting from the
11 promulgation of the Executive Order has already seriously impacted the planning of YWCA Silicon
12 Valley's FY 2018 budget, which must be completed by the end of April 2017 and presented to the
13 organization's Board of Directors on May 22, 2017. *Id.* ¶ 11. Without the ability to count on the
14 receipt of vital federal funds, YWCA Silicon Valley is planning to institute a hiring freeze on
15 potentially affected programs. *Id.*

16 **ARGUMENT**

17 As set forth in Santa Clara's Motion for Preliminary Injunction (*see* ECF No. 26), Plaintiffs
18 satisfy all four factors required for entry of such preliminary relief: (1) they are "likely to succeed on
19 the merits," (2) they are "likely to suffer irreparable harm in the absence of preliminary relief," (3) "the
20 balance of equities tips in [their] favor," and (4) "the injunction is in the public interest." *Winter v.*
21 *Natural Res. Def. Council*, 555 U.S. 7, 20 (2008).

22 With respect to the first factor, YWCA Silicon Valley fully adopts and incorporates by
23 reference the arguments set forth in Santa Clara's motion about the likelihood that Plaintiffs will
24 prevail on the merits of their claims. In particular, YWCA Silicon Valley agrees that the Executive
25 Order flagrantly disregards multiple, bedrock constitutional principles: it "shatters the constitutional
26 boundary between executive and legislative authority" and it "fails to provide the procedural due
27 process guaranteed by the Fifth Amendment." ECF No. 26 at 2, 12-21.

1 YWCA Silicon Valley also joins Santa Clara’s arguments regarding the remaining *Winter*
2 factors. *See id.* at 21-25. In addition to these arguments, YWCA Silicon Valley faces unique hardships
3 as a direct provider of essential public services and as a non-governmental entity that receives federal
4 funding through multiple channels separate from Santa Clara County. In light of its separate interests,
5 YWCA Silicon Valley faces a distinct risk of irreparable harm if the Executive Order is enforced.
6 YWCA Silicon Valley also contributes a unique perspective to how the balance of hardships and the
7 public interest favor injunctive relief. These important considerations support the entry of an
8 injunction in this case.

9 **A. YWCA Silicon Valley Will Suffer Imminent, Irreparable Harm Absent An**
10 **Injunction.**

11 “[T]he deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’”
12 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Eldrod v. Burns*, 427 U.S. 347, 373
13 (1976)); accord *Washington v. Trump*, No. 17-35105, 2017 U.S. App. LEXIS 2369, at *33 (9th Cir.
14 Feb. 9, 2017); see also *Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013) (“[S]uits for declaratory
15 and injunctive relief against the threatened invasion of a constitutional right do not ordinarily require
16 proof of any injury other than the threatened constitutional deprivation itself.”).

17 In addition, the deprivation of services necessary to protecting individual health, safety, and
18 independence support a showing of likely irreparable harm, particularly where the losses will affect
19 vulnerable people. See, e.g., *Bowen v. City of N.Y.*, 476 U.S. 467, 483-84 (1986) (discussing
20 irreparable injury from loss of benefits and resulting trauma); *Beno v. Shalala*, 30 F.3d 1057, 1063 n.10
21 (9th Cir. 1994) (“Numerous cases have held that reductions in [Aid to Families with Dependent
22 Children (AFDC)] benefits, even reductions of a relatively small magnitude, impose irreparable harm
23 on recipient families.” (collecting authorities)); *Beltran v. Meyers*, 677 F.2d 1317, 1322 (9th Cir. 1982)
24 (affirming finding of irreparable injury where enforcement of law “may deny [plaintiffs] needed
25 medical care”); *Hernandez v. Cnty. of Monterey*, 110 F. Supp. 3d 929, 956-57 (N.D. Cal. 2015)
26 (irreparable harm likely to result from exclusion from medications, exercise, religious services,
27 Narcotics and Alcoholics Anonymous meetings, and communication services); *Tamara v. El Camino*

1 *Hosp.*, 964 F. Supp. 2d 1077, 1087 (N.D. Cal. 2013) (deprivation of a service animal amounts to
2 irreparable harm where it will deprive plaintiff “of her independence,” and “result in less future
3 independence”); *V.L. v. Wagner*, 669 F. Supp. 2d 1106, 1109 (N.D. Cal. 2009) (“the human suffering
4 that will be caused by the change in the law justifies the Court’s preliminary injunction against the
5 implementation of this change”); *Gresham v. Windrush Partners, Ltd.*, 730 F.2d 1417, 1424 (11th Cir.
6 1984) (irreparable injury likely to result from the “loss of safe, sanitary, decent and integrated housing”
7 and the “loss of being unable to escape the never-ending and seemingly unbreakable cycle of poverty”
8 (citation omitted)).

9 Here, in addition to the harms outlined by Santa Clara, enforcement of the Executive Order
10 threatens YWCA Silicon Valley and its clients not only with the multiple constitutional violations
11 alleged in Santa Clara’s complaint and the Complaint in Intervention, but also with devastating tangible
12 injuries. If enforced, the Executive Order is certain to cause irreparable harm to YWCA Silicon Valley
13 and its clients. In the likely event that any one or all of YWCA Silicon Valley’s home jurisdictions—
14 including the state of California, the County of Santa Clara, the City of San Jose and other cities within
15 Santa Clara County—are determined by the Executive Branch to be “sanctuary jurisdictions” and are
16 barred from receiving federal funding, then YWCA Silicon Valley stands to lose up to 37.5% of its
17 operating budget. *Pate Decl.* ¶ 13. The threat of such loss, over which YWCA Silicon Valley has no
18 control, renders YWCA Silicon Valley incapable of fulfilling its mission as it cannot hire personnel,
19 expend funds, or budget for future operations. *Id.* ¶ 11-14.

20 Among numerous other services and resources, the loss of this funding will prevent YWCA
21 Silicon Valley from providing a 24-hour hotline for victims of sexual assault, domestic violence, and
22 human trafficking; advocates to victims of sexual assault during law enforcement interviews, medical
23 exams, and trial proceedings; and a shelter facility in Santa Clara County specifically designated to
24 serve the needs of victims of sexual assault, domestic violence, and human trafficking, as well as rapid
25 rehousing services dedicated to such victims. *Id.* ¶ 13. Particularly when coupled with numerous
26 constitutional violations, the risk of these harms amply supports a finding of irreparable injury. *See,*
27 *e.g., Melendres*, 695 F.3d at 1002; *Beno*, 30 F.3d at 1063 n.10; *see also Washington v. Trump*, No.

1 C17-0141JLR, 2017 U.S. Dist. LEXIS 16012, at *7 (W.D. Wash. Feb. 3, 2017) (finding “immediate
2 and irreparable injury” and “harms [that] are significant and ongoing” where Executive Order likely
3 will be found to violate the Constitution and will interfere with individuals’ “employment, education,
4 business, family relations, and freedom to travel”).

5 **B. The Balance of Harms Tilts Sharply in the Moving Parties’ Favor, and the**
6 **Preliminary Injunction is in the Public’s Interest.**

7 “When the government is a party, [the equities and public interest] factors merge.” *Drakes Bay*
8 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435
9 (2009)). And whatever the Government’s cited interest, “enforcement of an unconstitutional law is
10 always contrary to the public interest.” *Gordon*, 721 F.3d at 653; *see also Melendres*, 695 F.3d at 1002
11 (the balance of hardships and public interest both favor “prevent[ing] the violation of a party’s
12 constitutional rights”). The Government “is in no way harmed by issuance of a preliminary injunction
13 which prevents the state from enforcing restrictions likely to be found unconstitutional. If anything, the
14 system is improved by such an injunction.” *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th
15 Cir. 2002) (citation omitted); *see also Planned Parenthood Ass’n of Cincinnati, Inc. v. Cincinnati*, 822
16 F.2d 1390, 1400 (6th Cir. 1987). This reasoning is especially compelling where, as here, the most
17 vulnerable members of society may be “wrongfully deprived of essential benefits for any period of
18 time.” *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).

19 Depriving YWCA Silicon Valley of federal funding would seriously hinder, or altogether
20 eliminate, its ability to provide critical services to thousands of vulnerable individuals. For example,
21 YWCA Silicon Valley depends heavily on federal funds to operate emergency housing, shelter,
22 advocacy, and counseling services to victims of domestic violence, sexual assault, and human
23 trafficking. *See Pate Decl.* ¶¶ 7, 13. Ceasing provision of such vital and needed services would put
24 vulnerable people at further risk tilting the balance of equities and the public interest in favor of a
25 preliminary injunction. *Wagner*, 669 F. Supp. 2d at 1122 (the public interest weighs heavily in favor of
26 granting preliminary relief and stating that “[i]t would be tragic, not only from the standpoint of the
27 individuals involved but also from the standpoint of society, were poor, elderly, disabled people to be

1 wrongfully deprived of essential benefits for any period of time.” (quoting *Lopez*, 713 F.2d at 1437));
2 *see also Beltran*, 677 F.2d at 1322 (“Where the meaning of the Medicaid legislation or its
3 implementing regulations is unclear, the resulting uncertainty is a consequence of a failure of the
4 governmental process to operate efficiently. The financial consequences of this inefficiency under the
5 circumstances of this case ought not to be visited upon individuals such as the plaintiffs-appellees.”)

6 **III. CONCLUSION**

7 YWCA Silicon Valley, its clients, and the public will suffer profound and irreparable harm if
8 the Executive Order is not enjoined. YWCA Silicon Valley therefore joins in Santa Clara County’s
9 motion for preliminary injunctive relief.

10
11 Respectfully submitted,

12 DATED: March 1, 2017

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