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 11 THE BAR ASSOCIATION OF
 SAN FRANCISCO

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

15 THE REGENTS OF THE UNIVERSITY OF
 CALIFORNIA and JANET NAPOLITANO,
 16 in her official capacity as President of the
 University of California,

17 Plaintiffs,

18 v.

19 U.S. DEPARTMENT OF HOMELAND
 SECURITY and ELAINE DUKE, in her
 20 official capacity as Acting Secretary of the
 Department of Homeland Security,

21 Defendants.
 22

Case No. 3:17-CV-05211-WHA

**NOTICE OF MOTION AND MOTION OF
 THE BAR ASSOCIATION OF SAN
 FRANCISCO TO FILE A BRIEF AS
 AMICUS CURIAE IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 PROVISIONAL RELIEF**

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1 STATE OF CALIFORNIA, STATE OF
 2 MAINE, STATE OF MARYLAND, and
 3 STATE OF MINNESOTA,
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 5 Plaintiffs,
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 7 v.
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 9 U.S. DEPARTMENT OF HOMELAND
 10 SECURITY, ELAINE DUKE, in her official
 11 capacity as Acting Secretary of the
 12 Department of Homeland Security, and the
 13 UNITED STATES OF AMERICA,
 14
 15 Defendants.

Case No. 3:17-CV-05235-WHA

10 CITY OF SAN JOSE, a municipal
 11 corporation,
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 13 Plaintiffs,
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 15 v.
 16
 17 DONALD J. TRUMP, President of the United
 18 States, in his official capacity, ELAINE C.
 19 DUKE, in her official capacity, and the
 20 UNITED STATES OF AMERICA,
 21
 22 Defendants.

Case No. 3:17-CV-05329-WHA

17 DULCE GARCIA, MIRIAM GONZALEZ
 18 AVILA, SAUL JIMENEZ SUAREZ,
 19 VIRIDIANA CHABOLLA MENDOZA,
 20 NORMA RAMIREZ, and JIRAYUT
 21 LATTHIVONGSKORN,
 22
 23 Plaintiffs,
 24
 25 v.
 26
 27 UNITED STATES OF AMERICA, DONALD
 28 J. TRUMP, in his official capacity as President
 of the United States, U.S. DEPARTMENT OF
 HOMELAND SECURITY, and ELAINE
 DUKE, in her official capacity as Acting
 Secretary of Homeland Security,
 Defendants.

Case No. 3:17-CV-05380-WHA

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Case No. 3:17-CV-05813-WHA

COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE C. DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and the U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT the Bar Association of San Francisco (“BASF”) hereby moves the Court for leave to file a brief as *amicus curiae* in support of Plaintiffs’ Motion for Provisional Relief in the above-captioned cases. A copy of the proposed Brief of *Amicus Curiae* the Bar Association of San Francisco in Support of Plaintiffs’ Motion for Provisional Relief is attached hereto as **Exhibit A**.

Dated: November 1, 2017

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By _____
/s/ John-Paul S. Deol
NEIL A.F. POPOVIĆ
JAMES L. MCGINNIS
MARK S. ROSS
JOHN-PAUL S. DEOL

Attorneys for *Amicus Curiae*
THE BAR ASSOCIATION OF SAN FRANCISCO

1 **I. LEGAL STANDARD**

2 District courts have broad discretion to permit third parties to participate in an action as *amici*
 3 *curiae*. *Woodfin Suite Hotels, LLC v. City of Emeryville*, No. C 06-1254 SBA, 2007 WL 81911, at
 4 *3 (N.D. Cal. Jan. 9, 2007). Such discretion is generally exercised liberally, as there are no strict
 5 prerequisites that must be established to qualify for amicus status. *Id.* The sole criterion is that the
 6 applicant must demonstrate that its “participation is useful or otherwise desirable to the court.” *Id.*
 7 (quoting *In re Roxford Foods Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991)). District courts
 8 frequently accept *amicus* briefs from non-parties where the legal issues in a case “have potential
 9 ramifications beyond the parties directly involved.” *Sonoma Falls Devs., LLC v. Nev. Gold &*
 10 *Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (quoting *Cobell v Norton*, 246 F. Supp.
 11 2d 59, 62 (D.D.C. 2003)).

12 **II. STATEMENT OF IDENTITY AND INTEREST OF AMICUS CURIAE**

13 BASF is a nonprofit organization with a membership of over seven thousand legal
 14 professionals in the Bay Area. Founded in 1872 by pioneers and Civil War veterans, BASF is a
 15 leader in the formation and improvement of the legal system in San Francisco, California and the
 16 United States. BASF’s mission statement is as follows:

17 The Bar Association of San Francisco champions equal access to
 18 justice and promotes humanity, excellence, and diversity in the legal
 profession.

19 We provide legal services to disadvantaged and underserved
 20 individuals in San Francisco. We create opportunities for legal service
 in the community and encourage participation by our members.

21 We advance professional growth and education, and elevate the
 22 standards of integrity, honor, and respect in the practice of law.

23 We cultivate diversity and equality in the legal profession, provide a
 24 collective voice for public advocacy, and pioneer constructive change
 in society.

25
 26 BAR ASSOCIATION OF SAN FRANCISCO, *About Us: Our Mission*, <http://www.sfbar.org/about/> (last
 27 visited October 30, 2017).

1 BASF submits this brief to add to the Court’s understanding of the severe and detrimental
2 impact that the termination of the Deferred Action for Childhood Arrivals (“DACA”) program
3 would have on the American legal profession. In so doing, BASF highlights the benefits that
4 undocumented legal professionals, particularly those who are DACA recipients, confer on the
5 profession through their unique perspectives and work with clients in need.

6 As an organization advocating for equal access to justice, as well as humanity, excellence,
7 and diversity in the legal profession, BASF has a direct and substantial interest in the outcome of
8 this case. BASF is therefore qualified to inform the Court about the devastating impact the
9 termination of the DACA program would have on its own members and on others in the legal
10 profession and community.

11 III. REASONS FOR AND RELEVANCE OF BASF’S BRIEF

12 As described above, BASF is at the forefront advocating for equal access to justice, as well
13 as humanity, excellence, and diversity in the legal profession. As a bar association whose members
14 include attorneys, law students, and other legal professionals, including DACA recipients and
15 DACA-eligible individuals, BASF has a valuable perspective regarding the deleterious
16 consequences that would flow from the rescission of the DACA program. BASF’s perspective is
17 unique as its brief discusses the specific impact that the federal government’s termination of DACA
18 would cause to the legal profession and legal community, both in the Bay Area and nation-wide.

19 IV. CONCLUSION

20 For the foregoing reasons, BASF respectfully requests that the Court to grant it leave to file
21 the attached brief as *amicus curiae* in support of Plaintiffs’ Motion for Provisional Relief.¹

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27 ¹ Counsel for BASF reached out to counsel for Plaintiffs in Case No. 3:17-CV-05380-WHA to
28 advise of BASF’s intent to file a brief as *amicus curiae* in this matter. Plaintiffs’ counsel did not
express any objections.

EXHIBIT A

EXHIBIT A

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Case No. 3:17-CV-05211-WHA

**BRIEF OF AMICUS CURIAE THE BAR
 ASSOCIATION OF SAN FRANCISCO IN
 SUPPORT OF PLAINTIFFS' MOTION
 FOR PROVISIONAL RELIEF**

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1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
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Case No. 3:17-CV-05235-WHA

3 Plaintiffs,

4 v.

5 U.S. DEPARTMENT OF HOMELAND
6 SECURITY, ELAINE DUKE, in her official
7 capacity as Acting Secretary of the Department
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8 Defendants.

9
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11 Plaintiffs,

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13 DONALD J. TRUMP, President of the United
14 States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
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17 DULCE GARCIA, MIRIAM GONZALEZ
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19 VIRIDIANA CHABOLLA MENDOZA,
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Case No. 3:17-CV-05380-WHA

20 Plaintiffs,

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22 UNITED STATES OF AMERICA, DONALD
23 J. TRUMP, in his official capacity as President
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1 COUNTY OF SANTA CLARA and SERVICE
2 EMPLOYEES INTERNATIONAL UNION
3 LOCAL 521

Case No. 3:17-CV-05813-WHA

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6 DONALD J. TRUMP, in his official capacity as
7 President of the United States, JEFFERSON
8 BEAUREGARD SESSIONS, in his official
9 capacity as Attorney General of the United
10 States; ELAINE C. DUKE, in her official
11 capacity as Acting Secretary of the Department
12 of Homeland Security; and the U.S.
13 DEPARTMENT OF HOMELAND
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 3. Clients Will Suffer If the Government Terminates the DACA
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 2. DACA Legal Professionals’ Unique Traits of Empathy and
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 2 FOR AMERICAN PROGRESS (Oct. 18, 2016),
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 26 *Their Undocumented Clients*, THINKPROGRESS (Aug. 15, 2017), <https://thinkprogress.org/the-unlikely-story-of-the-undocumented-attorneys-fighting-for-the-lives-of-their-undocumented-clients-07209cb95282/>7
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 28 White Paper, *How Foreign-Born Workers Make America More Competitive and Benefit American Workers*12

1 I. INTEREST OF *AMICUS CURIAE*

2 The Bar Association of San Francisco (“BASF”) is a nonprofit organization with a
3 membership of over seven thousand legal professionals in the Bay Area. Founded in 1872 by
4 pioneers and Civil War veterans, BASF is a leader in the formation and improvement of the legal
5 system in San Francisco, California and the United States. BASF’s mission statement is as follows:

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7 justice and promotes humanity, excellence, and diversity in the legal
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8 We provide legal services to disadvantaged and underserved
9 individuals in San Francisco. We create opportunities for legal service
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10 We advance professional growth and education, and elevate the
standards of integrity, honor, and respect in the practice of law.

11 We cultivate diversity and equality in the legal profession, provide a
12 collective voice for public advocacy, and pioneer constructive change
in society.

13
14 BAR ASSOCIATION OF SAN FRANCISCO, *About Us: Our Mission*, <http://www.sfbar.org/about/> (last
15 visited October 30, 2017).

16 BASF submits this brief to assist the Court in understanding that the termination of the
17 Deferred Action for Childhood Arrivals (“DACA”) program would have a severe and detrimental
18 impact on the American legal profession. In so doing, BASF highlights the benefits that DACA-
19 authorized legal professionals confer on the profession through their unique perspectives and work
20 with clients in need, including undocumented immigrants and others.

21 BASF has a direct and substantial interest in the outcome of this case, as it is an organization
22 devoted to advocating for equal access to justice, as well as humanity, excellence, and diversity in
23 the legal profession. DACA legal professionals often undertake legal representation of the neediest
24 residents surviving on the margins of our community, and by doing so, assist BASF in advancing
25 access to justice. BASF is therefore qualified to inform the Court about the devastating impact the
26 termination of the DACA program would have on its own members and on others in the legal
27 profession and the community.

28

1 For these reasons and those discussed below and in Plaintiffs’ Motion for Provisional Relief,
 2 BASF respectfully requests that this Court grant Plaintiffs’ Motion for Provisional Relief and enjoin
 3 the rescission of the DACA program.

4 III. ARGUMENT

5 A. Termination of the DACA Program Would Impact Lawyers, Law Students, and Those 6 That Depend on Them.

7 As a result of the federal government’s DACA program, lawyers and law students
 8 participating in DACA have become fully integrated members of the legal profession. Some of the
 9 nation’s most populous states have grappled with the issue of whether law school graduates in the
 10 DACA program should be admitted to their respective state bars, and have concluded that admitting
 11 these aspiring lawyers to practice is both fair to the individuals and important for the profession. As
 12 of this year, California, Florida, Illinois, Nebraska, New York, and Wyoming now allow
 13 undocumented immigrants the opportunity to obtain a license to practice law under certain
 14 conditions, including, in some states, the condition that the applicant possess a valid work permit
 15 from the federal government or have been granted DACA relief.²

16 With these states leading the way, the tide of popular opinion is also shifting. This year, the
 17 American Bar Association passed a resolution stating that it supports “the principle that bar

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 19 ² Cal. Bus. & Prof. Code § 6064(b) (“Upon certification by the examining committee that an
 20 applicant who is not lawfully present in the United States has fulfilled the requirements for
 21 admission to practice law, the Supreme Court may admit that applicant as an attorney at law in all
 22 the courts of this state.”); Fla. Stat. Ann. § 454.021 (“Upon certification by the Florida Board of Bar
 23 Examiners that an applicant who is an unauthorized immigrant ... has fulfilled all requirements for
 24 admission to practice law in this state, the Supreme Court of Florida may admit that applicant as an
 25 attorney at law authorized to practice in this state.”); 705 Ill. Comp. Stat. Ann. 205/2 (“No person
 26 shall be prohibited from receiving a license solely because he or she is not a citizen of the United
 27 States.”); Neb. Rev. Stat. Ann. § 4-111 (“The Legislature finds that it is in the best interest of the
 28 State of Nebraska to make full use of the skills and talents in the state by ensuring that a person who
 is work-authorized is able to obtain a professional or commercial license and practice his or her
 profession.”); *In re Vargas*, 131 A.D.3d 4, 27–28 (N.Y. App. Div. 2015) (“Finding no legal
 impediment or rational basis for withholding the privilege of practicing law in the State of New
 York from undocumented immigrants who have been granted DACA relief, we ... declare that such
 persons may be admitted to the practice of law.”); Wyo. Stat. Ann. § 33-5-105 (removing the
 requirement that an applicant for a law license be a U.S. citizen).

1 admission should not be denied based solely on immigration status,” and urging Congress to amend
2 federal law to state affirmatively that “[a] state court vested with exclusive authority to regulate
3 admission to the bar may, by rule, order, or other affirmative act, permit an undocumented alien
4 seeking legal status to obtain a professional license to practice law in that jurisdiction.” A.B.A.
5 Resolution 108 (2017).

6 These recent changes in policy have opened the door for work authorized immigrants,
7 particularly those participating in DACA, to practice law despite their otherwise unsettled
8 immigration status. Since being granted the ability to engage in their chosen profession, these newly
9 admitted professionals, and the law students following in their footsteps, have made significant
10 impacts on the lives of their clients and on the legal profession as a whole.

11 **1. DACA Lawyers Are Making Tangible Contributions to the Profession.**

12 In the relatively short amount of time they have been admitted to practice law, DACA
13 attorneys have made powerful contributions to the legal profession and to the lives of their clients.
14 The case of New York DACA recipient and attorney Cesar Vargas is illustrative. In early 2016,
15 almost five years after he passed the state’s bar examination and fought a protracted legal battle in
16 the courts, Mr. Vargas was finally admitted to practice law in New York. Rebecca Klein, *An*
17 *Undocumented Teen Gains Asylum With The Help Of His Undocumented Lawyer*, HUFFINGTON
18 POST (Jul. 22, 2017), [https://www.huffingtonpost.com/entry/cesar-vargas-undocumented-lawyer-](https://www.huffingtonpost.com/entry/cesar-vargas-undocumented-lawyer-client_us_59727244e4b09e5f6ccf6cf6)
19 [client_us_59727244e4b09e5f6ccf6cf6](https://www.huffingtonpost.com/entry/cesar-vargas-undocumented-lawyer-client_us_59727244e4b09e5f6ccf6cf6). Born in Puebla, Mexico in September of 1983, Mr. Vargas
20 came to the United States with his siblings and mother when he was five-and-a-half years old,
21 without lawful documentation to enter or remain in the country. *In re Vargas*, 131 A.D.3d at 6–7.
22 Mr. Vargas attended elementary school and high school in the New York City public school system,
23 and then attended college in Brooklyn, New York, graduating in December of 2005. *Id.* He was
24 then accepted to law school at the City University of New York School of Law. *Id.* During his time
25 in law school, he undertook a number of prestigious internships, working for Main Street Legal
26 Services, Inc., the Office of the District Attorney of Kings County, a New York State Supreme Court
27 Justice, and even a member of Congress. *Id.*

28

1 Since being admitted to practice law in 2016, Mr. Vargas has taken on several pro bono
2 projects to provide legal representation to immigrants in need of legal assistance. Klein, *supra*. The
3 most prominent example of his pro bono work is his recent representation of Ivan Ruiz, an
4 undocumented sixteen-year-old Honduran immigrant seeking asylum. *Id.* Mr. Ruiz is a member of
5 the Garifuna ethnic group, an Afro-indigenous people often subjected to intense discrimination in
6 Honduras. *Id.* While still living in that country, Mr. Ruiz was barely fed, was forced to work long
7 hours, and was frequently beaten because of his ethnic background. *Id.* This discriminatory
8 treatment prompted him to flee Honduras for the United States, which he entered without
9 documentation in 2016. *Id.* Based on the pro bono work of Mr. Vargas, Mr. Ruiz was granted
10 asylum. *Id.* He now pursues summer school classes, studies English, and lives the normal life of a
11 teenager. *Id.* Despite his victory for Mr. Ruiz, Mr. Vargas recognizes the reality that, given his now
12 uncertain DACA status, Mr. Ruiz “is probably going to have a much more permanent immigration
13 status than his attorney.” *Id.*

14 Mr. Vargas is but one of many DACA attorneys giving back to the profession they only
15 recently were allowed to enter. California attorneys Luis Angel Reyes Savalza and Lizbeth Mateo
16 were brought to the United States from Mexico when they were children. Jennifer Medina, *A*
17 *Defender of the Constitution, With No Legal Right to Live Here*, N.Y. TIMES (Jul. 17, 2017),
18 <https://www.nytimes.com/2017/07/17/us/undocumented-immigrants-illegal-citizenship.html>.
19 Having both been admitted to the State Bar of California, they now practice immigration law,
20 primarily focusing on representing undocumented immigrants such as themselves. *Id.*

21 Ms. Mateo spends her days preparing legal strategies to help undocumented immigrants
22 remain in the United States. *Id.* Despite her admission to practice law and her important work
23 assisting new immigrants obtain legal status, Ms. Mateo herself is subject to removal at the
24 government’s whim. *Id.* That threat, however, has not stopped her from pursuing justice for others.
25 Because she has not yet received DACA relief, she does not have authorization to work for a law
26 firm or company. *Id.* Nevertheless, Ms. Mateo plans to open her own practice in order to continue
27 representing her clients, including undocumented immigrants. *Id.* In the meantime, she represents
28 her clients from an office at a center for day laborers in Pasadena, California. *Id.*

1 Mr. Reyes Savalza is Ms. Mateo's lawyer and himself a DACA recipient. *Id.* For the past
2 two years, he has worked at a prominent nonprofit firm in San Francisco, California, where he
3 defends immigrants from the federal government's attempts to deport them. *Id.* With the end of
4 DACA, Mr. Reyes Savalza may himself soon be subject to removal, despite the invaluable
5 contributions he has made to the lives of his clients. Like his colleagues Mr. Vargas and Ms. Mateo,
6 Mr. Reyes Savalza was inspired to become an immigration lawyer because of his own family's
7 entanglement with the immigration system. Mike McPhate, *California Today: They're Lawyers,*
8 *and at Risk of Deportation*, N.Y. TIMES (Jul. 18, 2017),
9 [https://www.nytimes.com/2017/07/18/us/california-today-undocumented-immigrants-](https://www.nytimes.com/2017/07/18/us/california-today-undocumented-immigrants-lawyers.html)
10 [lawyers.html](https://www.nytimes.com/2017/07/18/us/california-today-undocumented-immigrants-lawyers.html).

11 Mr. Reyes Savalza's background is impressive. He attended New York University School
12 of Law, where he worked with immigrants facing deportation as part of the school's Immigrant
13 Rights and Advanced Immigrant Rights Clinics. PANGAEA LEGAL SERVICES, Luis Angel Reyes
14 Savalza, <http://www.pangealegal.org/luis-angel-reyes-savalza> (last visited October 29, 2017).
15 During law school, he also served as an articles editor of the NYU Law Review. *Id.* In his last year
16 of school, he argued before the U.S. Court of Appeals for the Second Circuit, successfully
17 persuading the court that immigrants subject to mandatory detention must be provided with a bail
18 hearing within six months of their detention. *Lora v. Shanahan*, 804 F.3d 601, 606 (2d Cir. 2015).

19 Ms. Mateo and Messrs. Vargas and Reyes Savalza are just three examples of the many
20 DACA lawyers doing important work and making tangible contributions to the legal profession,
21 despite only having been admitted to practice law for a very short amount of time and despite their
22 own uncertain legal status. There are many more examples of such dedication throughout the nation,
23 and if DACA remains in effect, many more to come.

24 **2. Like Their Licensed Counterparts, DACA Law Students Are Also Making Key**
25 **Contributions to the Legal Profession.**

26 DACA attorneys are not the only immigrants contributing to the betterment of the legal
27 profession despite their uncertain immigration status. There are many DACA law students across
28 the nation who seek nothing more than to become lawyers so they can also participate in the noble

1 profession of law. In some cases, these individuals are not simply pursuing their studies, they are
2 actively engaged in representing clients, even while in school. Cristel Martinez Medina and Alfonso
3 Maldonado Silva are two key examples. Both DACA recipients, Ms. Martinez Medina and Mr.
4 Maldonado Silva graduated from Western State College of Law with honors in May of 2017 and
5 are currently awaiting admission to the State Bar. Yvette Cabrera, *The Unlikely Story of the*
6 *Undocumented Attorneys Fighting for the Lives of Their Undocumented Clients*, THINKPROGRESS
7 (Aug. 15, 2017), [https://thinkprogress.org/the-unlikely-story-of-the-undocumented-attorneys-](https://thinkprogress.org/the-unlikely-story-of-the-undocumented-attorneys-fighting-for-the-lives-of-their-undocumented-clients-07209cb95282/)
8 [fighting-for-the-lives-of-their-undocumented-clients-07209cb95282/](https://thinkprogress.org/the-unlikely-story-of-the-undocumented-attorneys-fighting-for-the-lives-of-their-undocumented-clients-07209cb95282/). While in law school, Ms.
9 Martinez Medina and Mr. Maldonado Silva worked in their school’s legal clinics. They even
10 represented a client before the U.S. Court of Appeals for the Ninth Circuit, argued the case and
11 obtained a remand to the Board of Immigration Appeals, thus giving their undocumented client the
12 opportunity to challenge his removal order and apply for other immigration relief. *Id.* Having now
13 graduated from law school, both are dedicated to the pursuit of justice for undocumented
14 immigrants. Nevertheless, like Mr. Vargas in New York, both students recognize the irony that
15 while they have saved their client from deportation, they themselves are at risk of being removed if
16 the government terminates the DACA program. *Id.*

17 While Ms. Martinez Medina and Mr. Maldonado Silva’s work advancing justice for
18 immigrants is impressive, the benefits that these law students bring to the legal profession are not
19 limited to the field of immigration law, nor to protecting the interests of the undocumented. One
20 student, N, who was interviewed in the course of drafting this brief, intends to work in healthcare
21 law after graduating from the University of California, Berkeley Law School.³ N was brought to
22 the United States at the age of ten. While growing up undocumented in the Bay Area, he experienced
23 homelessness and a chronic lack of access to quality healthcare, largely because of his
24 undocumented status (and that of his family).

25 N applied for the DACA program immediately after it became available in 2012. In 2013,
26 while a college student at the University of California at Santa Cruz pursuing dual degrees in
27

28 ³ To respect the privacy of the interviewee, he will be referred to as “N.”

1 sociology and politics, he was granted DACA status and received work authorization from the
 2 federal government. N used his work authorization to take part in his school's work study program.
 3 After he graduated from college in 2014, N worked for Covered California, enrolling eligible
 4 individuals in health insurance plans. After working for Covered California, N took on a role with
 5 the San Francisco AIDS Foundation, where he helped Latinos and other people of color apply for,
 6 understand, and utilize healthcare benefits. Of particular interest to N was the fact that many
 7 immigrants and individuals of color, especially those in the LGBT community, either did not know
 8 about or had difficulty obtaining important medications, such as PrEP and PEP.⁴ Some had trouble
 9 obtaining insurance coverage for these medications, even though they obtained valid prescriptions.

10 Working through the San Francisco AIDS Foundation, N also represented clients before the
 11 California Department of Managed Healthcare in challenging denials of benefits for PrEP and PEP.
 12 This experience, and his own personal life experiences, inspired him to apply to law school. While
 13 he has two-and-a-half years of school remaining, N expects to graduate from Berkeley Law and
 14 work in healthcare law in order to assist individuals like himself and his family obtain the healthcare
 15 benefits to which they are entitled. With his current work authorization, N is currently participating
 16 in his school's clinical programs, advising undocumented individuals in tenants' and workers' rights
 17 matters. Without DACA, N will be forced to cease his work in those clinics and, without lawful
 18 status, may be subject to removal himself, thus ending a promising legal career before it has even
 19 begun.

20 3. Clients Will Suffer If the Government Terminates the DACA Program.

21 Subjecting attorneys with DACA status to removal would destroy critical attorney-client
 22 relationships. The harm would be permanent and irreversible. The detention and/or removal of
 23 affected attorneys would leave their clients without legal representation when they are at their most
 24 vulnerable and in need of their legal representatives. *See Mendoza v. Ruesga*, 169 Cal. App. 4th
 25 270, 274 (2008) (“[I]mmigrants seeking legal residency in the United States” are a “particularly

26 _____
 27 ⁴ PrEP and PEP are pre-exposure and post-exposure prophylactic medications for those who might
 28 come into contact or have recently come into contact with HIV.

1 vulnerable population.”); *In re Dale*, No. 00-O-14350, 2005 WL 1389226, at *11 (Cal. Bar Ct. May
2 6, 2005) (recognizing the particular vulnerability of criminal defendants).⁵

3 Having built strong, longstanding relationships of trust with their lawyers, these clients
4 would be forced to start over with new, unfamiliar counsel, perhaps in the middle of their legal
5 travails, whether they be business dealings, civil litigation, removal proceedings or criminal cases.
6 Clients placed in such a situation may not have the means to afford new legal representation, having
7 spent what they had on their previous lawyer. Even under the best of circumstances, having to
8 change counsel midstream involves disruption, added expense and lost time, and it is difficult to
9 imagine a more disruptive and terrifying event than for an undocumented client to have her lawyer
10 detained pending deportation by the U.S. government.

11 **B. The End of the DACA Program Would Be Detrimental to Diversity and Excellence in
12 the Legal Profession.**

13 **1. DACA Recipients Make The Legal Profession More Diverse, Benefitting the
14 Profession as a Whole.**

15 The legal profession is already one of the nation’s least diverse professions. Only
16 approximately 14.7% of lawyers are African-American, Asian-American, or Latino, with Latino
17 lawyers making up only 5.6% of the total population of U.S. lawyers. BUREAU OF LABOR
18 STATISTICS, Labor Force Statistics from the Current Population Survey,
19 <https://www.bls.gov/cps/cpsaat11.htm> (last visited October 29, 2017).

20 Termination of the DACA program would disproportionately affect Latinos and reduce the
21 numbers of Latinos already in the legal profession, in addition to those who might pursue a law
22 degree in the future. As of 2016, approximately 741,546 undocumented young people had received
23 DACA status. Tom Wong, *New Study of DACA Beneficiaries Shows Positive Economic and
24 Educational Outcomes*, CENTER FOR AMERICAN PROGRESS (Oct. 18, 2016),
25

26 ⁵ By way of example, Ms. Mateo and Mr. Reyes Savalza alone currently represent more than a dozen
27 clients. Medina, *supra*. This is in addition to the clients represented by the numerous other DACA-
28 qualified legal professionals now admitted to practice law (or allowed to practice under the
supervision of their professors).

1 <https://www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of->
2 [daca-beneficiaries-shows-positive-economic-and-educational-outcomes/](https://www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of-daca-beneficiaries-shows-positive-economic-and-educational-outcomes/). Almost all DACA
3 recipients (*i.e.*, 94%) were born in Mexico or Central or South America. Gustavo Lopez, *Key Facts*
4 *About Unauthorized Immigrants Enrolled in DACA*, PEW RESEARCH CENTER (September 25, 2017),
5 [http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-](http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/)
6 [enrolled-in-daca/](http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/). According to a recent survey conducted by Tom K. Wong, a political science
7 professor at the University of California at San Diego, approximately 46% of DACA recipients are
8 currently in school. Wong, *supra*. Seventy percent of those individuals are pursuing a bachelor’s
9 degree or higher. *Id.* This includes individuals pursuing master’s degrees, Ph.D. degrees, and
10 professional degrees, some of whom may wish to become lawyers. *Id.*

11 DACA recipients bring with them unique backgrounds, experiences, opinions, and
12 viewpoints, all of which contribute to the diversity of the legal profession. While the legal
13 profession may already include people of color, diversity is not limited solely to race or gender. As
14 the Supreme Court has pointed out, “diversity takes many forms.” *Fisher v. Univ. of Texas at Austin*,
15 136 S. Ct. 2198, 2210 (2016). Given their undocumented status, these attorneys and law students
16 bring an important set of experiences and perspectives to the profession. They are different, even
17 from their lawfully present immigrant counterparts, who may share their cultural backgrounds and
18 countries of origin, but who do not share the experience of having lived in the United States without
19 legal status and without the benefits such status brings with it. Indeed, it is not simply that the
20 undocumented immigrants in question are largely persons of color that makes them special, although
21 their cultural backgrounds are vitally important. Instead, it is that these undocumented individuals
22 have perspectives, opinions, and experiences that no other lawyers have, *because they are*
23 *undocumented*, that makes them invaluable to the legal profession.

24 The Supreme Court has recognized that the benefits of diversity are “not theoretical, but
25 real” and that they are “substantial.” *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003). The benefits
26 to the legal profession that come from the diversity of its membership are similar to the benefits a
27 diverse student body confers on public education. As the Supreme Court reasoned in *Grutter*,
28 diversity promotes “cross-racial understanding, helps to break down racial stereotypes, and enables

1 [individuals] to better understand persons of different races,” enriching the educational environment
2 for all concerned, including other students and faculty. *Id.* at 330 (internal quotation marks omitted).
3 Furthermore, “major American businesses have made clear that the skills needed in today’s
4 increasingly global marketplace can only be developed through exposure to *widely diverse people,*
5 *cultures, ideas, and viewpoints.*” *Id.* (emphasis added). “Effective participation by members of
6 all ... groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to
7 be realized.” *Id.* at 332. As Justice O’Connor put it in *Grutter*:

8 In order to cultivate a set of leaders with legitimacy in the eyes of the
9 citizenry, it is necessary that the path to leadership be visibly open to
10 talented and qualified individuals of every race and ethnicity. All
11 members of our heterogeneous society must have confidence in the
12 openness and integrity of the educational institutions that provide this
13 training. As we have recognized, law schools cannot be effective in
14 isolation from the individuals and institutions with which the law
 interacts. Access to legal education (and thus the legal profession)
 must be inclusive ... so that all members of our heterogeneous society
 may participate in the educational institutions that provide the training
 and education necessary to succeed in America.

15 *Id.* at 332–33 (internal citations and quotation marks omitted).

16 While diversity of every kind is crucial to the success of public education, it is particularly
17 crucial in the legal profession. “Diversity and inclusion strengthens the profession and enhances its
18 ability to serve clients, solve problems, resolve conflicts, and dispense justice.” Nicole Negowetti,
19 *Implicit Bias and the Legal Profession's "Diversity Crisis": A Call for Self-Reflection*, 15 NEV. L.J.
20 930, 949–50 (2015). Indeed, as Eli Wald, a professor at the University of Denver Sturm College of
21 Law has explained, “[L]aw is the social glue of our society” and “is premised on the fundamental
22 values of equality, fairness, and the rule of law.” Eli Wald, *A Primer on Diversity, Discrimination,*
23 *and Equality in the Legal Profession or Who Is Responsible for Pursuing Diversity and Why*, 24
24 GEO. J. LEGAL ETHICS 1079, 1101–02 (2011). “[A]s long as lawyers claim to be public citizens and
25 servants of the public interest, and purport to have a special relationship with and owe fiduciary
26 duties to pursue equality and justice, they owe a duty to combat under-representation based on
27 inequalities, cultural perceptions, and past and current discrimination.” *Id.* DACA lawyers with
28 their rich diversity of experiences, backgrounds, opinions, and viewpoints are uniquely positioned

1 to aid the legal profession in fulfilling its duty to promote equality, fairness, and the rule of law, no
 2 matter what type of law they practice.⁶ Losing these individuals would mean losing their unique
 3 attributes and their important contributions to the profession, with lasting consequences.

4 A reduction in the diversity of the profession would also mean losing credibility with the
 5 individuals the law seeks to serve, including undocumented immigrants. As Professor Wald
 6 persuasively reasons, “a diverse bar is more likely to be able to meet, and be perceived as able to
 7 meet the goals of access to lawyers, justice, and effective representation. [T]he very essence of a
 8 just legal system is ... in the identity of the legal actors who make and enforce [the laws].” *Id.* This
 9 can affect the public’s perception of equal treatment and fairness by the legal system. *Id.* Indeed,
 10 a study undertaken by the National Center for State Courts found that a majority of those asked
 11 stated that African Americans and Latinos usually receive less favorable results in court than others
 12 and that approximately two-thirds of those asked believed that non-English speakers also receive
 13 less favorable results. Negowetti, *supra* at 950. If, however, DACA attorneys are granted the ability
 14 to represent (and to continue to represent) their clients, including those in circumstances similar to
 15 their own, such attorney-client relationships would engender trust and confidence in the profession
 16 by those who have traditionally been skeptical of it.

17 **2. DACA Legal Professionals’ Unique Traits of Empathy and Compassion.**

18 Intertwined with their diverse experiences, backgrounds, opinions, and viewpoints is DACA
 19 legal professionals’ ability to empathize with and show compassion for their clients, particularly
 20 clients who, like them, are undocumented and/or individuals of color. In discussing her work
 21 representing an undocumented immigrant before the Ninth Circuit, Ms. Martinez Medina explained,
 22 “I’ve always said, you can talk about poverty, but if you haven’t been poor you really don’t
 23 understand what poverty is.” Cabrera, *supra*. Ms. Martinez Medina credits her success in obtaining
 24 her clients’ trust to her own experience as an undocumented immigrant of humble means,
 25

26 ⁶ Studies have shown that, of those responsible for some of the most important business innovations
 27 in the United States, over a third are foreign-born, while seventeen percent are not U.S. citizens.
 28 White Paper, *How Foreign-Born Workers Make America More Competitive and Benefit American
 Workers*, HR POLICY ASSOCIATION (2017).

1 acknowledging that undocumented clients are much more likely to open up to her knowing that she
2 has walked a similar path. *Id.*

3 As Kristin Gerdy, a professor at Brigham Young University's Reuben Clark Law School
4 points out, "[E]mpathy and compassion must go hand in hand with 'thinking like a lawyer' and in
5 fact, caring actually makes analysis stronger." Kristin Gerdy, *Clients, Empathy, and Compassion:
6 Introducing First-Year Students to the "Heart" of Lawyering*, 87 NEB. L. REV. 1, 15 (2008). Indeed,
7 "success in law (as in other fields) correlates significantly more with relationship skills than it does
8 with intelligence, writing ability, or any other known factor." Joshua Rosenberg, *Interpersonal
9 Dynamics: Helping Lawyers Learn the Skills, and the Importance, or Human Relationships in the
10 Practice of Law*, 58 U. MIAMI L. REV. 1225, 1229 (2004). "To experience empathy means to share
11 or at least understand a client's feelings, to imagine and thereby nonjudgmentally understand what
12 it would be like to be in the client's position. And once the lawyer has developed empathy for the
13 client, she can more effectively exercise her other skills on the client's behalf." Gerdy, *supra* at 18.
14 Empathy aids a lawyer in building rapport with the client, fosters open and complete
15 communication, leads to more thorough legal analysis, and improves the image of the legal
16 profession. *Id.* at 19-20.

17 In addition to empathy, compassion is also a crucial lawyering skill. "When a client feels
18 that a lawyer ... is compassionate, she feels that the lawyer is loyal to her cause and can be a source
19 of emotional sustenance, particularly for those clients whose legal problems are as painful as they
20 are complex. [And] [w]ith the emotional support of a compassionate lawyer, the client may be better
21 equipped to face a long, difficult legal battle." *Id.* at 26-27.

22 While a U.S.-born attorney, for example, might be perfectly competent in immigration law,
23 he or she can never know what it is like to have immigrated to this country, oftentimes under
24 precarious conditions. He or she can never know what it is like to go without the benefits afforded
25 to American citizens simply by virtue of their birth on American soil. He or she can never know
26 what it is like to live in constant fear of detention and/or deportation. All of these experiences give
27 undocumented legal professionals a unique perspective to contribute to the practice of law and to
28 the service of their clients, just as lawyers from other backgrounds bring their own unique

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19 **UNITED STATES DISTRICT COURT**
 20 **NORTHERN DISTRICT OF CALIFORNIA**
 21 **SAN FRANCISCO DIVISION**

22 THE REGENTS OF THE UNIVERSITY OF
 23 CALIFORNIA and JANET NAPOLITANO,
 24 in her official capacity as President of the
 25 University of California,

26 Plaintiffs,

27 v.

28 U.S. DEPARTMENT OF HOMELAND
 SECURITY and ELAINE DUKE, in her
 official capacity as Acting Secretary of the
 Department of Homeland Security,

Defendants.

Case No. 3:17-CV-05211-WHA

**[PROPOSED] ORDER RE
 ADMINISTRATIVE MOTION OF THE
 BAR ASSOCIATION OF SAN
 FRANCISCO TO FILE A BRIEF AS
 AMICUS CURIAE IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 PROVISIONAL RELIEF**

1 STATE OF CALIFORNIA, STATE OF
 2 MAINE, STATE OF MARYLAND, and
 3 STATE OF MINNESOTA,
 4
 5 Plaintiffs,
 6
 7 v.
 8
 9 U.S. DEPARTMENT OF HOMELAND
 10 SECURITY, ELAINE DUKE, in her official
 11 capacity as Acting Secretary of the
 12 Department of Homeland Security, and the
 13 UNITED STATES OF AMERICA,
 14
 15 Defendants.

Case No. 3:17-CV-05235-WHA

10 CITY OF SAN JOSE, a municipal
 11 corporation,
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 13 Plaintiffs,
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 15 v.
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 17 DONALD J. TRUMP, President of the United
 18 States, in his official capacity, ELAINE C.
 19 DUKE, in her official capacity, and the
 20 UNITED STATES OF AMERICA,
 21
 22 Defendants.

Case No. 3:17-CV-05329-WHA

18 DULCE GARCIA, MIRIAM GONZALEZ
 19 AVILA, SAUL JIMENEZ SUAREZ,
 20 VIRIDIANA CHABOLLA MENDOZA,
 21 NORMA RAMIREZ, and JIRAYUT
 22 LATTHIVONGSKORN,
 23
 24 Plaintiffs,
 25
 26 v.
 27
 28 UNITED STATES OF AMERICA, DONALD
 J. TRUMP, in his official capacity as President
 of the United States, U.S. DEPARTMENT OF
 HOMELAND SECURITY, and ELAINE
 DUKE, in her official capacity as Acting
 Secretary of Homeland Security,
 Defendants.

Case No. 3:17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
3 UNION LOCAL 521

Case No. 3:17-CV-05813-WHA

4 Plaintiffs,

5 v.

6 DONALD J. TRUMP, in his official capacity
7 as President of the United States, JEFFERSON
8 BEAUREGARD SESSIONS, in his official
9 capacity as Attorney General of the United
10 States; ELAINE C. DUKE, in her official
11 capacity as Acting Secretary of the Department
12 of Homeland Security; and the U.S.
13 DEPARTMENT OF HOMELAND
14 SECURITY,

15 Defendants.

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[PROPOSED] ORDER

On November 1, 2017, the Bar Association of San Francisco filed an Administrative Motion to File a Brief as *Amicus Curiae* in Support of Plaintiffs’ Motion for Provisional Relief. Having considered the papers and pleadings on file, the Court GRANTS the Motion of the Bar Association of San Francisco. The brief, attached as Exhibit A, to the Administrative Motion to File a Brief as *Amicus Curiae* in Support of Plaintiff’s Motion for Provisional Relief is hereby deemed filed.

IT IS SO ORDERED.

Dated: _____

Hon. William H. Alsup