



President Trump Signs Second “Travel Ban” Executive Order; Hawaii and Maryland Federal Courts Block Ban Temporarily; DOJ Expected to Appeal

Insights

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On March 6, 2017, President Donald Trump signed a new “Travel Ban” Executive Order with an effective date of March 16, 2017. The order revoked a previous executive order signed on January 27, 2017, which was blocked by the 9th Circuit Court of Appeals. The new order suspends entry for nationals of six countries under a “temporary pause.” The order exempts permanent residents and valid visa holders as of certain dates and times, and provides for case-by-case discretionary waivers. The order also suspends refugee travel to the United States for 120 days for those not previously admitted, subject to waivers in certain circumstances.

The U.S. District Courts in Hawaii and Maryland blocked the new executive order, granting a motion for a temporary restraining order before the new order took effect. The Hawaii court's injunction applied nationwide, while the Maryland decision limited its nationwide injunction to the portion of the executive order addressing visa issuance to the six identified countries. Both courts held that the plaintiffs had a strong case that the President's March 6 executive order, like his earlier order, violated the Constitution's First Amendment freedom of religion clause by disfavoring Muslims.

Government attorneys argue that the new order was stripped of any mention of religion, and urged the justices to focus instead on the national security threat the United States faces from terrorists living in the targeted countries. The U.S. Department of Justice will likely appeal both decisions, allowing the 9th Circuit to take another look at the President's order and giving the 4th Circuit an opportunity to examine the issue for the first time.

For additional background see: <https://www.fisherphillips.com/resources-alerts-d-j-vu-all-over-again-federal>. Fisher Phillips will continue monitor and report on important events as they occur. If you have any questions, please contact your Fisher Phillips legal representative for assistance.