# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

MOMODOU TAAL, MŨKOMA WA NGŨGĨ, and SRIRAM PARASURAMA,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

Defendants.

#### NOTICE OF MOTION

Civil Action No. 3:25-CV-00335-ECC

PLEASE TAKE NOTICE that, upon the Complaint and the exhibits attached thereto, the accompanying memorandum of law, and all other pleadings and proceedings in this action, Plaintiffs, by and through undersigned counsel, submit emergency motion for a temporary restraining order and request for an order to show cause to enjoin Defendants Donald Trump, the Department of Homeland Security ("DHS"), and DHS Secretary Kristi Noem from attempting to detain, remove or otherwise enforce the two executive orders against Mr. Taal prior to the scheduled hearing on Tuesday, March 25, 2025, and grant any other relief that the Court deems just and proper.

Dated: March 20, 2025 Respectfully submitted,

<u>s/ Eric Lee</u>
Eric Lee, MI Bar No. P80058
24225 W 9 Mile Rd., Suite 140
Southfield, MI 48033
(248) 602-0936

#### ca.ericlee@gmail.com

Chris Godshall-Bennett, DC Bar No. 1780920 American-Arab Anti-Discrimination Committee (ADC) 910 17th St. NW, Suite 1000 Washington, D.C. 20006 (202) 465-4247 cgb@adc.org

Mohammad A. Saleem Davis Ndanusa Ikhlas & Saleem LLP 26 Court Street - Suite 603 Brooklyn, NY 11242 646-812-7434 Email: msaleem@dnislaw.com

Maria Kari, TX Bar No. 24127161\* Project TAHA 5300 N Braeswood Blvd., Suite 4-191 Houston, TX 77096 (205) 862-8005 info@mariakari.org

Jonathan Wallace, NY Bar No. 1733757 P.O. Box 728 Amagansett, NY 11930 (917) 359-6234 jonathan.wallace80@gmail.com

Counsel for Plaintiffs

\*pro hac vice application filed

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

MOMODOU TAAL, MŨKOMA WA NGŨGĨ, and SRIRAM PARASURAMA,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; Civil Action No. 3:25-cv-00335-ECC-ML

Defendants.

# PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND REQUEST FOR AN ORDER TO SHOW CAUSE

Pursuant to Fed. R. Civ. P. 65(b) and Local Rules 7.1(e) and 65.1, Plaintiffs Momodou Taal, Műkoma Wa Ngũgĩ, and Sriram Parasurama move for a temporary restraining order against Defendants Donald Trump, the United States Department of Homeland Security ("DHS"), and DHS Secretary Kristi Noem. Plaintiffs also request the Court issue an Order to Show Cause with an expedited briefing schedule so that the relief sought can be considered prior to the hearing on Tuesday, March 25, 2025. Plaintiffs' counsel are available at the Court's earliest convenience.

This motion seeks to enjoin Defendants Donald Trump, the Department of Homeland Security ("DHS"), and DHS Secretary Kristi Noem from attempting to detain, remove, or otherwise enforce the two executive orders against Mr. Taal prior to the scheduled hearing on Tuesday, March 25, 2025, and grant any other relief that the Court deems just and proper. This motion is based on the complaint filed in this action (ECF No. 1), the previously filed motion for a temporary restraining order/preliminary injunction (ECF No. 2), the brief accompanying this

motion, any additional briefings and oral arguments of counsel, and such other and further matters as may be presented to the Court.

Absent the issuance of a temporary restraining order, Plaintiffs will suffer immediate and irreparable harm because Mr. Taal's detention would disrupt the Court's ability to adjudicate the merits of the underlying motion for a temporary restraining order/preliminary injunction, ECF No.

2. To fairly present his arguments, Mr. Taal needs direct access to counsel which would be disrupted if he were detained. This is especially the case given Defendants' pattern and practice of moving detainees to faraway locations and denying their timely access to counsel, as well as given the emergency nature of the relief sought. It is of the utmost importance that the status quo be preserved so the Court can adjudicate the merits.

Pursuant to Fed. R. Civ. P. 65(b) and Local Rules 7.1(e) and 65.1, attached to this motion are affidavits demonstrating the immediate and irreparable harm Plaintiffs will suffer if Defendants are permitted to detain Mr. Taal. These affidavits further show good and sufficient cause why the standard motion procedure cannot be used with regard to this motion given that the absence of an injunction preventing Mr. Taal's detention before the March 25, 2025, hearing would severely impair the Court's ability to fairly consider Plaintiffs' underlying motion for a temporary restraining order/preliminary injunction, ECF No. 2.

Because Defendants' counsel has not yet entered an appearance in this matter, Plaintiffs' counsel has informed the U.S. Attorney for the Northern District of New York of this motion by telephone and provided copies of the papers by fax. Given the urgency of the relief sought, the requirement of further notice would substantially prejudice Mr. Taal because further delay would enable Defendants to detain Mr. Taal, thereby rendering this motion moot.

Dated: March 20, 2025 Respectfully submitted,

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#### s/ Eric Lee

MI Bar No. P80058 Attorney for Plaintiffs 24225 W 9 Mile Rd., Suite 140 Southfield, MI 48033 Telephone: (248) 602-0936

Fax: (202) 333-6470

Email: ca.ericlee@gmail.com

### s/ Mohammad Saleem

NY Bar No. 4842753 Attorney for Plaintiffs Davis Ndanusa Ikhlas & Saleem LLP 26 Court St., Suite 603 Brooklyn, NY 11242 Telephone: (718) 783-6819

Fax: (855) 852-4742

Email: msaleem@dnislaw.com

#### s/ Jonathan Wallace

NY Bar No. 1733757 Attorney for Plaintiffs P.O. Box 728

Amagansett, NY 11930 Telephone: (917) 359-6234

Fax: (202) 333-6470

Email: jonathan.wallace80@gmail.com

#### s/ Chris Godshall-Bennett

DC Bar No. 1780920 Attorney for Plaintiffs American-Arab Anti-Discrimination Committee 910 17th St. NW, Suite 1000 Washington, D.C. 20006 Telephone: (202) 465-4247

Fax: (202) 333-6470 Email: cgb@adc.org

#### s/ Maria Kari\*

TX Bar No. 24127161 Attorney for Plaintiffs Project TAHA 5300 N Braeswood Blvd., Suite 4-191 Houston, TX 77096

Telephone: (205) 862-8005

Fax: (202) 333-6470

Email: info@mariakari.org

<sup>\*</sup>pro hac vice pending

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

MOMODOU TAAL, MŨKOMA WA NGŨGĨ, and SRIRAM PARASURAMA,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

Defendants.

Civil Action No. 3:25-cv-00335-ECC-ML

# PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER

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#### T. PRELIMINARY STATEMENT

On the morning of March 19, 2025, two eyewitnesses saw law enforcement flash a badge in the parking lot of Plaintiff Momodou Taal's residence. See Exhibits 1 and 2. Defendants are engaged in an ongoing attempt to impede this Court's ability to adjudicate the merits of the Complaint and TRO motion Plaintiffs filed on March 15, 2025. Immediate emergency relief is required.

#### II. STATEMENT OF FACTS

On March 15, Plaintiffs filed a Complaint and Motion for Temporary Restraining Order against Defendants. See ECF No. 2. On the morning of March 19, the Court issued an order setting an in-person hearing on March 25 at 2:00 PM to address the merits of the Complaint and Motion.

On the morning of March 19, current and former Cornell community members residing with Mr. Taal at a communal residence near the Cornell campus (the Telluride House) contacted the undersigned counsel. They reported that undercover law enforcement officers, from an unidentified agency, had identified themselves in the parking lot of Plaintiff Taal's residence. Alaa Farghli, a recent Cornell graduate, has provided a sworn affidavit, dated March 19, 2025, which is attached to this motion. The affidavit states the following, in relevant part:

> This morning at about 10 AM I saw a strange car that I've never seen before in our parking lot. The car had a man in it with a hat on. I walked out into the parking lot where the chef at Telluride House— Wakee Thompson—was throwing out the garbage. We both thought the car was strange so Mr. Thompson walked up to the car and asked the person what they were doing there. I was 10 feet away while this interaction was happening. When Mr. Thompson informed the individual that this was private property, the man flashed him a badge. I personally saw the badge. Though I did not see what agency was on the badge, it was law enforcement. Mr. Thompson asked the individual to leave the parking lot and the man left. Exhibit 2.

Mr. Thompson, who has worked at Telluride House for 12 years, has also provided an affidavit, which states the following, in relevant part:

> Shortly after 10 AM this morning I was throwing out the garbage and noticed a car that I've never seen before in the parking lot. I went up to the man and told him, this was private property. The man took out a law enforcement badge. He flashed it so quickly that I didn't see the name of the agency on it, but it was clear to me he was an officer. I had never seen this person before. Exhibit 1.

These developments occur alongside an emerging pattern and practice by Defendants of openly defying the authority of Article III courts to adjudicate constitutional challenges to executive policies, as evidenced by statements and events of which we ask the Court to take judicial notice. In J. G.G. v. Trump, a case challenging Defendant Trump's authority to invoke the Alien Enemies Act against non-citizens in the United States, Defendants violated an order issued by District Judge James E. Boasberg, which required the government to cease deportation flights pending adjudication of the merits. Subsequently, Defendant Trump made deeply concerning statements about Judge Boasberg's authority and, by implication, the authority of Article III courts. Defendant Trump said:

> This Radical Left Lunatic of a Judge, a troublemaker and agitator who was sadly appointed by Barack Hussein Obama, was not elected President...This judge, like many of the Crooked Judges' I am forced to appear before, should be IMPEACHED!!! WE DON'T WANT VICIOUS, VIOLENT, AND DEMENTED CRIMINALS, MANY OF THEM DERANGED MURDERERS, IN OUR COUNTRY. MAKE AMERICA GREAT AGAIN!!!<sup>1</sup>

In response, Chief Justice of the United States Supreme Court issued a statement affirming: "For more than two centuries, it has been established that impeachment is not an appropriate

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<sup>&</sup>lt;sup>1</sup> Donald Trump (@realDonaldTrump), Truth Social (March 18, 2025, 8:05 am), https://truthsocial.com/@realDonaldTrump/posts/114183576937425149.

response to disagreement concerning a judicial decision. The normal appellate review process exists for that purpose."<sup>2</sup>

Mr. Taal has long feared adverse immigration enforcement actions, as outlined in the Complaint. However, the recent development of plainclothes law enforcement officers stationed outside his home has intensified his fear and anxiety, escalating the risk of immediate harm. Mr. Taal is now in imminent danger of detention or deportation, causing irreparable harm that cannot be undone. The emotional distress, combined with the threat of enforcement action, constitutes an irreparable injury to his rights, and therefore, Plaintiff respectfully requests the issuance of a TRO to prevent further harm and preserve his due process rights until a full hearing can be held.

#### III. LEGAL STANDARD

To prevail on the underlying motion, Plaintiffs must show "(1) irreparable harm absent injunctive relief; (2) either a likelihood of success on the merits, or a serious question going to the merits to make them a fair ground for trial, with a balance of hardships tipping decidedly in the plaintiff[s'] favor; and (3) that the public's interest weighs in favor of granting the injunction." *Red Earth LLC v. United States*, 657 F.3d 138, 143 (2d Cir2011) (setting forth preliminary injunction standard); *Spencer Trask Software & Info. Servs., LLC v. RPost Int'l, Ltd.*, 190 F. Supp. 2d 577, 580 (S.D.N.Y. 2002). ("The standard for granting a temporary restraining order and a preliminary injunction . . . are identical."). Plaintiffs meet all four factors as set forth in Plaintiffs' Memorandum. *See* ECF No. 2.

<sup>2</sup> Chris Megerian, Lindsay Whitehurst, and Mark Sherman, *Roberts Rejects Trump's call for impeaching judge who ruled against his deportation plans*, AP NEWS (Mar. 18, 2025), <a href="https://apnews.com/article/donald-trump-federal-">https://apnews.com/article/donald-trump-federal-</a>

 $\underline{judges\text{-}impeachment\text{-}}29 da 1153 a 9 f 82 1067 48098 a 6606 fec 39.$ 

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Granting the present motion is necessary to preserve the Court's ability to address the merits of the underlying motion for a temporary restraining order/preliminary injunction, ECF No. 2, on Tuesday, March 25, 2025.

#### IV. ARGUMENT

Since the filing of this action on March 15, 2025, new evidence has emerged that Defendants are actively taking steps to detain Mr. Taal and initiate immigration proceedings against him, which poses a significant risk of depriving this Court of jurisdiction to address Mr. Taal's constitutional claims. The imminent threat of enforcement actions, if not immediately restrained, will not only result in irreparable harm to Mr. Taal's constitutional rights but also undermine the efficacy of this litigation by prematurely removing him from the jurisdiction of this Court.

Article III of the United States Constitution provides courts with inherent powers, supplemented by the All Writs Act, 28 U.S.C. § 1651, to take steps to project their jurisdiction. See United States v. New York Tel. Co., 434 U.S. 159, 172 (1977) ("This Court has repeatedly recognized the power of a federal court to issue such commands under the All Writs Act as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction . . . "); see also LaRouche v. Kezer, 20 F.3d 68, 74 (2d Cir. 1994) ("To preserve the status quo a court may require the parties to act or to refrain from acting."). This includes the power to issue injunctions to prevent actions that would obstruct the court's ability to adjudicate a case fairly and effectively.

The present situation directly implicates the very purpose of this Court's equitable power. Defendants are seeking to unlawfully strip this Court of its ability to adjudicate the merits of the underlying motion and complaint by detaining Mr. Taal, thereby depriving the Court of jurisdiction

under the Immigration and Nationality Act's jurisdiction-stripping provisions. See 8 U.S.C. § 1252(g). The only authority under which Mr. Taal is ostensibly removable is the unconstitutional executive orders at issue in this case. As such, the detention of Mr. Taal would be an unlawful attempt to prevent the Court from addressing the important constitutional questions raised presented.

The Immigration and Nationality Act's jurisdiction-stripping provision bars direct district court review over a "decision or action" to "commence proceedings." 8 U.S.C. §1252(g). But the Supreme Court has held that this language plainly does not apply under conditions that would be protected by retaining the status quo here. The Court held: "There are of course many other decisions or actions that may be part of the deportation process – such as the decisions to open an investigation [or] to surveil the suspected violator . . . [and] [i]t is implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings." Reno v. American-Arab Anti-Discrimination Comm., 525 U.S. 471, 482 (1999).

An emergency injunction is necessary to prevent the unlawful detention of Mr. Taal that would impede the Court's ability to adjudicate this case.

#### V. **CONCLUSION**

For these reasons, the Court should grant the motion and enjoin the government from detaining Mr. Taal to interfere with the Court's jurisdiction in this case.

Dated: March 20, 2025

Respectfully submitted,

s/ Eric Lee

MI Bar No. P80058 Attorney for Plaintiffs 24225 W 9 Mile Rd., Suite 140

Southfield, MI 48033 Telephone: (248) 602-0936 s/ Chris Godshall-Bennett

DC Bar No. 1780920 Attorney for Plaintiffs American-Arab Anti-Discrimination Committee 910 17th St. NW, Suite 1000 Washington, D.C. 20006

Fax: (202) 333-6470

Email: ca.ericlee@gmail.com

#### s/ Mohammad Saleem

NY Bar No. 4842753 Attorney for Plaintiffs Davis Ndanusa Ikhlas & Saleem LLP 26 Court St., Suite 603 Brooklyn, NY 11242 Telephone: (718) 783-6819

Fax: (855) 852-4742

Email: msaleem@dnislaw.com

### s/ Jonathan Wallace

NY Bar No. 1733757 Attorney for Plaintiffs P.O. Box 728 Amagansett, NY 11930

Telephone: (917) 359-6234

Fax: (202) 333-6470

Email: jonathan.wallace80@gmail.com

Telephone: (202) 465-4247

Fax: (202) 333-6470 Email: cgb@adc.org

#### s/ Maria Kari\*

TX Bar No. 24127161 Attorney for Plaintiffs Project TAHA 5300 N Braeswood Blvd., Suite 4-191 Houston, TX 77096

Telephone: (205) 862-8005

Fax: (202) 333-6470

Fax. (202) 333-0470

Email: info@mariakari.org

<sup>\*</sup>pro hac vice pending

# EXHIBIT 3

#### **AFFIDAVIT OF ALAA FARGHLIA**

I swear under penalty of perjury that the following is true and correct:

1. My name is Alaa Farghlia, I am a recent graduate of Cornell University and I reside in

Tompkins County, New York. I live at the Telluride House at 217 W. Ave, Ithaca, New

York 14850.

2. This is the house where Momodou Taal resides. This morning at about 10 AM I saw a

strange car that I've never seen before in our parking lot. The car had a man in it with a

hat on. I walked out into the parking lot where the chef at Telluride House—Wakee

Thompson—was throwing out the garbage. We both thought the car was strange so Mr.

Thompson walked up to the car and asked the person what they were doing there. I was

10 feet away while this interaction was happening.

3. When Mr. Thompson informed the individual that this was private property, the man

flashed him a badge. I personally saw the badge. Though I did not see what agency was

on the badge, it was law enforcement. Mr. Thompson asked the individual to leave the

parking lot and the man left.

Signed,

/s/Alaa Farghlia

Date: March 19, 2025

# EXHIBIT 1

## AFFIDAVIT OF WAKEE THOMPSON

I swear under penalty of perjury that the following is true and correct:

- 1. My name is Wakee Thompson, I am a chef at the Telluride House at 217 W. Ave, Ithaca, New York 14850. I live at 30 Abbott Lane, Ithaca, NY 10451.
- 2. I have worked at the house for 12 years. My employer is the Telluride Association.
- 3. Shortly after 10 AM this morning I was throwing out the garbage and noticed a car that I've never seen before in the parking lot.
- 4. I went up to the man and told him, this was private property. The man took out a law enforcement badge. He flashed it so quickly that I didn't see the name of the agency on it, but it was clear to me he was an officer. I had never seen this person before.

| Signed,           |                      |
|-------------------|----------------------|
| /s/Wakee Thompson | Date: March 19, 2025 |

# EXHIBIT 3

#### AFFIDAVIT OF ERIC LEE

I swear under penalty of perjury that the following is true and correct:

- 1. My name is Eric Lee, I am an attorney and I represent Momodou Taal, Sriram Parasurama and Mukoma Wa Ngũgĩ in Case 3:25-cv-00335-ECC. I am a member of the Bar of the State of Michigan and my bar number is P80058. My office is located at 24225 W 9 Mile Rd Ste 140. Southfield, MI 48033-3962. I have been admitted in the abovecaptioned matter pro hac vice.
- 2. I submit this affidavit pursuant to Local Rule 7.1(e). What follows is a detailed and specific elaboration of the reasons why the standard motion procedure cannot be used with regard to the underlying motion here, and why immediate relief is required.
- 3. It appears the government is attempting to detain Mr. Taal imminently, an action which would cause irreparable harm by preventing counsel from remaining in constant contact with Mr. Taal during the pendency of this Court's adjudication of the merits of the Temporary Restraining Order filed on March 19, 2025.
- 4. Yesterday, Wednesday, March 19, 2025 at roughly 10:45 AM, I was contacted by a resident of Mr. Taal's place of residence (a communal living area called "Telluride House" in Ithaca, New York) who informed me that undercover law enforcement officials were present at Mr. Taal's residence.
- 5. I called the individual to attempt to discern fact from rumor. The individual said he personally saw a vehicle in the parking lot which he had never seen before with a man in the vehicle who he also did not recognize. The caller told me that there were two people who had seen the same man in the vehicle show them a badge indicating he is a member of law enforcement. I asked to be put in contact with any eye witnesses.

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- 6. At roughly 11:30 AM I called the first of the two eye witnesses, Mr. Alaa Farghli, a resident of Telluride House and a recent graduate of Cornell. Mr. Farghli told me he noticed the strange vehicle that morning at roughly 10:00 AM when he was outside Telluride House. He noticed the House's chef, Mr. Wakee Thompson, who was throwing out garbage nearby. He said he witnessed Mr. Thompson approach the vehicle and ask the man seated in the driver's seat what he was doing there. Mr. Farghli told me he was roughly 10 feet away when he saw the driver show Mr. Thompson a law enforcement badge. Mr. Farghli did not see what agency was listed on the badge but he did see the badge. I asked Mr. Farghli to put me in contact with Mr. Thompson, which he did.
- 7. I immediately called Mr. Thompson, who confirmed all pertinent details of what Mr. Farghli had told me. Mr. Thompson identified himself to me as a chef at the Telluride House. He saw the vehicle parked in the Telluride House parking lot and considered it a security concern. He approached the driver and informed the driver the parking lot was private property. The driver showed Mr. Thompson a law enforcement badge. Mr. Thompson told me the driver flashed the identification so quickly that he was not able to read the agency listed.
- 8. Both eye-witnesses agreed to submit affidavits, which are attached to this filing. I also spoke to a third eye-witness who, for personal security reasons, was not interested in providing an affidavit. That individual is also a resident of Telluride House, and he informed me that he saw two other unmarked vehicles surrounding Telluride House, also at roughly 10:00 AM yesterday morning.
- 9. Upon information and belief, Defendants are presently attempting to detain Mr. Taal. In my ten years of experience as an immigration attorney, I have learned that it is common

practice for federal authorities to "stake out" a residence only when they are attempting to effectuate an arrest. Given my past experience I am not aware of any other reason why authorities would be present at Mr. Taal's residence.

- 10. If Mr. Taal is arrested, it will cause irreparable harm by rendering it exceedingly difficult for counsel to provide Mr. Taal with adequate legal representation. It will also seriously impede our ability to provide the Court with the information it will require to render judgment. We must be able to have unimpeded contact with Mr. Taal to confirm factual details involving his personal history. We anticipate receiving the government' response brief on Saturday at 5:00 P.M. and will need to be in constant and direct contact with Mr. Taal over the following 24 hours to confirm factual details and ensure that accurate information is being provided to the Court.
- 11. If Mr. Taal is detained, counsel will not be able to be in direct contact with him. We will not be able to confirm factual details about the case or to discuss legal strategy. In my experience as an immigration attorney, it is often not possible to contact a detained individual for several days after their arrest by immigration authorities. Even when contact is made with a detained individual, access to telephones is severely restricted. Especially given the expedited character of the briefing and hearing schedule set by this Court, it is critical that we be able to have direct access to Mr. Taal in the coming days.
- 12. We are particularly concerned about the possibility that if Mr. Taal is detained, he would be removed to a different jurisdiction. This would not only make it far more difficult to contact him (especially during the transfer period), it would also require the undersigned to first of all discern his whereabouts. Online mechanisms for checking a detainee's physical location are often not updated quickly enough, putting attorneys in the position

where they are forced to wait hours or even days to discern their client's physical location. This would also take time and resources away from complying with this Court's request for a reply brief due Sunday at 5:00 PM and would also undermine our ability to adequately prepare for Tuesday's 2:00 PM hearing.

- 13. Lastly, I am concerned that the government is attempting to undermine this Court's jurisdiction over the underlying Temporary Restraining Order by attempting to either place Mr. Taal in removal proceedings or remove him from the district or the country. In other civil actions presently pending before the federal courts, plaintiffs and prominent legal scholars have expressed concerns over Defendants' refusal to comply with lawful court orders, including over the transfer of individuals in immigration detention.
- 14. For the aforementioned reasons, the standard motion procedure cannot be used with regard to the underlying motion here and immediate relief is required. I have notified the U.S. Attorney's office about this filing by telephone and fax.

| Signed,     |                      |
|-------------|----------------------|
| /s/Eric Lee | Date: March 20, 2025 |

## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

| SRIRAM PARASURAMA,  |   |
|---|---|
| Plaintiffs,<br>v.   | [PROPOSED] ORDER TO SHOW CAUSE  |
| DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;  | Civil Action No. 3:25-cv-00335-ECC-ML   |
| Defendants.   |   |
| The Court has considered Plaintiffs' request f filed in support thereof. The Court agrees that Plainti this Order. It is by this Court hereby  ORDERED that Plaintiffs file and serve paper on the day of, 2025.  IT IS FURTHER ORDERED that Defendants motion by a.m./p.m. on the day of | ffs have shown good cause for the entry of s in support of the motion by a.m./p.m. s file and serve papers in opposition to the |
| IT IS FURTHER ORDERED that the Parties of, 2025, telephonically/in Courtroom  | •   |
| IT IS SO ORDERED.   |   |
| DATED:  | ZABETH C. COOMBE  |
|   | TED STATES DISTRICT JUDGE   |
|   |   |

### UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

MOMODOU TAAL, MŨKOMA WA NGŨGĨ, and SRIRAM PARASURAMA,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

Defendants.

Case No. 3:25-cv-000335-ECC-ML

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING **ORDER** 

Having considered Plaintiffs' submissions and applicable law, the Court GRANTS Plaintiffs' motion for a temporary restraining order.

IT IS SO ORDERED.

| DATED: |                              |
|--------|------------------------------|
|        | ELIZABETH C. COOMBE          |
|        | UNITED STATES DISTRICT JUDGE |