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12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION
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17 **STATE OF CALIFORNIA; STATE OF**
18 **COLORADO; STATE OF**
19 **CONNECTICUT; STATE OF**
20 **DELAWARE; STATE OF HAWAII;**
21 **STATE OF ILLINOIS; STATE OF**
22 **MAINE; STATE OF MARYLAND;**
23 **COMMONWEALTH OF**
24 **MASSACHUSETTS; ATTORNEY**
25 **GENERAL DANA NESSEL ON BEHALF**
26 **OF THE PEOPLE OF MICHIGAN;**
27 **STATE OF MINNESOTA; STATE OF**
28 **NEVADA; STATE OF NEW JERSEY;**
STATE OF NEW MEXICO; STATE OF
NEW YORK; STATE OF OREGON;
STATE OF RHODE ISLAND; STATE OF
VERMONT; COMMONWEALTH OF
VIRGINIA; and STATE OF WISCONSIN;

Plaintiffs,

v.

4:19-cv-00872-HSG

**DECLARATION OF BRIAN O'KEEFE
IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY
INJUNCTION**

1 **DONALD J. TRUMP**, in his official capacity
2 as President of the United States of America;
3 **UNITED STATES OF AMERICA; U.S.**
4 **DEPARTMENT OF DEFENSE; PATRICK**
5 **M. SHANAHAN**, in his official capacity as
6 Acting Secretary of Defense; **MARK T.**
7 **ESPER**, in his official capacity as Secretary of
8 the Army; **RICHARD V. SPENCER**, in his
9 official capacity as Secretary of the Navy;
10 **HEATHER WILSON**, in her official capacity
11 as Secretary of the Air Force; **U.S.**
12 **DEPARTMENT OF THE TREASURY;**
13 **STEVEN T. MNUCHIN**, in his official
14 capacity as Secretary of the Treasury; **U.S.**
15 **DEPARTMENT OF THE INTERIOR;**
16 **DAVID BERNHARDT**, in his official capacity
17 as Acting Secretary of the Interior; **U.S.**
18 **DEPARTMENT OF HOMELAND**
19 **SECURITY; KIRSTJEN M. NIELSEN**, in
20 her official capacity as Secretary of Homeland
21 Security;

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Defendants.

1 I, Brian O’Keefe, declare as follows:

2 1. I am the Administrator of the Wisconsin Department of Justice’s Division of
3 Criminal Investigation (DCI). I have personal knowledge of the facts set forth in this declaration.
4 If called as a witness, I could and would testify competently to the matters set forth below.

5 2. I have been employed by the Wisconsin Department of Justice (WisDOJ) since
6 2011. I have served as Administrator of DCI since 2017, before which I served as the
7 Administrator of WisDOJ’s Division of Law Enforcement Services for six years. Before joining
8 WisDOJ, I served on the Milwaukee Police Department for twenty-five years, including the last
9 four years as the Deputy Chief of Police.

10 3. DCI is the principal statewide criminal investigatory agency for the State of
11 Wisconsin. DCI Special Agents work closely with local, county, tribal, state, and federal officials
12 to investigate and prosecute crimes involving homicide, arson, financial crimes, illegal gaming,
13 drug trafficking, computer crimes, homeland security, public integrity, government corruption,
14 and crimes against children.

15 4. DCI often partners with other law enforcement agencies to address cross-
16 jurisdictional criminal activity. Partners include federal and local law enforcement agencies.

17 5. Through my role as the DCI Administrator, I am aware that multiple law
18 enforcement agencies in Wisconsin participate as equitable-share partners in the Treasury
19 Forfeiture Fund (TFF), administered by the U.S. Department of Treasury. Under the TFF
20 equitable-share program, the Department of Treasury may distribute funds to a qualifying state or
21 local law enforcement agency if that agency participated in a joint law enforcement action with a
22 federal agency and the action resulted in a forfeiture of assets subject to the Department of
23 Treasury’s jurisdiction.

24 6. When a state or local law enforcement agency participates in a law enforcement
25 action that results in a seizure of assets, that agency may submit a claim for an equitable share of
26 the seized assets based on its proportional level of participation in the action.

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1 7. I am aware that law enforcement agencies in Wisconsin regularly participate in
2 joint law enforcement actions with federal agencies that fall under the TFF program, including the
3 Internal Revenue Service and the United States Secret Service.

4 8. These joint law enforcement actions sometimes result in the seizure of assets such
5 as cash or property with a monetary value. In the past, Wisconsin law enforcement agencies have
6 received payment for their equitable share of those seized assets under the TFF.

7 9. WisDOJ and DCI have previously participated in joint law enforcement actions
8 with federal agencies under the Department of Treasury and have received equitable-share
9 payments from the TFF based on their participation in those actions. I expect that WisDOJ and
10 DCI will continue to participate in such joint actions with those agencies in the future.

11 10. Attached hereto as Exhibit 1 is a true and correct copy of a report from the
12 Department of Treasury showing WisDOJ and DCI's equitable-share payments from 2003
13 through February 28, 2019.

14 11. As shown in Exhibit 1, since 2003 WisDOJ and DCI have received over
15 \$4.2 million in equitable-share payments from the TFF for their participation in joint actions with
16 the Internal Revenue Service, Immigration and Customs Enforcement, and the United States
17 Secret Service.

18 12. In my capacity as DCI Administrator, I have learned that as of March 27, 2019, at
19 least two local law enforcement agencies in Wisconsin (the Wauwatosa Police Department and
20 the Milwaukee County Sheriff's Department) have outstanding equitable-share cases under the
21 TFF.

22 13. Law enforcement agencies that receive funds from the TFF are required to use
23 those funds for legitimate law enforcement purposes that supplement or enhance the agency's law
24 enforcement and public safety efforts. Examples of allowable, legitimate uses include acquiring
25 law enforcement equipment; conducting law enforcement training and education; costs associated
26 with acquiring or operating public safety or detention facilities; and conducting outreach or
27 awareness programs, such as those relating to drugs and gangs.

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