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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CITY OF SAN JOSE, CALIFORNIA, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, et al.,

Defendants.

CASE NO. 5:20-cv-05167-LHK-RRC-EMC

DECLARATION OF NANA GYAMFI IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Date: October 8, 2020, 2020
Time: 1:30 p.m.
Place: Courtroom 8, 4th Floor
Judge: Honorable Richard R. Clifton
Honorable Lucy H. Koh
Honorable Edward M. Chen

DECLARATION OF NANA GYAMFI

I, Nana Gyamfi, declare as follows:

1. I am the Executive Director of the Black Alliance for Just Immigration ("BAJI").

2. I have personal knowledge of the facts set forth below and if called upon to testify, I could and would do so competently as follows:

3. BAJI is a California nonprofit corporation with offices in Oakland, California; Los Angeles, California; Atlanta, Georgia; Miami, Florida; and New York, New York.

4. BAJI was founded in April 2006 in response to the mobilization of immigrant communities and their supporters against repressive immigration bills that were pending before the United States Congress at the time.

5. BAJI currently has approximately 1200 members who are predominantly Black immigrants, refugees, and/or African Americans. Though its membership is nationwide, BAJI's members are concentrated in Oakland, California; San Jose, California; Los Angeles, California; New York, New York; Miami, Florida; Atlanta, Georgia; and Washington, D.C.

6. BAJI receives funding from individual donors.

7. Propelled by the belief that a thriving multiracial democracy requires racial, social, and economic justice for all, BAJI's core mission is to educate and engage African American and Black immigrant communities to organize and advocate for racial, social, and economic justice for themselves and other underrepresented communities.

8. BAJI fulfills its mission through various means, including, but not limited to, dialogues, presentations, workshops, publications, technical assistance, and trainings.

9. BAJI also builds coalitions and initiates campaigns to advance racial justice, and, at the local and regional levels, provides its partner organizations with relevant training and technical assistance to promote culture shifts necessary to secure equal rights for underrepresented minority communities.

10. BAJI has been active in challenging actions that imperil BAJI's members and the historically underrepresented communities that BAJI works to protect. In 2018, after the Census Bureau announced that it would add a citizenship question to the 2020 Census questionnaire,

BAJI joined the City of San Jose in seeking to enjoin the federal policy as unlawful.

11. President Trump's July 21, 2020 Presidential Memorandum, which directs the Secretary of Commerce to exclude undocumented immigrants from the apportionment base, (the "Apportionment Exclusion Order") purports to declare that many of the immigrants that BAJI serves are no longer "persons" deserving of representation. The Apportionment Exclusion Order discourages immigrants from responding to the ongoing 2020 Census because they do not believe that they will be counted in the apportionment base. The Apportionment Exclusion Order also discourages immigrants from responding to the ongoing 2020 Census because of fear that the government will identify and retaliate against them if they complete the Census.

12. The Apportionment Exclusion Order also reflects an intention to reduce the political power of States with relatively high populations of immigrants. BAJI understands that the Apportionment Exclusion Order is in fact likely to disproportionately impact States and cities with high populations of immigrants, both by reducing political representation and imperiling federal funds tied to population. Because BAJI's members are typically concentrated in immigrant-rich metropolitan regions like San Jose, California; Atlanta, Georgia; and Miami, Florida, the impact of the exclusion order will be disproportionately felt by BAJI's members.

13. A differential undercount of Black and immigrant communities resulting from any federal policy that risks systematically undercounting immigrant populations in the Census, and specifically the policy set forth in the "Apportionment Exclusion Order," harms BAJI's mission. The impact of such an undercount, including a dilution of political power and a loss of federal funding, on the very immigrant communities that BAJI serves, impedes its mission to advance these communities' access to racial, social, and economic justice.

14. Black immigrants are among the populations most likely to be undercounted by the Census Bureau. In order to ensure accurate counting of these populations, it is imperative that the Census Bureau work with trusted voices in those communities, including organizations like BAJI. Indeed, staff at BAJI have regularly communicated with Census Bureau staff during the planning and conducting of the 2020 Census to help fine tune and partner on key outreach activities designed to get out the count. However, in a departure from this spirit of coordination,

the Apportionment Exclusion Order was issued without consulting BAJI or our partner groups, or providing any explanation for the decision.

15. Many BAJI members and others in the immigrant communities that BAJI serves have expressed hesitation about participating in the 2020 Census because they believe they will not be counted or because they believe that the government will use the 2020 Census to discover their immigration status and retaliate against them. For example, in more than half of the direct interactions that BAJI's Civic Engagement Team has with immigrant community members, people question whether the government will be asking anything about their immigration status on the 2020 Census and express concern that the government will use the information they collect in the 2020 Census to ascertain their immigration status and then retaliate against them by, for example, deporting them. These individuals turn to BAJI for reassurance that the 2020 Census will not be used to reveal their immigration status and that they will not suffer negative immigration consequences if they complete the 2020 Census.

16. Other BAJI members are concerned about the effects of the Apportionment Exclusion Order, such as a decline in their political representation and, with that, a loss of critical federal funding. BAJI's members are also concerned that the political and economic impact of the order will exacerbate the existing inequities experienced by their communities which have been historically underrepresented. Finally, BAJI's members, many of whom are Black immigrants or refugees, are gravely concerned about the message the Apportionment Exclusion Order sends to immigrant communities: that undocumented immigrants have no stake or right to representation in the country they call home.

17. BAJI has already taken steps to divert its essential and limited resources, including staff time and money, from other priorities and programs in order to counteract the harmful effects of the Apportionment Exclusion Order.

18. BAJI is conducting additional outreach, including online speaking engagements and events, webinars, additional phone, mail, and texting campaigns, social media campaigns, and in-person distribution of informational materials to encourage continued participation in the 2020 Census notwithstanding the Apportionment Exclusion Order's exclusionary message.

19. BAJI's messaging to its members and others in the immigrant community it serves is three-fold: First, BAJI is explaining the basic legal framework that protects confidential information in the census. In general, BAJI's member and others in the immigrant community are distrustful of the Trump Administration and reluctant to believe that these confidentiality laws will protect them. The Apportionment Exclusion Order has exacerbated that distrust and required BAJI to expend additional resources to reiterate to its members and the immigrant community the confidentiality of census information. Second, BAJI is communicating the importance of completing the 2020 Census in order to secure the political representation and federal funding to which the immigrant community is entitled. This message has been extremely difficult to convey following the issuance of the Apportionment Exclusion Order because BAJI members and others in the immigrant community do not believe that they will be counted, even if they do complete the 2020 Census, requiring BAJI to expend greater resources to effectively communicate this message. Third, BAJI is conveying that they are doing everything they can (for example, by filing this lawsuit) to hold the Trump Administration accountable so that all immigrants, regardless of status, are guaranteed the human dignity they deserve.

20. Such outreach has required the expenditure of additional resources, such as money, staff time, and operational expenses, including, but not limited to, materials, computers, telephones, and other office equipment.

21. In light of these challenges and additional expenditures, the Apportionment Exclusion Order has harmed, and will continue to harm, BAJI, its members, and the Black immigrant communities that BAJI serves.

22. A court order that the Apportionment Exclusion Order is unlawful and that undocumented immigrants residing in the United States must be counted in the apportionment base for purposes of congressional representation would encourage immigrants to participate in the 2020 Census, thereby alleviating some of the burden on BAJI to conduct outreach to counteract the negative perception and impact of the Apportionment Exclusion Order within the Black immigrant communities that BAJI serves.

23. For example, after the Supreme Court ruled against including a citizenship question on the 2020 Census, BAJI found that it was much easier to convince its members and others in the immigrant communities BAJI serves to complete the 2020 Census. BAJI's success in securing a favorable outcome in the citizenship question case also built trust within these communities, which made BAJI's ongoing outreach efforts more effective. A similar outcome would be expected if the Apportionment Exclusion Order were declared to be unlawful.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on August 27, 2020 in Los Angeles, California.

Nana Gyamfi

Nana Gyamfi