

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

STATE OF TEXAS, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	Case No. 1:18-CV-68
UNITED STATES OF AMERICA, <i>et al.</i> ,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
KARLA PEREZ, <i>et al.</i>	§	
	§	
Defendant Intervenors.	§	

**BRIEF OF AMICI CURIAE THE HOUSTON HISPANIC CHAMBER OF COMMERCE,  
THE TEXAS ASSOCIATION OF BUSINESS, SEVEN OTHER TEXAS CHAMBERS OF  
COMMERCE, THE TEXAS BORDER COALITION, INTERNATIONAL  
BANCSHARES CORPORATION, MAREK BROTHERS CONSTRUCTION, INC.,  
SOUTHWEST AIRLINES AND UNITED AIRLINES, INC. IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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**STATEMENT OF INTEREST**

*Amici Curiae* (“*Amici*”) are Chambers of Commerce and business associations in Texas and companies with a significant presence in Texas. *Amici* Chambers of Commerce represent the interests of the business community across Texas and *Amici* companies represent various industries and have significant operations in the State. Texas businesses count Dreamers among their valued customers, employees, and fellow members of the Texas business community. Dreamers are young immigrants who came to the United States as children, and were granted deferred action based on the guidelines for prosecutorial discretion established under the Deferred Action for Childhood Arrivals (DACA) initiative. These grants of deferred action have enabled Dreamers to seek work authorization, attend school, and make valuable contributions to their communities. *Amici* have a strong interest in protecting the DACA initiative, and many *Amici* and their members stand to experience irreparable harm if the program is enjoined by this Court.

The **Houston Hispanic Chamber of Commerce** (“HHCC”) represents approximately 90,000 Hispanic-owned businesses in the Greater Houston Region, ranging in size from start-ups to multi-national corporations including a variety of industries: financial services, health care and energy companies. Through its issue advocacy, media platforms reaching an audience of more than three million people, and its robust membership network, HHCC is the leading united voice for the Hispanic business community in Houston. If Dreamers lost the deferred action status granted under the DACA guidelines, it would result in a \$460 billion loss to the United States’ gross domestic product over the next decade, more than \$6 billion in annual economic activity to the State of Texas, and a loss of more than \$2 billion of annual economic activity in the Greater Houston Region.

The **Texas Association of Business** is the leading employer organization in Texas. It is the State’s chamber of commerce. Representing companies from large multi-national corporations

to small businesses in nearly every community of Texas, the Texas Association of Business works to improve the Texas business climate and to help make the State's economy the strongest in the world. For more than 85 years, the Texas Association of Business has fought for issues that impact business to ensure that employers' opinions are heard. *Amici* and their members stand to experience irreparable harm and significant economic harm if DACA is enjoined.

The **Brazoria County Hispanic Chamber of Commerce** ("BCHCC") is a not-for-profit organization established in 2011, which supports the Hispanic community by increasing opportunities for Hispanic-owned businesses to compete for public and private contracts in the area, providing Hispanic-owned businesses with resources to facilitate their growth, keeping the Hispanic business community connected with opportunities to promote community development, and encouraging more civic and political participation within the Hispanic community. The BCHCC believes that Dreamers play a critical role in the economic stability and sustainability of Texas, making important contributions to the State and providing a vital source of human capital.

The **El Paso Hispanic Chamber of Commerce** ("EPHCC") is the preeminent resource and advocate for small, minority, women, and veteran owned businesses in the El Paso Metroplex. Since 2003, the EPHCC has assisted over 12,000 clients start and grow their businesses, connected businesses with almost \$2 billion in contracts and financing, and has generated an estimated economic impact to the El Paso Community of over \$1.1 billion. The EPHCC is comprised of more than 1,200 member firms that entrust them with their resources, their leadership, and their support. The EPHCC believes that enjoining DACA will not only devastate families across Texas and the country; it will hurt the Texas economy and detrimentally affect the EPHCC, its members, and clients.

The **Greater Austin Hispanic Chamber of Commerce** (“GAHCC”) is a non-profit organization established in 1973 with the primary goal of continuing the advancement and progression of a strong and stable economic culture for the 33,000 Hispanic-owned Businesses in central Texas. The GAHCC supports permanent protections for Dreamers to allow young immigrants in local communities and across the country to continue to pursue their education, contribute to our labor force and tax base, and start new businesses that create jobs.

**International Bancshares Corporation** (“IBC Bank”) is a Laredo-based multibank financial holding company. Founded in Laredo, Texas in 1966, IBC Bank has grown to be one of the largest holding companies in Texas serving 88 communities throughout Texas and Oklahoma, and has recently been ranked among one of the nation’s best banks by Forbes magazine.

**Marek Brothers Construction, Inc.**, (“MAREK”) is a privately-held construction company in Texas that employs over 1,000 individuals. Founded in 1938, MAREK now provides construction services to eight cities in Texas. MAREK has advocated for changes to the United States’ immigration policies because the company has faced labor shortages as it struggles to find workers to field full construction crews and to resist competitive disadvantages from peer construction firms who hire undocumented workers. Enjoining DACA will make it more difficult for MAREK to recruit, develop, and invest in the skilled employees it relies on for its success.

The **Midland Hispanic Chamber of Commerce** (“MHCC”) was founded in 1984 in order to serve Hispanic businesses in the Midland community, and has over 450 members. MHCC promotes networking and support within its membership and the greater Midland business community, offering networking events, training programs, and business counseling to its members.

The **Rio Grande Valley Hispanic Chamber of Commerce** (“RGVHCC”) promotes economic development and assists businesses in accessing the Hispanic market through networking, promoting education, and nurturing leadership. The RGVHCC serves the ever-growing small business community along the South Texas Border, and offers its members networking events, workshops and seminars on continuing education, and opportunities for leadership development. Many of the RGVHCC’s members have staff who are students who have been granted deferred action pursuant to the DACA guidelines, and their removal would cause a major negative effect in the Rio Grande Valley. Many of the students even have aspirations to start their own businesses, which would be an economic boost to the region.

The **San Antonio Hispanic Chamber of Commerce** (“SAHCC”) is San Antonio’s leading resource and advocate for Hispanic businesses and Hispanics in business. SAHCC was the first Hispanic Chamber of Commerce in the United States.

**Southwest Airlines** (“Southwest”) is the largest domestic air carrier in the United States in terms of domestic originating passengers boarded according to the U.S. Department of Transportation’s latest reporting, serving more than 120 million passengers annually, in recent years. Southwest is based in Dallas, Texas, and employs more than 57,000 people, including more than 16,000 in the State of Texas. Southwest serves 10 Texas cities with a total of more than 500 daily departures.

The **Texas Border Coalition** (“TBC”) is a collective voice of border mayors, county judges, and economic development commissions focused on issues that affect 2.5 million people along the Texas-Mexico border region and in economically disadvantaged counties from El Paso to Brownsville. TBC advocates for federal and state investments and incentives in education and the workforce, healthcare, ports of entry, transportation, and other areas considered vital to the



fulfillment of its mission. TBC is committed to advocating for fair and effective immigration reform that strengthens our borders and recognizes the economic contributions immigrants make to the United States and Texas economies. TBC has long supported a lasting solution for Dreamers to remain in the United States.

**United Airlines, Inc.** (“United”) is a leading international airline operating the world’s most comprehensive global route network, serving more than 120 destinations internationally and 148 million passengers worldwide in 2017, and employing more than 85,000 people. United maintains an airline hub and corporate office in Houston, Texas, operating more than 500 flights per day from the city. One of Houston’s largest employers, United has more than 14,000 Houston-based employees and employs an additional 523 people throughout Texas.

This brief was written by pro bono counsel, and no party made any monetary contribution toward this brief.

### **INTRODUCTION**

Of the approximately 800,000 individuals who have been granted deferred action under the DACA guidelines nationwide, more than 15 percent (approximately 126,000) reside in Texas, along with an additional estimated 145,000 individuals who may be eligible for deferred action under the DACA guidelines. As members of the Texas business community, *Amici* and their members have been witnesses to, and beneficiaries of, the many contributions these Dreamers have made to the Texas economy. Texas Dreamers have started small businesses, creating jobs for other Texans and joining many *Amici* Chambers of Commerce as members. In addition to creating jobs, Dreamers contribute to the Texas economy as consumers and taxpayers, and they have become valued customers of many *Amici* and their members.

Dreamers are also valued employees for businesses throughout Texas. These businesses have made significant investments in training Dreamers and are now benefiting from that

investment. Dreamers are employed throughout Texas at levels matching the general population. They are employed across industries, including filling critical needs in the health and education fields and providing much-needed bilingual skills to the Texas community.

Now, approximately six years after the DACA initiative was announced, the Plaintiff States of Alabama, Arkansas, Louisiana, Nebraska, South Carolina, Texas, and West Virginia (the “States”) ask this Court to use its equitable powers to grant the extraordinary relief of a preliminary injunction enjoining the United States from issuing or renewing grants of deferred action pursuant to the DACA guidelines. *Amici*, many of whom have invested in, and derived substantial benefit from, Dreamers’ participation in the Texas economy, strongly dispute that the States are entitled to the injunction they seek. *Amici* join the arguments made by Defendant Intervenors in opposition to a preliminary injunction, and submit this brief to highlight the impact that such an injunction would have on the Texas business community. Because an injunction would cause businesses throughout Texas to lose valuable employees and customers and impose unrecoverable costs on the Texas business community, the balance of the equities weighs strongly against a preliminary injunction. Such an injunction would disserve the public interest. That the States waited to challenge the DACA initiative until approximately six years after it was announced, and after other Federal courts had enjoined its termination, has increased the harm that an injunction would cause the Texas business community, a factor which weighs further against the States’ application. For all of these reasons, *Amici* respectfully urge the Court to deny the States’ motion for a preliminary injunction.

**ARGUMENT**

**I. ENJOINING THE DACA INITIATIVE WILL CAUSE SIGNIFICANT AND IRREPARABLE HARM TO THE TEXAS ECONOMY.**

**A. Dreamers Provide Significant Benefits To The Texas Economy**

Dreamers are important to the health of the Texas economy, and enjoining the DACA initiative will have significant negative consequences for Texas businesses. More than 126,000 young people in Texas have been granted deferred action under the DACA guidelines since 2012. U.S. CITIZENSHIP AND IMMIGRATION SERVS., NUMBER OF FORM I-821D, CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS, BY FISCAL YEAR, QUARTER, INTAKE AND CASE STATUS, FISCAL YEAR 2012-2018 (March 31, 2018), App'x Tab W, at App. 232. Dreamers contribute to the Texas economy by creating jobs, strengthening the tax base, and supporting Texas businesses as customers. Researchers have estimated that if Dreamers could no longer be granted deferred action under the DACA guidelines, the United States would lose approximately \$460 billion of its GDP over the next decade, and the State of Texas would lose more than \$6 billion to its annual GDP. See Nicole Prchal Svajlenka et al., *A New Threat to DACA Could Cost States Billions of Dollars*, CENTER FOR AMERICAN PROGRESS (July 21, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-threat-daca-cost-states-billions-dollars/>, App'x Tab Q, at App. 150-51; Ileana Najarro and Monica Rhor, *Deeper Underground: Businesses Feel the Pinch As Undocumented Consumers Limit Shopping Expenses*, HOUSTON CHRONICLE, Oct. 20, 2017, App'x Tab J, at App. 77.

Enjoining the DACA initiative would unravel the Dreamers' many contributions to the Texas economy, damaging *Amici* and the larger Texas business community.

1. Texas's Dreamers Create Texas Jobs

By enabling Dreamers to directly participate in the economy, the deferred action granted based on DACA's guidelines has created thousands of jobs in Texas. Many Texas Dreamers create

jobs directly through small business ownership. In 2015, Texas was home to an estimated 7,229 DACA-eligible entrepreneurs, and that number has almost certainly grown as more Dreamers have reached working age. *See* P'SHIP FOR A NEW AM. ECON., EXAMINING THE CONTRIBUTIONS OF THE DACA-ELIGIBLE POPULATION IN KEY STATES (2017) (hereinafter P'SHIP FOR A NEW AM. ECON., EXAMINING CONTRIBUTIONS), App'x Tab S, at App. 200.

For many Texas small business owners, a grant of deferred action pursuant to the DACA initiative was a catalyst for entrepreneurship. Nationally, nearly 8% of Dreamers over the age of twenty-five reported starting their own businesses after receiving deferred action under the DACA guidelines. *See* CTR. FOR AM. PROGRESS, RESULTS OF TOM K. WONG, UNITED WE DREAM, NATIONAL IMMIGRATION CENTER, AND CENTER FOR AMERICAN PROGRESS NATIONAL SURVEY (2017) (hereinafter CTR. FOR AM. PROGRESS, WONG SURVEY), App'x Tab F, at App. 38. Monica Rocha Alcaraz of Corpus Christi, Texas is one of these Dreamer entrepreneurs.<sup>1</sup> *See* Beatriz Alvarado, *Building the American Dream: Texas Woman Graduates, Owns Business*, CORPUS CHRISTI CALLER-TIMES, Dec. 13, 2017, App'x Tab C, at App. 18. For 16 years, Alcaraz struggled to support her family of four on her income as a waitress. *Id.* at App. 17. But shortly after being granted deferred action in 2014, she was finally able to open a successful restaurant of her own, which recently celebrated its four-year anniversary. *Id.* at App. 20. Another example is Dreamer Diego Corzo. Corzo's business, Nino Group, a real estate firm located in Austin, sells approximately 80 homes each year, representing over \$50 million in sales volume in three years. Zoe Henry, *800,000 Workers, \$460 Billion in Economic Output, Dozens of Entrepreneurs: What the U.S. Loses if DACA Goes Away*, Inc. (2018), available at <https://www.inc.com/zoe->

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<sup>1</sup> To avoid duplication, *Amici* have not included the stories of the Dreamers who are Parties to this action as Defendant-Intervenors. *See* Dkt. 14, Defendant-Intervenors' Memorandum Of Law In Support of Their Motion For Leave To Intervene, App'x A.

henry/dreamer-entrepreneurs-respond-to-daca-uncertainty.html, App'x Tab X at App. 237; Karen Briscoe, *Diego Corzo – Secrets of a Top House Hacker Revealed: 5 Minute Success* (April 24, 2018), <http://www.5minutesuccess.com/48-diego-corzo/>, App'x Tab O, at App. 139.

In addition, the availability of Dreamers to fill shortages in the workforce (*see infra* Section I(B)) helps make Texas businesses successful and promotes the hiring of additional workers. For example, studies have shown that for every 1,000 immigrants that arrive in a given county, forty-six manufacturing jobs are preserved that would otherwise not exist or have moved elsewhere. *See* P'SHIP FOR A NEW AM. ECON., AMS. SOC'Y AND COUNCIL OF THE AMS., IMMIGRATION AND THE REVIVAL OF AMERICAN CITIES: FROM PRESERVING MANUFACTURING JOBS TO STRENGTHENING THE HOUSING MARKET (2013), App'x Tab R, at App. 159. This statistic is attributed, in part, to the fact that immigration permits companies to hire from a large pool of employees across all skill levels, which enables companies to remain successful in the United States. *Id.*, App. 162-67. Applying this trend to Texas's Dreamers, the continued presence of Texas' 126,000 Dreamers would be responsible for the preservation of nearly 5,800 manufacturing jobs, and the benefits of keeping such jobs in Texas are shared by immigrants and non-immigrants alike. Texas Dreamers' purchasing power also creates jobs indirectly by increasing sales and demand for services at Texas businesses. *See infra* at Section I(A)(3).

## 2. Dreamers Strengthen Texas's Tax Base

Granting young immigrants deferred action under DACA brings them out of the shadows and gives them the ability to participate fully in the Texas economy, which benefits Texas, in part, through higher tax revenues. In 2018, Texans eligible to be considered for deferred action under DACA guidelines (and, as a result, eligible for work authorization) are expected to contribute approximately \$244,686,000 in state and local taxes. INSTITUTE ON TAXATION AND ECONOMIC POLICY, STATE & LOCAL TAX CONTRIBUTIONS OF YOUNG UNDOCUMENTED IMMIGRANTS (2018),

App'x Tab K, at App. 94. And though many of Texas's Dreamers would perhaps remain in Texas even if the DACA initiative were enjoined, their tax dollars would not. If all of Texas's Dreamers lost their work authorization, it would cost the state \$78,260,000 per year in state and local tax revenues. *Id.* Asking other Texas taxpayers to make up this shortfall if DACA is enjoined will harm Texas businesses and the larger Texas economy. By contrast, allowing Dreamers to fully participate in the Texas economy provides significant revenue for state and local government programs, which strengthens local communities and, by extension, the Texas economy.

3. The DACA Initiative Unlocks The Substantial Spending Power Of Dreamers

DACA has also made it possible for Texas's Dreamers to participate fully in the Texas economy as consumers, which benefits *Amici* and their members, as well as the Texas economy. In 2015, Texans eligible to be considered for deferred action under DACA had more than \$2.5 billion in disposable household income after subtracting federal, state, and local taxes. *See* App'x Tab S, at App. 200. Since a grant of deferred action pursuant to the DACA guidelines enables Dreamers to remain in the United States to pursue education and employment and live without an immediate fear of deportation, it has led to increased incomes among Dreamers and increased comfort with spending that income, including on major purchases. Nationally, 64% of Dreamers purchased their first car after being granted deferred action, and 15% purchased a home. *See* App'x Tab F, at App. 38. Ezequiel Rojas Martinez of Rockport, Texas is an example of a Dreamer with newfound purchasing power—after receiving deferred action under the DACA guidelines, he was able to finally upgrade his family vehicle, and upgraded to newer vehicles thereafter. *See* Beatriz Alvarado, *South Texas Father, Laborer Works on Path to Citizenship*, CORPUS CHRISTI CALLER-TIMES, Dec. 13, 2017, App'x Tab D, at App. 28. Mr. Martinez recently put plans to purchase a new vehicle on hold, however, when he learned that the DACA initiative would be

rescinded. *Id.* Similarly, Rocha Alcaraz, the Corpus Christi restaurant owner described *supra*, at 8, put plans to purchase her first home on hold after learning that the DACA initiative, under which she had received deferred action, would be rescinded. *See* App'x Tab C, at App. 18.

Enjoining the DACA initiative would damage the Texas economy by forcing Texas's Dreamer consumers to the sidelines and reducing the revenues of Texas businesses. The instability of life as an undocumented immigrant who might be subject to deportation at any time discourages those Texans from spending their money freely. In the face of DACA rescission and other recent developments in immigration enforcement, immigrant communities in Texas are increasingly holding back from economic activity, focusing instead on saving to protect their families from the economic trauma (in the form of job loss and legal fees) that comes with deportation proceedings. *See, e.g.*, App'x Tab J, at App. 75-76. When Texas's Dreamers stop spending, saving for expenses that may never come, Texas businesses suffer.

**B. Dreamers Provide Significant Benefits To Texas Businesses**

In addition to the benefits that Dreamers provide for the Texas economy in general, Dreamers also provide direct, significant, and tangible benefits to Texas businesses. Dreamers are employed at robust rates that match the general Texas population, serve in sectors of the economy that are critical for growth, and have helped to fill the gaps when there are labor shortages or a need for specific skills. As a result, businesses throughout Texas would suffer significant harm if Dreamers lost eligibility for deferred action (and, therefore, eligibility for work authorization) under the DACA guidelines.

As of 2017, the majority of Dreamers were employed nationwide: 55% according to U.S. Census data, amounting to 382,000 workers. JIE ZONG ET AL., MIGRATION POLICY INSTITUTE, A PROFILE OF CURRENT DACA RECIPIENTS BY EDUCATION, INDUSTRY, AND OCCUPATION (2017), App'x Tab N, at App. 121. A clear majority of those Dreamers who are not employed are enrolled

in school (62%), *id.*, bringing the total nationwide percentage of Dreamers employed or in school to 82.9%. In Texas, U.S. Census data shows that 55% of Dreamers are employed, which is roughly equivalent to the employment rate of United States citizens in the same age bracket (57% of Americans, ages 15-32). *Id.* Notably, studies based on U.S. Census data may underreport the number of Dreamers employed or in school, as other national analyses have found that the number of Dreamers employed or in school is as high as 97%. *See* App'x Tab F, at App. 38, 42; *see also* Jasper Scherer, *Julián Castro Says Nearly All DACA Recipients Employed, In School Or Serving In Military*, POLITIFACT TEXAS (Jan. 10, 2018 2:01 PM), <http://www.politifact.com/texas/statements/2018/jan/10/julian-castro/julian-castro-daca-recipients-employed-school-mili/>, App'x Tab M at App. 113-14.

Dreamers contribute to a broad spectrum of industries as employees. Dreamers are half as likely to work in the construction sector as other undocumented young adults. App'x Tab N, at App. 121. Instead, and in particular in Texas, Dreamers are employed in large numbers in the arts and entertainment sector (21%), the retail sector (15%), and the education, health, and social services sector (12%), which economists have interpreted as demonstrating DACA's potential for accelerating occupational mobility among Dreamers. *Id.* at App. 122-23. Additionally, research has indicated that approximately 1,000 Dreamers are employed as public servants in Texas alone, working as critical first responders such as police officers and fire fighters, as well as public school teachers (not including post-secondary teachers or teachers' assistants). Dec. of Dr. Randy Capps, App'x Tab H, at App. 58, ¶ 4. Without the work authorization that is available following a grant of deferred action under the DACA guidelines, Texas would lose the valuable contributions of these young people and the State would be harmed as a result.



One example of the importance of Dreamers to the Texas workforce is in the education sector. It is estimated that the United States would lose 20,000 teachers without the DACA initiative, including 2,000 teachers in Texas. Dianne Solis and James Barragan, *U.S. Could Lose An Estimated 20,000 Teachers, Many Bilingual, As DACA Is Phased Out*, Dallas Morning News (Oct. 5, 2017), <https://www.dallasnews.com/news/immigration/2017/10/05/us-lose-estimated-20000-teachers-many-bilingual-daca-phased>, App'x Tab I, at App. 61. A report from January 2018 found that in the Dallas Independent School District alone, there are 68 employees who are Dreamers, including 36 teachers. Larry Collins, *DACA Decisions Could Affect Number of North Texas Teachers*, NBC-Dallas Fort Worth (Jan. 10, 2018 10:49 PM), <https://www.nbcdfw.com/news/local/DACA-Decisions-Could-Affect-Number-of-North-Texas-Teachers-468693103.html>, App'x Tab P, at App. 146. The Dallas Independent School District Superintendent, Michael Hinojosa, was quoted as saying that losing teachers with DACA status would be “catastrophic,” since many are bilingual teachers, which is the school district’s “biggest shortage area,” and that losing them suddenly would have a “traumatic impact” on the school system. *Id.*

Dreamers also fill a critical need in Texas’s healthcare sector. Houston Methodist Hospital, for example, employs 57 Dreamers, in positions including lab technicians, nurses, and pharmacists, and the Hospital’s President, Dr. Marc Bloom, has stated that Dreamers are “essential” to the nation’s health workforce. See Todd Ackerman, *Houston Dreamers In Health Care Despair About DACA Debate*, Houston Chronicle, (Jan. 18, 2018), App'x Tab U, at App. 219-20; Anna Nunez, *Dreamers Are an Essential Part of our Nation’s Health Care*, America’s Voice (Feb. 15, 2018), <https://americasvoice.org/blog/health-care-dreamers/>, App'x Tab B, at App. 9-10. Dreamers fill critical job shortages for Houston Methodist, which as of January 2018 had posted 415 job

openings for registered nurses, 21 openings for pharmacy positions, and 250 support positions. *Id.* at App. 220. The needs of Houston Methodist are not unique – healthcare is among the fastest growing employment sectors, in part due to the aging population in the United States, and health care is projected to add 2.3 million jobs before 2024. Szilvia Altorjai & Jeanne Batalova, IMMIGRANT HEALTH-CARE WORKERS IN THE UNITED STATES, MIGRATION POLICY INSTITUTE (2017), available at <https://www.migrationpolicy.org/article/immigrant-health-care-workers-united-states>, App’x Tab T, at App. 208. Indeed, the University of Texas’s MD Anderson Cancer Center employs 46 Dreamers and the Baylor College of Medicine employs 13 Dreamers. App’x Tab U, at App. 219.

Individual examples further illustrate the contributions of Dreamers to the healthcare sector. Twenty-three year old Dreamer Julio Ramos of Brownsville, Texas, teaches high school biology while pursuing a graduate degree in biomedical informatics. *American Dreamers*, The New York Times (2017), available at <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/>, App’x Tab A, at 4. Ramos’s goal is to become a physician to underserved communities. *Id.* Saba Nafees is a Dreamer from Fort Worth, Texas, who is now a PhD student at Texas Tech University conducting cancer research and teaching undergraduate students. *DACA Stories*, FWD.us, available at <https://www.fwd.us/dacastories>, App’x Tab G, at App. 50. Susana Rosas, a Dreamer and mother of two from Katy, Texas, worked her way through a community college program to become a paramedic and then a nurse at Methodist Sugar Land Hospital, where her goal is to “make a difference every day.” *See* App’x Tab U, at App. 218.

The State of Texas has already recognized the importance of young immigrants like the Dreamers to the Texas economy and the State in general, and made a significant investment in

their future. Since 2001, the State of Texas has provided in-state tuition rates and financial aid eligibility for many undocumented young Texans, pursuant to a bill which passed the Texas Legislature with bipartisan support. Tex. Educ. Code Ann. § 54.052(a)(3) [Act of June 16, 2001, 77th Leg., R.S., ch. 1392, § 2, sec. 54.052, 2001 Tex. Gen. Laws 1392] (amended 2009) (hereinafter “Texas Dream Act”); *see also* Chloe Sikes and Angela Valenzuela, *Texas Dream Act [House Bill 1403]*, TEXAS STATE HISTORICAL ASSOCIATION (Aug. 23, 2016), available at <https://tshaonline.org/handbook/online/articles/mlt03>, App’x Tab E, at App. 32. To be eligible for in-state tuition and financial aid, a student must have earned a high school diploma or its equivalent in Texas, resided in Texas for at least three years before graduation and one year before enrolling in college, and submit an affidavit declaring his or her intention to apply for legal permanent residence as soon as possible. *Id.* at App. 33. Many Texas Dreamers meet this criteria. In 2016 alone, 25,151 students submitted affidavits to qualify for in-state tuition under the Texas Dream Act. *Total Affidavit Students, Overview: Eligibility For In-State Tuition And State Financial Programs*, TEXAS HIGHER EDUCATION COORDINATING BOARD 3 (2018), App’x Tab V, at App. 225.

The Texas economy, including many *Amici* and their members, would experience significant economic harm if DACA is enjoined. As discussed above, Dreamers are active participants in the Texas economy, creating jobs, contributing to Texas businesses as employees, supporting Texas businesses as consumers, and paying taxes to the State to support important programs. Removing Dreamers from the Texas economy would have a concomitant detrimental effect. *See supra* at Section I(A).

## **II. THE STATES ARE NOT ENTITLED TO PRELIMINARY INJUNCTIVE RELIEF**

In light of the substantial benefits that Dreamers provide to *Amici*, their members, and the Texas business community as described above, and the significant, unrecoverable costs if the

DACA initiative is enjoined, the States have not come close to establishing their entitlement to preliminary injunctive relief. A preliminary injunction is an extraordinary and drastic remedy, particularly where, as here, the States seek a mandatory injunction which would change the *status quo*. To be entitled to a preliminary injunction, Plaintiffs must show (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury outweighs any harm that will result if the injunction is granted (also characterized as the balance of the equities favoring the movant), and (4) that the grant of an injunction will not disserve the public interest. *Clark v. Prichard*, 812 F.2d 991, 993-94 (5th Cir. 1987). Mandatory preliminary injunctions, which seek to change the *status quo* before the litigation is complete, are “particularly disfavored” in the Fifth Circuit and “should not be issued unless the facts and law clearly favor the moving party.” *Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976); *see also Harris v. Wilters*, 596 F.2d 678, 680 (5th Cir. 1979) (mandatory injunctions should be granted only in rare instances).

The States fall far short of establishing the stringent requirements for a mandatory preliminary injunction. *Amici* adopt the arguments made by Defendant Intervenors that the States are not likely to succeed on the merits of their claims, and have not demonstrated an irreparable injury. As described above, the Texas business community, including many *Amici* and their members, stand to suffer substantial and irreparable injury if DACA is enjoined because Texas businesses will lose valuable customers, lose employees that fulfill critical business needs, and incur additional costs to fill positions now occupied by Dreamers. *See supra* at Section I(A). Furthermore, Texans stand to lose their jobs as Dreamers are forced to shutter their businesses, and other Texas businesses struggle with the loss of Dreamer customers and employees. *See supra* at Section I(A)(3). The State as a whole stands to lose substantial tax revenues and GDP if DACA

is enjoined. *See supra* at Section I(A). Subjecting the Texas economy, including many *Amici* and their members, to this substantial and irreparable harm before an adjudication on the merits of this case outweighs any purported harm to Plaintiff States, and is manifestly contrary to the public interest.

The States' delay in bringing this application further weighs against the equitable relief they seek. The States waited almost six years after the announcement of the DACA guidelines before challenging them in Court, despite challenging similar initiatives implemented *after* DACA in 2015. Since an injunction is an equitable remedy, it may be denied on the basis of *laches* if an unreasonable delay by the party seeking injunctive relief works to the disadvantage or prejudice of another party. *See Env'tl. Defense Fund, Inc. v. Alexander*, 614 F.2d 474, 478 (5th Cir. 1980). The States' delay has substantially impacted businesses in Texas, who have, as described above, come to rely upon Dreamers as valued employees, customers, and fellow members of the business community and now stand to incur significant costs if DACA is enjoined. That the Texas business community, including many *Amici* and their members, have lived with, relied upon, and planned for the application of the DACA guidelines for the past six years strongly distinguishes the instant application from the injunction sought by the States and others to prevent the implementation of the Deferred Action for Parents of Americans and "expanded DACA" initiatives in 2015. *See Regents of Univ. of Cal. v. United States Dep't of Homeland Sec.*, 279 F. Supp. 3d 1011, 1044 (N.D. Cal. 2018). The States' delay also undercuts any claim they have to immediate, irreparable injury, since they have been living with the *status quo* for six years. *See High Tech Med. Instrumentation, Inc. v. New Image Indus.*, 49 F.3d 1551, 1557 (5th Cir. 1995) (holding that substantial delay "militates against the issuance of a preliminary injunction by demonstrating that there is no apparent urgency to the request for injunctive relief.").

Finally, the States' apparent decision to initiate this case in response to injunctive relief issued by other courts, rather than promptly in response to the Government's initial announcement of the DACA initiative, will subject the Texas business community, including many *Amici* and their members, to further harm, and also weighs against the injunction the States seek. As the States acknowledge, the Government has already announced its intention to end the DACA initiative, litigation regarding this decision is making its way through the courts in other Circuits, and nationwide orders enjoining the rescission of DACA are currently in effect. Should this Court issue an injunction, Texas businesses will be subject to conflicting rulings and will have to spend time and commit resources to determining their obligations to Dreamer employees and customers under competing injunctions. *Cf. Feller v. Brock*, 802 F.2d 722, 727 (4th Cir. 1986) (“[I]ssuance of [a conflicting] preliminary injunction did a grave disservice to the public interest in the orderly administration of justice.”). This cost is entirely of the States' making and tips the balance of the equities and the public interest further against injunctive relief.

### **CONCLUSION**

For the reasons set forth above, *Amici* respectfully request that the Court deny the States' Application for a Preliminary Injunction.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 2018, I caused a true and accurate copy of the foregoing document to be served on all counsel of record via filing of the same with the Court's CM/ECF system.

*/s/ Thomas S. Leatherbury* \_\_\_\_\_  
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