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NAIJ Condemns the Executive Order which Eviscerates the Neutrality of Career Civil Service Employees and Targets Immigration Judges

Washington D.C.— On October 21, 2020, the President signed an Executive Order obliterating vast portions of the merit based selection process for executive branch employees.

Flouting over 100 years of laws and tradition designed to maintain a nonpartisan civil service in our country, this Executive Order would eviscerate the neutrality of the career civil service corps. Rather than serving citizens in an impartial and unbiased manner federal employees would be compelled to serve at the whim of political actors. The daily regular business of government would be saturated with cronyism.

The Order instructs federal agencies to identify certain current employees based on broad and amorphous criteria, and once reclassified, to strip those workers of the current civil service protections which prohibit the use of political considerations to affect hiring and retention of those jobs. The current system of merit-based hiring and protections from dismissal without cause would be decimated by the simple act of reclassifying certain employees. The Order would strip these workers of their existing union protections and render them vulnerable to firing without cause. The public would lose experienced, knowledgeable and non-partisan career professionals who will be sacrificed to make room for partisan operatives and political favorites.

In the Immigration Court context, the specter of this action is even more grave. Although charged with administering justice in a neutral and independent manner, Immigration Judges are likely to be among the first targets. We are already fighting to stop the Department of

Justice's (DOJ's) attack on our bargaining unit status which would strip us of many protections; this Executive Order would seal our fate, despite the initial ruling in our favor issued by the Regional Director of the Federal Labor Relations Authority. The current posture of our court as an administrative agency within the U.S. Department of Justice (DOJ) constitutes a severe threat to our judicial independence, a fact decried by numerous prestigious legal organizations. This is because the inefficiencies and unfairness of leaving the court at the mercy of a law enforcement agency's capricious kowtowing to the political agendas of new administrations fly in the face of due process. The only voice of transparency regarding our system, that of the NAIJ, would be silenced should we be reclassified.

The most fundamental principle of American justice is equality under the law. Allowing the Immigration Court to be staffed by a corps of political appointees would undermine the neutrality and independence we have long fought to achieve. While the only durable solution is to create an Article I Immigration Court outside DOJ, we cannot allow this ill-conceived and dangerous Executive Order to operate unchallenged in the meantime. Our nation's Immigration Judges need more protection, not less, in order to assure that we have the tools to protect the due process rights of all whom we serve.

The National Association of Immigration Judges (NAIJ), founded in 1971, is a voluntary organization formed with the objectives of promoting independence and enhancing the professionalism, dignity and efficacy of the Immigration Court

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