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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

UNITED STATES OF AMERICA,

No. 2:20-cv-203

Plaintiffs,

v.

KING COUNTY, WASHINGTON; DOW  
CONSTANTINE, in his official capacity as  
King County Executive

**COMPLAINT**

Defendant.

The United States of America, by and through its undersigned counsel, brings this civil action for declaratory and injunctive relief, and alleges as follows:

**PRELIMINARY STATEMENT**

1. In this action, the United States seeks a declaration invalidating and permanently enjoining the enforcement of King County Executive Order PFC-7-1-EO, “King County International Airport—Prohibition on immigration deportations” (“Airport EO”), signed April 23, 2019, attached hereto as Exhibit A.

2. The Government of the United States has “broad, undoubted” inherent power as a sovereign nation, and enumerated constitutional and statutory power, to regulate matters pertaining to immigration and the status of aliens. *Arizona v. United States*, 567 U.S. 387, 394 (2012) (citing *Toll v. Moreno*, 458 U.S. 1 (1982)); *Fong Yue Ting v. United States*, 149 U.S. 698, 707 (1893) (“The right of a nation to expel or deport foreigners who have not been naturalized, or taken any steps towards becoming citizens of the country . . . is as absolute and unqualified, as

1 the right to prohibit and prevent their entrance into the country.”). *But see Yamataya v. Fisher*,  
2 189 U.S. 86, 100–01 (1903) (discussing due process constraints on removal power).

3 3. Federal law also explicitly preempts State and local governments, such as King  
4 County, from enacting or enforcing laws “related to a price, route, or service of an air carrier that  
5 may provide air transportation.” 49 U.S.C. § 41713(b)(1).

6 4. The Airport EO requires that “all future leases, operating permits, and other  
7 authorizations for commercial activity at King County International Airport [also known as  
8 Boeing Field] contain a prohibition against providing aeronautical or non-aeronautical services to  
9 enterprises engaged in the business of deporting immigration detainees (except for federal  
10 government aircraft), to the maximum extent permitted by applicable law.” Ex. A ¶ 3.

11 5. The Airport EO also directs officials to “[d]evelop procedures for exercising King  
12 County’s rights under existing leases . . . [and] to ensure strict lessee compliance with applicable  
13 laws, ordinances, rules, regulations and policies of King County regarding human trafficking and  
14 the servicing of any aircraft engaged in the business of deportation of immigration detainees,  
15 including, without limitation King County Code Chapter 2.15 and this Executive Order.” Ex. A  
16 ¶ 4.

17 6. The Airport EO has both the purpose and effect of prohibiting federal immigration  
18 authorities from using Boeing Field to remove individuals with final orders of removal from the  
19 United States or to transport immigration detainees within the United States. Since issuance of  
20 the Airport EO, fixed-base operators (“FBOs”) at Boeing Field, which provide basic aeronautical  
21 services to charter flight operators, no longer will service flights by U.S. Immigration and  
22 Customs Enforcement (“ICE”) Air Operations (“IAO”).

23 7. Because ICE flights cannot use any of the FBOs at Boeing Field, ICE has had to  
24 relocate its flight operations to Yakima, Washington. This relocation has restricted ICE’s  
25 operations, such that it interferes with ICE’s ability to enforce federal immigration law. The  
26 Airport EO therefore violates the Supremacy Clause.



1 14. Defendant Dow Constantine is the King County Executive and is being sued in his  
2 official capacity.

3  
4 **FEDERAL IMMIGRATION LAW**

5 15. The Constitution affords Congress the power to “establish an uniform Rule of  
6 Naturalization,” U.S. Const., art. I § 8, cl. 4, and to “regulate Commerce with foreign Nations,  
7 and among the several States,” U.S. Const., art. I § 8, cl. 3. It also affords the President of the  
8 United States the authority to “take Care that the Laws be faithfully executed.” U.S. Const., art.  
9 II § 3.

10 16. The Supremacy Clause of the Constitution mandates that “[t]his Constitution, and  
11 the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme  
12 Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary  
13 notwithstanding.” U.S. Const., art. VI, cl. 2. Thus, a state or local enactment is invalid if it “stands  
14 as an obstacle to the accomplishment and execution of the full purposes and objectives of  
15 Congress,” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941), or if it “discriminate[s] against the  
16 United States or those with whom it deals,” *South Carolina v. Baker*, 485 U.S. 505, 523 (1988).

17 17. Based on its enumerated powers and its constitutional power as a sovereign to  
18 control and conduct relations with foreign nations, the United States has broad authority to  
19 establish immigration laws, the execution of which the States and their political subdivisions  
20 cannot obstruct or discriminate against. *See Arizona v. United States*, 567 U.S. 387, 394-95  
21 (2012); *accord North Dakota v. United States*, 495 U.S. 423, 435 (1990) (plurality); *id.* at 444-47  
22 (Scalia, J., concurring).

23 18. Congress has exercised its authority to make laws governing the entry, admission,  
24 presence, status, and removal of aliens within the United States by enacting various provisions of  
25 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and other laws regulating  
26 immigration.

1 19. These laws codify the Executive Branch’s authority to inspect, investigate, arrest,  
2 detain, and remove aliens who are suspected of being, or found to be, unlawfully in the United  
3 States. *See* 8 U.S.C. §§ 1182, 1225, 1226, 1227, 1228, 1231, 1357.

4 **ICE’S RESPONSIBILITY TO TRANSPORT IMMIGRATION DETAINEES**

5 20. ICE, through Enforcement and Removal Operations (“ERO”), is responsible for  
6 managing all aspects of the immigration enforcement process, including identification and arrest,  
7 domestic transportation, detention, bond management, and supervised release, including  
8 alternatives to detention. In addition, ERO removes aliens ordered removed from the United  
9 States to more than 170 countries around the world. *See* U.S. Immigration & Customs  
10 Enforcement, *About*, <https://www.ice.gov/about> (last visited February 10, 2020).

11 21. ICE supports the enforcement of immigration law by facilitating the transportation  
12 and removal of aliens via commercial flights. Since 2006, ICE Air Operations has used air charter  
13 services to transport individuals in ICE custody within the United States and to remove individuals  
14 from the United States. *See* U.S. Immigration & Customs Enforcement, *Fact Sheet: ICE Air*  
15 *Operations*, <https://www.ice.gov/factsheets/ice-air-operations> (last visited February 10, 2020).

16 **THE AIRLINE DEREGULATION ACT**

17 22. Pursuant to Congress’s power to “regulate Commerce with foreign Nations, and  
18 among the several States,” U.S. Const., art. I § 8, cl. 3, Congress has established a comprehensive  
19 scheme for the regulation of interstate air carriers.

20 23. In 1978, Congress determined that efficiency, low prices, variety, and quality  
21 would be furthered by reliance on competitive market forces rather than pervasive federal  
22 regulation. *Charas v. Trans World Airlines, Inc.*, 160 F.3d 1259, 1262 (9th Cir. 1998) (discussing  
23 H.R. Conf. Rep. No. 95–1779, 95th Cong., 2d Sess. 53 (1978)); *see also Morales v. Trans World*  
24 *Airlines, Inc.*, 504 U.S. 374, 378 (1992).

25 24. In order to prevent state and local governments from undoing federal deregulation  
26 by enacting their own regulations, the Airline Deregulation Act (“ADA”) provides that a “political

1 subdivision of a State . . . may not enact or enforce a law, regulation, or other provision having  
2 the force and effect of law related to a price, route or service of an air carrier that may provide air  
3 transportation under this subpart.” 49 U.S.C. § 41713(b)(1). This provision bars local  
4 governments from prohibiting or restricting particular types of air transportation, whether directly  
5 or as an indirect effect of other regulations.

6 **THE AIRPORT EXECUTIVE ORDER**

7 25. On April 23, 2019, Mr. Constantine signed the Airport EO.

8 26. The Airport EO directs that “the  
9 [King County] Department of Executive Services shall coordinate with [Boeing Field] and the  
10 Facilities Management Division” to take actions to ensure that Boeing Field “shall not support the  
11 transportation and deportation of immigration detainees in the custody of Immigration and  
12 Customs Enforcement, either traveling within or arriving or departing the United States or its  
13 territories.” Ex. A at 2.

14 27. The Airport EO instructs King County’s executive agencies to “[e]nsure that all  
15 future leases, operating permits and other authorizations for commercial activity at [Boeing Field]  
16 contain a prohibition against providing aeronautical or non-aeronautical services to enterprises  
17 engaged in the business of deporting immigration detainees (except for federal government  
18 aircraft), to the maximum extent permitted by applicable law.” *Id.* ¶ 3.

19 28. The Airport EO further instructs King County’s executive agencies to “[d]evelop  
20 procedures for exercising King County’s rights under existing leases at [Boeing Field] to ensure  
21 strict lessee compliance with applicable laws, ordinances, rules, regulations and policies of King  
22 County regarding human trafficking and the servicing of any aircraft engaged in the business of  
23 deportation of immigration detainees, including, without limitation King County Code Chapter  
24 2.15 and this Executive Order.” *Id.* ¶ 4.

25 29. After signing the Executive Order, Mr. Constantine asserted, “Our goal is to ban  
26 flights of immigrant detainees from our publicly owned airport, and I hope members of Congress

1 shine a light on this practice and how it is currently funded.” King County, *Executive Constantine*  
2 *Directs Actions Against ICE Detainee Flights From King County Airport*, Apr. 23, 2019,  
3 [https://www.kingcounty.gov/elected/executive/constantine/news/release/2019/April/23-ICE-](https://www.kingcounty.gov/elected/executive/constantine/news/release/2019/April/23-ICE-KCIA.aspx)  
4 [KCIA.aspx](https://www.kingcounty.gov/elected/executive/constantine/news/release/2019/April/23-ICE-KCIA.aspx) (last visited February 10, 2020).

### 5 **IMPACT OF THE AIRPORT EXECUTIVE ORDER**

6 30. The Airport EO has had a significant impact on ICE’s operations in the Northwest  
7 United States.

8 31. Since issuance of the Airport EO, the FBO at Boeing Field that once serviced  
9 flights by ICE’s contractors and sub-contractors will no longer do so, and ICE’s contractors and  
10 sub-contractors have not been able to obtain a replacement FBO at Boeing Field or conduct flight  
11 operations on behalf of ICE.

12 32. Because Boeing Field’s FBOs will not service ICE planes, these planes no longer  
13 have the ability to fly into or out of Boeing Field, which is the airport closest to ICE’s Northwest  
14 Detention Facility in Tacoma, Washington.

15 33. ICE has been forced to relocate its flights to an airport in Yakima, Washington,  
16 located approximately 150 miles away from Tacoma by road, which has resulted in significant  
17 fiscal and public safety costs impeding ICE operations.

18 34. The “Instrument of Transfer” between King County and the United States provides  
19 “[t]hat the United States of America . . . through any of its employees or agents shall at all times  
20 have the right to make nonexclusive use of the landing area of the airport at which any of the  
21 property transferred by this instrument is located or used, without charge.” Ex. B at 15.

### 22 **CLAIMS FOR RELIEF**

#### 23 **Count One**

24 35. Plaintiff hereby incorporates paragraphs 1 through 34 as if fully set forth herein.

25 36. The Airport EO discriminates against private parties based on their relationship  
26 with federal immigration officials.

1 37. The Airport EO significantly obstructs and burdens federal activities, and  
2 interferes with federal rights under the Instrument of Transfer.

3 38. The Airport EO therefore violates the Supremacy Clause and is invalid.

4 **Count Two**

5 39. Plaintiff hereby incorporates paragraphs 1 through 38 as if fully set forth herein.

6 40. The intent of the Airport EO is to prevent ICE’s contractors and sub-contractors  
7 from conducting lawful air carrier operations, properly authorized under federal law, at Boeing  
8 Field.

9 41. By prohibiting Boeing Field lessees from “providing aeronautical or non-  
10 aeronautical services to enterprises engaged in the business of deporting immigration detainees,”  
11 the Airport EO prevents ICE’s contractors and sub-contractors from obtaining necessary aircraft  
12 services such as fuel and water at Boeing Field. Because the Airport EO prevents ICE’s  
13 contractors and sub-contractors from providing air carrier services to ICE at Boeing Field, these  
14 contract carriers are unable to conduct operations at Boeing Field, and ICE must therefore re-  
15 route its contract carriers to an airport in Yakima, Washington.

16 42. The Airport EO is therefore a “law, regulation, or other provision having the force  
17 and effect of law related to a price, route or service of an air carrier that may provide air  
18 transportation under this subpart.” 49 U.S.C. § 41713(b)(1).

19 43. The Airport EO thus violates the ADA’s preemption provision and is invalid under  
20 the Supremacy Clause.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the United States respectfully requests the following relief:

- 23 1. That this Court enter a judgment declaring the Airport EO violates the
- 24 Supremacy Clause and is therefore invalid;
- 25 2. That this Court permanently enjoin Defendant as well as their successors, agents,
- 26 and employees, from enforcing the Airport EO;



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- 3. That this Court award the United States its costs in this action; and
- 4. That this Court award any other relief it deems just and proper.

Dated: February 10, 2020

Respectfully submitted,

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