

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITIZENS FOR RESPONSIBILITY AND ETHICS IN
WASHINGTON, RESTAURANT OPPORTUNITIES
CENTER (ROC) UNITED, INC., JILL PHANEUF, AND
ERIC GOODE,

17 Civ. 458 (GBD)

Plaintiffs,

- v -

DONALD J. TRUMP,
IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED
STATES OF AMERICA,

Defendant.

***AMICUS CURIAE* SCHOLAR SETH BARRETT TILLMAN'S AND
PROPOSED *AMICUS CURIAE* JUDICIAL EDUCATION PROJECT'S
MOTION FOR LEAVE FOR JUDICIAL EDUCATION PROJECT TO APPEAR
JOINTLY WITH TILLMAN AS *AMICI CURIAE* IN SUPPORT OF DEFENDANT AND
TO JOIN IN THE *AMICUS* BRIEF PREVIOUSLY FILED ON BEHALF OF TILLMAN**

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INTRODUCTION

On June 16, 2017, undersigned counsel submitted a motion for leave to file an *amicus* brief on behalf of scholar Seth Barrett Tillman [ECF No. 37], which the Court granted on June 28, 2017 [ECF No. 39]. Tillman and proposed *amicus curiae* Judicial Education Project (JEP) respectfully move this Court for leave for JEP to appear jointly with Tillman as *amici curiae* in support of the defendant, and for JEP to join in the *amicus* brief previously filed on Tillman's behalf.

JEP, a 501(c)(3) organization, is dedicated to strengthening liberty and justice through defending the Constitution as envisioned by the Framers—a federal government of defined and limited power, dedicated to the rule of law, and supported by a fair and impartial judiciary. JEP educates citizens about these constitutional principles and focuses on issues such as the judiciary's role in our democracy, how judges interpret the Constitution, and the impact of court rulings on the nation. JEP's educational efforts are conducted through various outlets, including print, broadcast, and internet media. In pursuit of these constitutional principles, JEP has filed *amicus curiae* briefs in numerous cases before the federal courts of appeals and the Supreme Court.¹

JEP has assisted in the preparation of a motion for leave to file a reply to the brief of *amicus curiae* by certain legal historians [ECF No. 70], which motion will be filed contemporaneously herewith. The proposed reply will include five expert declarations concerning the authenticity and provenance of a founding-era document that has been cited by

¹ See e.g., Brief of Legal Scholars Ronald A. Cass and Christopher C. Demuth and the Judicial Education Project as Amici Curiae in Support of Respondents, *United States v. Texas*, 2016 WL 1445331 (U.S.); Brief of Constitutional Law Professors, The Judicial Education Project, and Center for Constitutional Jurisprudence as Amici Curiae in Support of Petitioners, *Friedrichs v. California Teachers Association*, 2015 WL 5895920 (U.S.); Motion for Leave to File Brief as Amici Curiae and Brief of Administrative Law Professors and the Judicial Education Project as Amici Curiae in Support of Petitioners, *Chamber of Commerce of the United States v. E.P.A.*, 2013 WL 2366260 (U.S.).

counsel for plaintiffs and their *amici*. The proposed reply will assist the Court’s resolution of the question of whether the President holds an “office . . . under the United States.”

Permitting JEP to appear jointly with Tillman as *amici curiae* is within this Court’s authority,² will provide this Court with “a historical perspective and insights that may not be available from the parties,”³ and will not delay the resolution of these proceedings.

Dated: New York, New York
September 19, 2017

Respectfully submitted,

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² See *James Square Nursing Home, Inc. v. Wing*, 897 F. Supp. 682, 683 (N.D.N.Y. 1995) *aff’d*, 84 F.3d 591 (2d Cir. 1996).

³ Cf. *Citizens Against Casino Gambling in Erie Cty. v. Hogen of Nat’l Indian Gaming Comm’n*, No. 07-CV-451S, 2008 WL 11357911, at *1 (W.D.N.Y. Jan. 10, 2008) (granting leave for an amicus curiae to participate in oral arguments).

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CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2017 I caused a true and correct copy of the foregoing to be served on all counsel of record through the Court's CM/ECF system.

/s/ Robert W. Ray
Robert W. Ray, Esq.