

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

THE DISTRICT OF COLUMBIA, ET AL.,

*Plaintiffs,*

v.

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

*Defendant.*

No. 8:17-cv-1596-PJM

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* ADMINISTRATIVE LAW,  
CONSTITUTIONAL LAW, AND FEDERAL COURTS SCHOLARS IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

REGINA KLINE  
JEAN M. ZACHARIASIEWICZ  
Brown, Goldstein & Levy, LLP  
120 E. Baltimore St., Ste. 1700  
Baltimore, MD 21202  
rkline@browngold.com  
jmz@browngold.com

*Counsel for Amici Curiae*

Bruce Ackerman, Matthew D. Adler, Zachary D. Clopton, Cary Coglianesi, Seth Davis, Frank Deale, Michael C. Dorf, Daniel Farber, Daniel Hemel, Aziz Huq, Evan Tsen Lee, Jonathan S. Masur, Jon D. Michaels, Sandra L. Rierson, Eli Savit, Peter M. Shane, Joan Steinman, Arthur D. Wolf, and Brian Wolfman, by their undersigned counsel, move for leave to file the attached Brief of *Amici Curiae* in support of the plaintiffs' motion to dismiss, Dkt. No. 46. *Amici* are scholars of administrative law, constitutional law, and federal courts at American schools of law. The plaintiffs have consented to the filing of this brief; the defendant has taken no position.

Because there is no Federal Rule of Civil Procedure governing motions for leave to appear as *amici curiae* in federal district courts, the courts "have discretion whether to grant or deny such leave." *Am. Humanist Ass'n v. Maryland-Nat'l Capital Park & Planning Comm'n*, 303 F.R.D. 266, 269 (D. Md. 2014). Often looking to Rule 29 of the Federal Rules of Appellate Procedure, which governs *amicus* briefs at the federal appellate level, district courts have allowed the filing of *amicus* briefs "where [the *amici*] provide helpful analysis of the law, they have a special interest in the subject matter of the suit, or existing counsel is in need of assistance." *Id.* (quoting *Bryant v. Better Bus. Bureau of Greater Md., Inc.*, 923 F.Supp. 720, 728 (D. Md. 1996) (Davis, J.)). It is appropriate to grant a motion for leave to file an *amicus* brief where "the proffered information [is] timely and useful." *Bryant*, 923 F. Supp. at 728 (internal quotation marks and citation omitted).

Because *amici* here are scholars of American law, they have a professional interest in the constitutional limits on federal jurisdiction, and are well-suited to provide a useful and well-founded perspective on the ramifications of the Court's decision for federal jurisdiction in constitutional cases wherein business owners and state governments are plaintiffs. Their

proposed brief is also timely, following Rule 29's requirement that an *amicus curiae* file its brief within seven days of the principal brief of the party being supported. *See* Fed. R. App. P. 29(a)(6). *Amici*'s brief will aid the Court in deciding the important questions of standing raised by the motion to dismiss in this case. *See United States v. Yonkers Contracting Co.*, 697 F. Supp. 779, 781 (S.D.N.Y. 1988) (granting leave to file *amicus* brief where it would aid court in evaluating motion); *Re2con, LLC v. Telfer Oil Co.*, No. 2:10-CV-00786-KJM, 2012 WL 6570902, at \*1 (E.D. Cal. Dec. 17, 2012) (same).

Accordingly, *amici curiae* respectfully request that the Court grant their motion to file the attached brief.

Dated: November 14, 2017

Respectfully submitted,

\_\_\_\_\_  
/s/

REGINA KLINE  
JEAN M. ZACHARIASIEWICZ  
Brown, Goldstein & Levy, LLP  
120 E. Baltimore St., Ste. 1700  
Baltimore, MD 21202  
rkline@browngold.com  
jmz@browngold.com

*Counsel for Amici Curiae*

