

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

_____)	
CITIZENS IN CHARGE, INC., <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	Case No. 2:13-cv-935-MHW-TPK
)	
v.)	
)	
JON HUSTED, OHIO SECRETARY)	
OF STATE,)	
)	
<i>Defendant.</i>)	
_____)	

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF IN SUPPORT OF
PLAINTIFFS AND CORPORATE DISCLOSURE STATEMENT**

Judicial Watch, Inc. and the Allied Educational Foundation, by and through undersigned counsel, respectfully move for leave to file the attached *amicus curiae* brief in support of Plaintiffs’ Motion to Convert the Preliminary Injunction into a Permanent Injunction (ECF No. 21). In support of this motion, proposed *amici* state as follows:

Judicial Watch, Inc. (“Judicial Watch”) is a non-partisan, public interest organization headquartered in Washington, D.C. Founded in 1994, Judicial Watch seeks to promote accountability, transparency and integrity in government, and fidelity to the rule of law. In furtherance of these goals, Judicial Watch regularly files *amicus curiae* briefs and prosecutes lawsuits on matters it believes are of public importance. Judicial Watch has appeared as *amicus curiae* in multiple federal courts on numerous occasions.

The Allied Educational Foundation (“AEF”) is a nonprofit charitable and educational foundation based in Englewood, New Jersey. Founded in 1964, AEF is dedicated to promoting education in diverse areas of study. AEF regularly files *amicus curiae* briefs as a means to

advance its purpose and has appeared as an *amicus curiae* in federal courts on numerous occasions.

Amici are concerned that the Ohio law prohibiting out-of-state petition circulators unjustifiably restricts the rights of citizens to directly participate in the legislative process, and therefore intrudes on the people's sovereign right to self-governance. In recent years, Judicial Watch has regularly filed briefs and litigated cases seeking to defend the right of the people to initiative and referendum,¹ and both Judicial Watch and AEF have jointly filed briefs with the Supreme Court similarly urging broad protection of citizens' rights to direct democracy.² *Amici* therefore believe their contribution will aid the Court.

A court's decision to permit *amicus curiae* to participate in a pending case is "solely within the broad discretion of the district court." *Tafas v. Dudas, et al.*, 511 F.Supp.2d 652 (E.D. VA 2007) (overruled on other grounds); citing *Waste Mgmt., Inc. v. City of York*, 162 F.2R.D.34, 36 (M.D. Pa. 1995); see e.g. *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). While there is no rule governing the appearance of *amici* in a district court, the courts have recognized they have broad discretion whether to permit a non-party to participate as an *amicus curiae*. As explained by then-Judge Alito, "[e]ven when a party is well represented, an amicus may provide important assistance to the court." *Neonatology Assocs., P.A. v. Commissioner of Internal*

¹ See Brief of *Amicus Curiae* Russell Pearce, *Arizona v. Arizona Intertribal*, Case No. 12-71 (filed with U.S. Supreme Court December 14, 2012), available at <http://www.scribd.com/doc/117614692/Arizona-v-ITCA-amicus> ; see also *Doe v. State Board of Elections*, 428 Md. 596 (2012); see also *Whitley v. State Board of Elections*, 429 Md. 132 (2012).

² See Brief of *Amici Curiae* Judicial Watch and Allied Educational Foundation, *Bill Schuette, Michigan Attorney General v. Coalition to Defend Affirmative Action*, Case No. 12-682 (filed with U.S. Supreme Court July 1, 2013), available at [http://alliededucationalfoundation.org/legalbriefs/2013%20Briefs/shuette%20v%20coalition%20\(1\).PDF](http://alliededucationalfoundation.org/legalbriefs/2013%20Briefs/shuette%20v%20coalition%20(1).PDF); see also Brief of *Amici Curiae* Judicial Watch and Allied Educational Foundation, *Hollingsworth v. Perry*, Case No. 12-144 (filed with U.S. Supreme Court January 29, 2013), available at <http://www.scribd.com/doc/122824908/Prop-8-JW-AEF-Amicus-Brief>.

Revenue, 293 F.3d 128, 132 (3rd Cir. 2002). Indeed, the federal courts regularly permit parties with various interests to appear as *amici*, reasoning that a “restrictive policy with respect to granting leave to file may [] create at least the perception of viewpoint discrimination.”

Neonatology Assocs., P.A., 293 F.3d at 133. See also *United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002).

Undersigned counsel has contacted counsel for Plaintiffs, Defendant, and Intervenor-Defendant seeking their consent to the instant motion, and all have given their consent to this motion.

For the foregoing reasons, Judicial Watch and AEF respectfully request this Court to grant them leave to allow their appearance and to accept the brief of *amici curiae*.

**CORPORATE AFFILIATION AND FINANCIAL INTEREST
DISCLOSURE STATEMENT**

Pursuant to Fed. R. Civ. P. 7.1, Local Rule 7.1, and 6th Cir. R. 26.1, neither Judicial Watch nor AEF is a subsidiary or affiliate of a publicly owned corporation. Both Judicial Watch and AEF are corporations organized under Section 501(c)(3) of the Internal Revenue Code, and no publicly held company has a 10% or greater ownership interest in either corporation.

Dated: March 10, 2014

Respectfully submitted,

s/ Thomas W. Kidd, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Thomas W. Kidd, Jr.

Thomas W. Kidd, Jr.