

17-1351

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UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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INTERNATIONAL REFUGEE ASSISTANCE PROJECT, *et al.*

*Plaintiffs-Appellees,*

v.

DONALD J. TRUMP, *et al*

*Defendants-Appellants.*

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On Appeal from the United States District Court for the District of Maryland

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**UNOPPOSED MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF  
IN SUPPORT OF PLAINTIFFS-APPELLEES' RESPONSE BRIEF**

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## INTRODUCTION

Non-party international law scholars and nongovernmental organizations (“Proposed *Amici*”) hereby move for leave to file an *amicus curiae* brief in support of Plaintiffs-Appellees’ Response Brief (Dkt. 132). Proposed *Amici* specialize in areas of international law involving the rights of aliens and refugees, and the obligations of the United States under various treaties and international covenants to which it has acceded, jurisprudence which the movants respectfully submit could assist the Court in assessing the legality of Executive Order 13780, “Protecting the Nation From Foreign Terrorist Entry Into the United States” (“EO”). The *amicus* brief that Proposed *Amici* request be considered is attached as Exhibit A.

### **IDENTITY AND INTEREST OF PROPOSED *AMICI CURIAE***

The eighty-one international law scholars include practitioners and tenured faculty members at law schools in the United States who have devoted extensive efforts to the study and practice of international law. *See* Appendix A to Proposed Amicus Brief (listing all *Amici*). They research, teach, speak, and publish widely on international law issues, and they routinely advise and practice in matters addressing such issues before American courts. The nongovernmental organizations join the international law scholars as Proposed *Amici*. The

nongovernmental organizations collectively are experts in civil rights law, immigration law, and international human rights law.

As scholars and practitioners in the area, Proposed *Amici* have a strong interest in ensuring that the Court reaches a decision that conforms to the existing body of international law.

## ARGUMENT

### A. This Court Should Allow the Participation of Proposed *Amici Curiae*

This Court has “broad discretion” to appoint *amici curiae*. *Skokomish Indian Tribe v. Goldmark*, No. C13-5071JLR, 2013 WL 5720053, at \*1 (W.D. Wash. Oct. 21, 2013) (Robart, J.). Submission of an *amicus* brief is valuable to the Court because it “suggests the interpretation and status of the law, gives information concerning it, and advises the Court in order that justice may be done . . . .” *Cnty. Ass’n for Restoration of Env’t (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999). District courts normally allow *amicus* briefs when the *amicus* has “unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Id.* *Amicus* participation is particularly appropriate where, as here, the ramifications of the decision extend beyond the parties directly involved. *Sierra Club v. BNSF Ry. Co.*, No. C13-967-JCC, 2016 U.S. Dist. LEXIS 124269, at \*5 (W.D. Wash. Sept. 13, 2016).

**B. The *Amicus* Brief Will Help the Court Assess the Legality of the Executive Order Under Domestic and International Law**

Proposed *Amici* possess unique information and perspectives that can help this Court understand the impacts the EO will have on the United States' international relations and its ability to honor its international law obligations—ramifications that extend beyond the individuals directly involved in this case.

The United States is party to several treaties and international covenants that address issues that are immediately and urgently raised by the EO, including for example, provisions in the EO making distinctions based on national origin. Proposed *Amici* respectfully submit that the accompanying *amicus* brief, by describing the rights and obligations established by those instruments, may assist the Court in assessing the legality of the EO under both international and U.S. domestic law. Under the U.S. Constitution, of course, “all Treaties made . . . under the Authority of the United States, shall be the supreme Law of the Land.” U.S. Const., Art.VI, cl. 2. Moreover, even if the international covenants identified in the *amicus* brief do not independently or directly compel the Court to invalidate the EO, they should inform the Court's interpretation of governing statutes based on well-established canons of statutory construction. The attached *amicus* brief may also illuminate the ways in which the international community will assess the EO in light of customary international law, which will in turn affect how other nations

view and deal with the United States across a wide range of issues, including cooperation on national security matters.

**C. The *Amicus* Brief is Timely, Filed in Support of Plaintiffs-Appellees' Response Brief**

This Court issued an Order on March 23, 2017, *see* Dkt. 25, requiring that any *amicus curiae* brief in support of Plaintiffs-Appellees be filed by April 19, 2017. The instant motion and accompanying brief are filed on April 17, 2017, well before that deadline. Accordingly, this submission by Proposed Amici is timely.

**D. Plaintiffs-Appellees and Defendants-Appellants Consent to the Filing of the *Amicus* Brief**

Proposed *Amici* have obtained Plaintiffs-Appellees' and Defendants-Appellants' consent to the filing of the attached *amicus* brief. Proposed *Amici* therefore submit this motion for leave to file their *amicus* brief in satisfaction of the Federal Rules of Appellate Procedure. Fed. R. Civ. P. 29(a).

**CONCLUSION**

Proposed *Amici* respectfully request permission to file the attached *amicus curiae* brief in support of Plaintiffs-Appellees.

RESPECTFULLY SUBMITTED this 17th day of April, 2017

By:

s/ Elisabeth C. Frost

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**CERTIFICATE OF SERVICE**

I certify that on April 17, 2017 the forgoing document was served on all parties or their counsel of record through the CM/ECF system if they are registers users or, if they are not, by serving a true and correct copy by First Class U.S. Mail at the address listed below:

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Respectfully Submitted,

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April 17, 2017