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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 **GERALD CARLIN, JOHN RAHM, PAUL**
9 **ROZWADOWSKI and DIANA WOLFE,**
10 **individually and on behalf of themselves and**
11 **all others similarly situated,**

11 **Plaintiffs,**

12 **v.**

13 **DAIRYAMERICA, INC., and**
14 **CALIFORNIA DAIRIES, INC.,**

15 **Defendants.**

CASE NO. 1:09-CV-00430 AWI EPG

ORDER ON NON-PARTY AND AMICI
CURIAE LAND O’LAKES, INC. AND
DAIRY FARMERS OF AMERICA
INC.’S MOTION FOR LEAVE TO FILE
A BRIEF IN OPPOSITION TO
PLAINTIFFS’ MOTION FOR LEAVE
TO FILE FOURTH AMENDED
CONSOLIDATED CLASS ACTION
COMPLAINT

(Doc. No. 385)

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17 Non-parties Land O’Lakes, Inc. (“Land O’Lakes”) and Dairy Farmers of America, Inc.
18 (“DFA”) seek to file an *amicus curia* brief in opposition to Plaintiffs’ pending motion for leave to
19 file a fourth amended complaint. Plaintiffs seek to amend their complaint to add Land O’Lakes
20 and DFA as defendants. For the reasons that follow, Land O’Lakes and DFA’s motion will be
21 granted.

22 It has been recognized that district courts have the inherent authority to permit and
23 consider *amicus curiae* briefs, even though such briefs are not specifically provided for in the
24 Federal Rules of Civil Procedure. See In re Bayshore Ford Trucks Sales, Inc., 471 F.3d 1233,
25 1249 n.34 (11th Cir. 2006) (“Unlike the Supreme Court Rules and the Federal Rules of Appellate
26 Procedure, the Federal Rules of Civil Procedure do not specifically provide for the filing of
27 *amicus curiae* briefs at the district court level. Nevertheless, district courts possess the inherent
28 authority to appoint ‘friends of the court’ to assist in their proceedings.”); see also Rocky

1 Mountain Farmers Union v. Goldstene, 2010 WL 1949146, at *2 (E.D. Cal. May 11, 2010) (“This
2 Court retains broad discretion to either permit or reject the appearance of amicus curiae. A court
3 may grant leave to appear as an amicus if the information offered is timely and useful. An amicus
4 brief should normally be allowed when a party is not represented competently or is not represented
5 at all.”) (internal citations and quotations omitted). The Court previously allowed a similar motion
6 from a non-party earlier in this litigation under similar circumstances. See ECF No. 176.
7 Therefore, Land O’Lakes and DFA’s motion to file an *amicus curia* brief will be granted.

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9 **ORDER**

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Land O’Lakes and DFA’s motion to file an *amicus curia* brief in opposition to Plaintiffs’
12 pending motion for leave to file a fourth amended consolidated complaint (Doc. No. 385)
13 is GRANTED.
14 2. Land O’Lakes and DFA’s opposition (attached as exhibit A to their motion, Doc. No. 385)
15 is deemed filed as of March 17, 2017.

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17 IT IS SO ORDERED.

18 Dated: March 22, 2017

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29 SENIOR DISTRICT JUDGE