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 15 **UNITED STATES DISTRICT COURT**  
 16 **SOUTHERN DISTRICT OF CALIFORNIA**

17		) Case No. 18-cv-0428
18	Ms. L.,	)
19		) <b>APPLICATION OF OF SCHOLARS</b>
20	Petitioner-Plaintiff,	) <b>OF IMMIGRATION LAW AND</b>
21		) <b>CONSTITUTIONAL LAW TO FILE</b>
22	v.	) <b>BRIEF <i>AMICUS CURIAE</i></b>
23	U.S. Immigration and Customs	)
24	Enforcement, <i>et al.</i>	)
25		) Judge: Hon. Dana M. Sabraw
26	Respondents-Defendants.	) Courtroom: 13A
27		) Hearing Date: TBD
28		) Hearing Time: TBD

1                    **APPLICATION FOR LEAVE TO FILE BRIEF AMICUS CURIAE**

2                    Applicants, as proposed *amici curiae*, are scholars of immigration and  
3 constitutional law who believe it would assist the Court to offer their perspectives on  
4 important issues of law in the case before the Court. In particular, applicants are:

5                    Deborah Anker, a Clinical Professor of Law Founder and Director, Harvard  
6 Immigration and Refugee Clinic at Harvard Law School,<sup>1</sup> and the author of the  
7 treatise *Law of Asylum in the United States*.

8                    Erwin Chemerinsky, the Dean and Jesse H. Choper Distinguished Professor of  
9 Law at the University of California, Berkeley, School of Law, the author of leading  
10 casebooks on Constitutional Law, Federal Jurisdiction, and Criminal Procedure,  
11 among many other publications, and formerly the Founding Dean of the University of  
12 California, Irvine, School of Law with a joint appointment in Political Science.

13                    Lucas Guttentag, the Professor of the Practice of Law at Stanford Law School,  
14 Robina Foundation Distinguished Senior Fellow at Yale Law School, and a former  
15 Senior Counselor to the Secretary of Homeland Security.

16                    Ira Kurzban, the author of *Kurzban's Immigration Law Sourcebook*, a Partner at  
17 Kurzban, Kurzban, Weinger, Tetzeli & Pratt, P.A., a former National President and  
18 General Counsel of the American Immigration Lawyers Association, an Adjunct  
19 Professor at the University of Miami School of Law, and in 1986 was selected by  
20 *Newsweek* as one of 100 “American Heroes” for his work on behalf of immigrants.

21                    Stephen Legomsky, the Lehmann University Professor Emeritus at the  
22 Washington University School of Law, the principal author of *Immigration and*  
23 *Refugee Law and Policy* and other books on immigration and administrative law, and  
24 former Chief Counsel of United States Citizenship and Immigration Services in the  
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27 <sup>1</sup> All *amici* submit this brief solely in a personal capacity. This brief does not  
28 purport to represent the views (if any) of the universities, firms, and other  
organizations with which they are affiliated.

1 Department of Homeland Security.

2 Hiroshi Motomura, the Susan Westerberg Prager Professor of Law at the  
3 School of Law, University of California, Los Angeles (UCLA). He is the co-author of  
4 *Immigration and Citizenship: Process and Policy* (West 8th ed. 2016), and *Forced*  
5 *Migration: Law and Policy* (West 2d ed. 2013), and the author of *Americans in*  
6 *Waiting* (Oxford 2006), and *Immigration Outside the Law* (Oxford 2014).

7 Jayashri Srikantiah, a Professor of Law and Director of the Immigrants' Rights  
8 Clinic at Stanford Law School, and the author of numerous articles about immigration  
9 law.

10 Leti Volpp, the Robert D. & Leslie Kay Raven Professor of Law in Access to  
11 Justice and the Director of the Center for Race and Gender at the University of  
12 California, Berkeley, School of Law, the author of numerous articles about  
13 immigration and nationality law, and a former Trial Attorney at the U.S. Department  
14 of Justice.

15 Michael Wishnie, the William O. Douglas Clinical Professor of Law and  
16 Counselor to the Dean at Yale Law School, where he co-teaches the Worker &  
17 Immigrant Rights Advocacy Clinic, Veterans Legal Services Clinic, and Rule of Law  
18 Clinic.

19 Stephen Yale-Loehr, the Professor of Immigration Law Practice at Cornell Law  
20 School, co-author of *Immigration Law and Procedure*, the leading 21-volume treatise  
21 on U.S. immigration law, as well as many other publications about immigration law.  
22 He has practiced immigration law for more than thirty years, and is Of Counsel at  
23 Miller Mayer LLP.

24 Applicants teach and conduct research at the preeminent institutions of legal  
25 education in the country. Between them, they have decades of experience as  
26 academics, practitioners, and in government. In light of pressing issues of the  
27 fundamental rights of immigrants presented by Ms. L.'s complaint and motion for  
28 preliminary injunction, Applicants offer their views in the brief, submitted herewith,

1 with the intention of assisting the Court to come to a just and correct resolution of the  
2 issues presented in Ms. L.’s case.

3 Although the Federal Rules of Civil Procedure do not addresses the practice, *cf.*  
4 Fed. R. App. P. 29, Federal district courts possess the inherent authority to accept  
5 amicus briefs. *Padilla v. Beard*, No. 2:14-CV-1118 KJM CKD, 2017 WL 1364666, at  
6 \*5 (E.D. Cal. Apr. 14, 2017). A federal “district court has broad discretion to appoint  
7 amici curiae.” *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). There are no  
8 strict prerequisites that must be established prior to qualifying for amicus status; an  
9 individual seeking to appear as amicus must merely make a showing that his  
10 participation is useful to or otherwise desirable to the court.” *In re Roxford Foods*  
11 *Litig.*, 790 F.Supp. 987, 997 (E.D. Cal. 1991) (quotations omitted). “District courts  
12 frequently welcome amicus briefs from non-parties concerning legal issues that have  
13 potential ramifications beyond the parties directly involved or if the amicus has unique  
14 information or perspective that can help the court beyond the help that the lawyers for  
15 the parties are able to provide.” *N.G.V. Gaming, Ltd. v. Upstream Point Molate,*  
16 *L.L.C.*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (citations and internal quotation  
17 marks omitted); *see also Korolshteyn v. Costco Wholesale Corp.*, No. 3:15-CV-709-  
18 CAB-RBB, 2017 WL 3622226, at \*1 (S.D. Cal. Aug. 23, 2017) (granting leave to file  
19 an amicus brief before this court).

20 Applicants submit that there is good cause for the Court to accept their brief  
21 *amicus curiae* and consider their views on the subject.

22 DATED: March 4, 2018

KIRKLAND & ELLIS LLP

24 By:           /s/ Michael Shipley            
25 Michael Shipley

26 *Attorneys for Amici Curiae Scholars of*  
27 *Immigration Law and Constitutional Law*