

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER,
ERIN OVERDEVEST, KRISTEN
CORINALDESI, and LOGAN RIKER,
individually and on behalf of all those
similarly situated; and
ROBIN LAMOTT SPARKS, individually,
Plaintiffs,
v.
QUINNIPIAC UNIVERSITY,
Defendant.
Civil Action No.
3:09cv621 (SRU)

UNITED STATES' MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE

The United States hereby moves for leave to participate as amicus curiae in this matter.

In support of its motion, the United States asserts the following:

1. Plaintiffs allege that Quinnipiac University is intentionally discriminating against its female student athletes on the basis of sex in violation of Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. § 1681, et seq.

2. In their amended complaint, filed December 9, 2009, Plaintiffs set forth five claims, the first of which is that Quinnipiac fails to provide female student athletes an equal opportunity to participate in varsity intercollegiate athletics, and that this failure constitutes intentional sex discrimination. A bench trial, limited in scope only to this claim, is set for June 21, 2010.

3. The United States plays a central role in the enforcement of Title IX. The United States Department of Education (“ED”) promulgates regulations interpreting and enforcing Title IX. 34 C.F.R. Pt. 106. Under ED’s regulations, no individual may be discriminated against on the basis of sex in any interscholastic athletic program of an institution covered by Title IX. 34 C.F.R. § 106.41(a), et seq. The United States Department of Justice, through its Civil Rights Division, coordinates the implementation and enforcement of Title IX by the Department of Education and other executive agencies. Exec. Order No. 12,250, 45 Fed. Reg. 72,995 (Nov. 4, 1980); 28 C.F.R. § 0.51 (1998).

4. The United States has participated as an intervenor and amicus curiae in numerous cases with Title IX claims. See, e.g., Communities for Equity v. Mich. High Sch. Athletic Ass'n, Inc., 459 F.3d 676 (6th Cir. 2006); Cook v. Florida High School Athletic Ass’n, Civ. Action No. 3:09cv547 (M.D. Fla. 2009); Pedersen & United States v. S.D. High Sch. Activities Ass’n, CA: 00-4113 (D. S.D. 2000).

5. This case poses questions regarding the proper interpretation and application of Title IX to a university’s operation of its athletics program. The United States has a strong interest in ensuring this federal law is interpreted and applied correctly given its responsibility for enforcing it.

6. The Federal Rules of Civil Procedure do not specifically provide for the filing of “friends of the court” briefs at the district court level. Nevertheless, district courts have broad discretion to grant or deny permission to participate as amicus curiae, see United State v. Ahmed, 788 F. Supp. 196, 198 n.1 (S.D.N.Y. 1992), and many courts have noted the important assistance amici can play. See, e.g., Russell v. Bd. of Plumbing Exam’rs of County of Westchester, 74 F.

Supp. 2d 349, 351 (S.D.N.Y. 1999) (noting that the “primary role of the amicus is to assist the Court in reaching the right decision in a case affected with the interest of the general public.”).

7. “Generally, courts have exercised great liberality in permitting an amicus curiae to file a brief in a pending case, and, with further permission of the court, to argue the case and introduce evidence.” United States v. Davis, 180 F. Supp. 2d 797, 800 (E.D. La. 2001). Courts typically permit amicus participation if the information offered is “timely and useful.” Does 1-7 v. Round Rock Ind. Sch. Dist., 540 F. Supp. 2d 735, 739 n.2 (W.D. Tex. 2007); Avellino v. Herron, 991 F. Supp. 730, 732 (E.D. Pa. 1998); Ellsworth Assoc. v. United States, 917 F. Supp. 841, 846 (D. D.C. 1996). The United States’ proposed amicus brief satisfies both of these elements.

a. The United States’ amicus brief is timely as pre-trial briefs are to be submitted by June 21, 2010.

b. The amicus brief provides information that the United States believes is both useful and critical to the Court in evaluating Plaintiffs’ claims. Courts have deemed amicus participation useful when the party has a special interest in the issues raised in the litigation<sup>1</sup> or expertise in the relevant area of law.<sup>2</sup> As stated above, the United States has both a special interest and expertise concerning Title IX.

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<sup>1</sup> See Ellsworth Assocs., 917 F. Supp. at 846; Martinez v. Capital Cities/ABC-WPVI, 909 F. Supp. 283, 286 (E.D. Pa. 1995) (soliciting EEOC’s amicus participation to explain significance of letter it sent to plaintiff in employment discrimination case).

<sup>2</sup> See Pa. Envtl. Def. Found. v. Bellefonte Borough, 718 F. Supp. at 431, 434-35 (M.D. Pa. 1989) (permitting United States’ amicus participation based on its “primary responsibility for insuring that the Clean Water Act is properly enforced”).

Wherefore, the United States requests that the Court grant leave to file the attached brief as amicus curiae.

Respectfully submitted,

/s/ John Hughes

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