

## GIBSON DUNN

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September 28, 2010

Chief Judge Royce C. Lamberth  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001Re: CAMR Motion for Leave to File Brief Amicus Curiae (Case No. 1:09-cv-01575-RCL)

Dear Chief Judge Lamberth:

I am writing to inform the Court that Plaintiffs intend to file a memorandum in opposition to aspects of the Motion of the Coalition for the Advancement of Medical Research (“CAMR”) for Leave to File Brief Amicus Curiae, filed on September 28, 2010, in the matter of *Sherley v. Sebelius*, Case Number 1:09-cv-01575-RCL. CAMR’s motion represents that “counsel for Plaintiffs and Defendants each have authorized [CAMR] to state that they do not oppose the granting of this motion.” To the contrary, however, CAMR’s requested order extends beyond the terms of the consent granted by Plaintiffs, which was limited to the filing of a “brief amicus curiae.” The relief sought by CAMR in its motion requests “an Order granting leave to file the accompanying brief amicus curiae *and exhibits thereto*,” and CAMR’s proposed order states that the “Clerk is directed to file *in the record* the Brief Amicus Curiae of [CAMR], *together with the exhibits to the Brief*.” (Emphases added). CAMR did not seek Plaintiffs’ consent to the introduction of exhibits into the record, and Plaintiffs did not consent to any such order. Plaintiffs intend to file a memorandum in opposition to CAMR’s attempt to introduce evidence into the record, in accordance with this Court’s rules and timeline for responding to motions.

Respectfully,

/s/ Thomas G. Hungar  
Thomas G. Hungar