

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES L. SHERLEY et al.,

Plaintiffs,

v.

Case No. 09-cv-1575 (RCL)

KATHLEEN SEBELIUS, in her official
capacity as Secretary of the Department of
Health and Human Services, et al.,

Defendants.

**UNOPPOSED MOTION OF THE STATE OF WISCONSIN
FOR LEAVE TO JOIN THE AMICUS BRIEF PROVISIONALLY FILED
BY THE COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH**

The State of Wisconsin moves for leave to join the brief previously filed by the Coalition for the Advancement of Medical Research (CAMR). Pursuant to LCvR 7(m), counsel for the State of Wisconsin state that counsel for Defendants have authorized and do not oppose the undersigned motion. Counsel for the Plaintiffs have stated that they do not object to the State of Wisconsin's appearance on the brief provisionally filed by CAMR as amicus curiae, subject to the Plaintiffs' anticipated objection to the exhibits provisionally filed by CAMR by attachment thereto, as stated in Plaintiffs' letter of September 28, 2010.

The grounds for this motion are set forth in the accompanying memorandum of points and authorities.

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Bankruptcy Courts

WHEREFORE, the Court should grant the State of Wisconsin leave to join the accompanying proposed brief as amicus curiae in opposition to the plaintiffs' motion for summary judgment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian A. Howie", written over a horizontal line.

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE
UNOPPOSED MOTION OF THE STATE OF WISCONSIN
FOR LEAVE TO JOIN THE AMICUS BRIEF PROVISIONALLY FILED
BY THE COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH**

The State of Wisconsin respectfully submits this memorandum in support of its motion for leave to join the brief amicus curiae and accompanying exhibits thereto filed by the Coalition for the Advancement of Medical Research (“CAMR”). Plaintiffs’ motion seeks a permanent injunction against the enforcement of NIH Guidelines relating to federal funding of embryonic stem cells (hECSs) research involving humans. (Doc. 57-58).

The State of Wisconsin has a significant interest in the outcome of these proceedings and as such it wishes to join in CAMR’s brief. The Court has broad discretion to permit participation as an amicus curiae. *See National Ass’n of Home Builders v. Army Corp. of Eng’rs*, 519 F.Supp.2d 89, 93 (D.D.C. 2007). The information provided herein outlines the unique implications of this case on the State of Wisconsin’s and its interests. Many of the State’s interests and the associated

legal arguments are already presented by CAMR in its brief amicus curiae provisionally filed in this matter. (Doc. 60). As such, and in the interest of judicial economy, the State of Wisconsin respectfully requests to join in the brief amicus curiae provisionally filed by CAMR. (Doc. 61).

In further support of this motion, the State of Wisconsin states as follows:

1. Wisconsin became the birthplace of stem cell research when Dr. Jamie Thomson was the first to isolate embryonic stem cell lines in 1998. Today, a large number of medical researchers and scientists engaged in embryonic stem cell research work in public and non-profit research institutions in Wisconsin, including the University of Wisconsin-Madison, the Medical College of Wisconsin, the Blood Center of Wisconsin, and the WiCell Research Institute (see, e.g, CAMR Brief Exhs. B, D, F, G). The majority of this research is federally funded through the National Institutes of Health.

2. Wisconsin is also home to a rapidly expanding biotechnology industry sector on the development of equipment, cell line services, and custom products needed to support stem cell research, medical treatments and technologies.

3. In total, the State of Wisconsin is currently home to over 600 biotechnology companies and eleven stem cell companies, and more than 34,000 people work in bioscience research and industry in Wisconsin. These fields contribute almost \$9 billion to Wisconsin's economy. The annual economic impact in Wisconsin of hESC research and commercial activity was estimated at \$44.5 million in 2006-2007 by Northstar Economics.

4. The development of stem cell research and businesses is a national and global competition. The State of Wisconsin has a significant economic interest in the continuation and expansion of this research and entrepreneurial activity within the state.

5. The State of Wisconsin also has a significant interest, on behalf of its 5.6 million citizens, in the potential for hESC research to discover and develop treatments and cures for a range of debilitating and fatal diseases and conditions such as cancer, diabetes, Alzheimer's disease, spinal cord injuries, and amyotrophic lateral sclerosis (ALS).

6. The position advanced by the plaintiffs in this case would significantly hinder hESC biomedical research in Wisconsin by cutting off its main source of funding; undercut the state's burgeoning hESC biotechnology industry, which relies on and supports the scientific output of hESC researchers; and dash the hopes of thousands of Wisconsin citizens who suffer from debilitating diseases and conditions for which hESC research holds the promise of a treatment or cure.

7. The importance of hESC research and the public interest in the legal issues presented by this case are developed thoroughly by CAMR in its provisional amicus brief.

8. In lieu of duplicating those arguments, the State of Wisconsin requests that the Court grant its motion to join the CAMR brief as amicus curiae, in light of the State of Wisconsin's significant interests in the outcome of this case.

9. Counsel for CAMR has stated that he does not object to the State of Wisconsin's motion to join CAMR's brief as amicus curiae.

CONCLUSION

The State of Wisconsin's Unopposed Motion For Leave to Join the Amicus Brief Provisionally Filed by the Coalition for the Advancement of Medical Research should be granted.

Dated: October 8, 2010.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of October, 2010, the Motion of the State of Wisconsin for Leave to Join the Amicus Brief Provisionally Filed by the Coalition for the Advancement of Medical Research and the accompanying proposed order were served on all counsel of record via email as follows:

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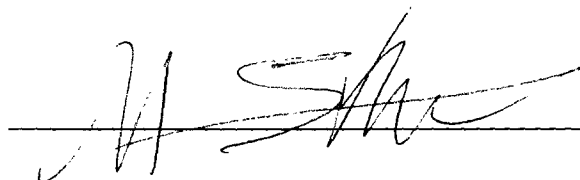
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