

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Nasser al-Aulaqi,

Plaintiff,

vs.

Barack H. Obama, et al.,

Defendants.

CASE NO. 1:10-cv-01469-JDB

**UNOPPOSED MOTION OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

The Veterans of Foreign Wars of the United States (“VFW”), a congressionally chartered veterans service organization, and the nation’s oldest veterans organization, hereby respectfully moves for leave to file the accompanying *amicus curiae* brief in support of Defendants’ motion to dismiss this action. In accordance with Local Rule 7(m), undersigned counsel has conferred with the parties’ counsel, who have no objection to the granting of this motion.


Neither the Federal Rules of Civil Procedure nor this Court’s local rules directly address the filing of an *amicus curiae* brief. This Court’s well established practice, however, is to allow the filing of an *amicus curiae* brief that is non-duplicative of the parties’ brief and is of assistance to the Court. *See, e.g., Jin v. Ministry of State Security*, 557 F. Supp. 2d 131, 138 (D.D.C. 2008) (permitting legal scholars’ organization to file *amicus* brief where group’s interest and expertise in the subject matter would contribute to the Court’s understanding of the case); *United States v. Microsoft Corp.*, No. Civ.A.98-1232 (CKK), 2002 WL 319366, at \*2 (D.D.C. Feb. 28, 2002). It is solely within the Court’s discretion to determine “the fact, extent, and

manner” of an *amicus curiae*’s participation. *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C. 2003).

The VFW’s membership, which is comprised exclusively of combat veterans, has a special interest in, and unique perspective on, the adverse impacts that suits such as this would have on national defense and security. The proposed 14-page *amicus* brief accompanying this motion supplements the Defendants’ legal arguments by discussing this suit’s potential deleterious ramifications, which range from interference with ongoing U.S. military operations in the Middle East and elsewhere, to undermining military chain of command and unit cohesion, to the effectiveness of special operations. For this reason, the VFW believes that the information presented in its *amicus* brief would be beneficial to the Court.

The Court, therefore, should grant this unopposed motion and permit the VFW to file its *amicus* brief.

Respectfully submitted,

  
/s/ Herbert L. Fenster  
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