

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII, and ISMAIL
ELSHIKH,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official
capacity as President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN F.
KELLY, in his official capacity as
Secretary of Homeland Security; U.S.
DEPARTMENT OF STATE; REX
TILLERSON, in his official capacity as
Secretary of State; and the UNITED
STATES OF AMERICA,

Defendants.

CIVIL NO. 17-00050-DKW-KSC

MEMORANDUM IN SUPPORT OF
MOTION

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The State of Illinois respectfully requests leave to file a brief as amicus curiae in support of Plaintiffs' Motion for Temporary Restraining Order, filed March 8, 2017 (Dkt. No. 65). The proposed amicus brief is attached as Exhibit "1" to the Declaration of David L. Franklin. Plaintiffs consent to the filing of the amicus brief; the Government takes no position on this motion. Franklin Decl. ¶ 4. Further, this Court has broad discretion to grant this motion.

The State of Illinois and the States of Illinois, California, Connecticut, Delaware, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia and the District of Columbia have important proprietary, sovereign, and quasi-sovereign interests that are affected by the executive order that is challenged in this lawsuit. These States seek to submit their brief to inform the Court’s analysis of the standing of a State to challenge the government action at issue here and to provide context to the real-world impact of the challenged order.

A district court has broad discretion to grant a prospective amicus participation. *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds*, *Sandin v. Conner*, 515 U.S. 472 (1995). In deciding whether to grant a motion for leave to file an amicus brief, a court should consider whether the brief “assist[s] in a case of general public interest,” “supplement[s] the efforts of counsel,” or “draw[s] the court’s attention to law that escaped consideration.” *Miller-Wohl Co., Inc. v. Comm’r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). “An amicus brief should normally be allowed” if the *amicus* “has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Cnty. Ass’n for Restoration of Env’t v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999).

Here, the amici States offer their brief to supplement the efforts of counsel and to assist and draw the Court's attention to factual and legal considerations concerning the effects of the challenged executive order on the States' interests for the purposes of establishing Article III standing.

Based on the foregoing, the State of Illinois respectfully requests leave to file the amicus brief.

DATED: Honolulu, Hawai'i, March 13, 2017.

/s/ Duane R. Miyashiro

DUANE R. MIYASHIRO

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THE DISTRICT OF COLUMBIA