

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS, INC.,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE (HARVARD CORPORATION),

Defendant.

Civil Action No. 1:14-cv-14176-ADB

**HARVARD’S MOTION FOR LEAVE TO FILE RESPONSE TO
THE UNITED STATES’ STATEMENT OF INTEREST**

Pursuant to Local Rule 7.1(b)(3), Harvard respectfully requests leave to file the attached Supplemental Memorandum in Response to the United States’ Statement of Interest (Dkt. 497).

Harvard seeks leave to file its response consistent with the Court’s statements at the April 10, 2018 status conference at which the schedule for summary judgment briefing was discussed. At that hearing, counsel for SFFA raised the concern that, because amicus filings in opposition to each party’s summary-judgment motion would be due on the same date as the parties’ replies in support of their motions, the parties might have no opportunity to address to amicus arguments. Tr. 20:4-7 (Dkt. 402) (“MR. CONSOVOY: [W]e want to have a chance to respond to the amicus who are opposing our motion, because it will be due the same day, we won’t see their briefs when we file our reply.”). The Court responded: “You can supplement if you want.” Tr. 20:15. SFFA’s counsel happily agreed. Tr. 20:16 (“MR. CONSOVOY: Okay, that sounds great.”).

SFFA has now indicated that it opposes Harvard's supplemental filing and intends to submit a response to this motion. That position is perplexing, in light of the fact that the Court invited supplemental filings at SFFA's request.

In the interest of minimizing the Court's burden, Harvard has focused its proposed response on those arguments in the government's brief that are not merely redundant to SFFA's, or that most seriously misconstrue the law or the record. Harvard respectfully submits that its response to those arguments will assist the Court's consideration of this matter. It therefore requests that the attached brief be filed.

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Respectfully submitted,

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Dated: September 26, 2018

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1(a), counsel for Harvard conferred with counsel for Plaintiff. Plaintiff opposes this motion and intends to file a response.

/s/ Seth P. Waxman
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Seth P. Waxman
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