

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT COURT 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

**STUDENT AMICI CURIAE NOTICE REGARDING TRIAL WITNESSES, REQUEST
FOR DATE CERTAIN FOR STUDENT TESTIMONY, AND NOTICE OF INTENT TO
PRESENT ORAL OPENING STATEMENT**

Pursuant to this Court's October 3, 2018 Order Regarding Motions to Participate in Trial Proceedings Filed by amici curiae, Students submit the following notice regarding (1) the names of the witnesses whose testimony Students intend to offer at trial; (2) their request that the Court reserve October 29, 2018 for testimony by all eight witnesses presented by Students and Organizations; (3) the identification of and confirmation of service of the exhibits that Students intend to present as part of their testimony; (4) Students' intent to deliver an opening statement in court rather in writing; and (5) confirmation that attorneys presenting on behalf of Students comply with this Court's order that oral arguments and examinations be presented by attorneys with five years or less of experience.

I. Students' Witnesses and Examining Attorneys

In its October 3, 2018 Order, this Court ruled that Students may present the testimony of "up to 4 witness from among the individuals identified in their motion." In accordance with this

Order, Students shall present testimony of the following witnesses through oral examination, each of whom was identified in Students' August 31, 2018 Motion to Participate in Trial:

1. Sally Chen: Senior, Harvard University;
2. Thang Diep: Senior, Harvard University;
3. Itzel Libertad Vasquez-Rodriguez: Alumna, Harvard University, Class of 2017;
4. Sarah Cole: Alumna, Harvard University, Class of 2016.

Consistent with this Court's order, examination of these witnesses will be conducted by attorneys with five years or less experience. Ms. Genevieve Bonadies Torres of the Lawyers' Committee for Civil Rights Under Law is a 2013 law school graduate and Ms. Emma Dinan of Arnold & Porter Kaye Scholer LLP is a 2014 law school graduate.

II. Proposed Date Certain for *Amici* Testimony

Students request that this Court reserve and schedule a single trial day for the testimony of all eight amici witnesses at some point after SFFA concludes its case in chief. Students propose October 29 for amici testimony to allow SFFA sufficient time to conclude its case. Students have consulted with Jennifer Holmes, counsel at Legal Defense Fund for Organizations, and confirmed that all four of their witnesses are also available on that date. Two of Students' witnesses and one of Organizations' witnesses must travel from out of town to present testimony, and allowing them to testify on Monday, October 29 will minimize the amount of work missed to provide testimony in this important case. Additionally, one of Students' witnesses is only available to testify on October 29.

As set forth in the Order, Students have conferred with the parties regarding the proposed presentation of testimony on October 29. While SFFA agrees that it would be helpful to have all of the amici witnesses appear on a single day following the conclusion of their case, they do not

consent to the Court scheduling a date certain for amici testimony given the fact that they are uncertain how long it will take for them to present their evidence.

Harvard does not object to setting October 29 as the date for amicus witness testimony, and is willing to break up the presentation of its case in chief to allow the amicus testimony to take place on the day most convenient for the witnesses and the Court. Harvard's sole concern is that the amicus testimony not break up the testimony of any individual Harvard witness. If the Court sets October 29 as the date for amici to testify, and the testimony of Harvard's witnesses will not be completed before October 29, then Harvard suggests that the amicus witnesses be permitted to testify October 29 on the condition that Harvard be permitted to defer until October 30 the testimony of any Harvard witness whose testimony could not be completed before the amicus witnesses' testimony.

III. Students' Exhibits

Students intend to use up to four exhibits consisting of the complete and redacted application and admissions materials for Students' witnesses.¹

Exhibit	Description
SA-1	Harvard University Admissions File – Sally Chen
SA-2	Harvard University Admissions File – Thang Diep
SA-3	Harvard University Admissions File – Itzel Libertad Vasquez-Rodriguez
SA-4	Harvard University Admissions File – Sarah Cole

Harvard is providing the exhibits to the parties on October 12, 2018. Students are notifying both parties of their intention to use these exhibits and providing the parties copies of those documents on October 12, 2018.

¹ Harvard has designated these exhibits as Highly Confidential – Attorney's Eyes Only.

IV. Students' Opening Statement and Presenting Attorneys

The Court's October 3, 2018 Order permits Students to either submit a written opening statement, or deliver an opening statement in court "provided that it is (a) less than 15 minutes in length, and (b) delivered by an attorney with 5 or less years of experience." Students submit this Notice of their intent to present an oral opening statement to be delivered by Ms. Torres. As a 2013 law school graduate, Ms. Torres' presentation of Students' opening statement complies with the Court's directive that amici counsel delivering opening statements have "5 years or less of experience."

Dated: October 12, 2018

Respectfully Submitted,

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COUNSEL FOR AMICI CURIAE

CERTIFICATE OF SERVICE

In accordance with Local Rule 5.2(b), I hereby certify that this document filed through the ECF system on October 12, 2018 will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Lawrence Culleen
Lawrence Culleen