

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UPSOLVE, INC. and REV. JOHN UDO-
OKON,

Plaintiffs,

-v-

LETITIA JAMES, in her official capacity as
Attorney General of the State of New York,

Defendant.

Case No. 1:22-cv-00627-PAC

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF LAW PROFESSORS FOR
LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

On behalf of a group of law professors identified in Appendix A to the accompanying amicus brief, the undersigned counsel hereby moves the Court for leave to file an *amicus curiae* brief in the above-captioned case in support of Plaintiffs' Motion for a Preliminary Injunction. Plaintiffs' counsel has indicated that Plaintiffs consent to the filing of this brief, while Defendant's counsel has indicated that Defendant takes no position. As explained below, this motion satisfies the relevant standard for leave to file as *amici curiae*.

I. LEGAL STANDARD

"District courts have broad discretion to permit or deny the appearance of amici curiae in a given case." *United States v. Yaroshenko*, 86 F. Supp. 3d 289, 290 (S.D.N.Y. 2015) (citing *United States v. Ahmed*, 788 F. Supp. 196, 198 (S.D.N.Y. 1992)). "The primary reason to allow amicus curiae briefing is that the amicus curiae offer insights not available from the parties, thereby aiding the Court." *Andersen v. Leavitt*, No. 03-CV-6115 DRHARL, 2007 WL 2343672, at *2 (E.D.N.Y. Aug. 13, 2007) (internal quotation omitted). Participation of amicus is especially welcome if the case "involve[s] matters of public interest." *Id.*

II. INTEREST AND EXPERTISE OF AMICUS CURIAE

The law professors who seek to file this *amicus curiae* brief are a group of scholars who research and write about access to justice and regulation of the legal profession. They have a strong common interest in improving access to legal assistance for low- and moderate-income people facing debt collection actions. *Amici* are especially interested in this case because it presents an important question of public interest about whether the First Amendment precludes the enforcement of laws prohibiting the "unauthorized practice of law" where enforcement would infringe upon political expression and collective activity.

Amici believe that the arguments in the attached memorandum of law will assist the Court in understanding how New York's "unauthorized practice of law" rules expose nonprofits and

advocates such as Plaintiffs to criminal prosecution. In particular, *amici* cite scholarship explaining how regulators and courts have endorsed vigorous enforcement of unauthorized-practice laws, creating a chilling effect that hinders advocacy groups' efforts to help underserved individuals obtain meaningful access to the courts. (*See* Accompanying Mem. of Law at 6-8.) Accordingly, the arguments of *amici* are unique and relevant to this matter because they explain how this case presents justiciable First Amendment questions.

III. TIMELINESS

This motion is also timely. Although the Southern District does not have rules specifically governing the timing of *amicus curiae* briefs, the Court may look for guidance to the rules of other courts. For example, the District Court for the District of Columbia requires an *amicus* motion to be filed "in a timely manner such that it does not unduly delay the Court's ability to rule on any pending matter." D.D.C. Local Rule 7(o)(2). This motion is timely under that standard because briefing on Plaintiffs' pending motion for a preliminary injunction remains ongoing, and Plaintiffs and Defendant will have the opportunity to respond to the arguments herein in their opposition and reply briefs. Thus, this motion will not unduly delay or hinder this Court's ability to consider and rule upon Plaintiffs' pending motion.

IV. CONCLUSION

For the foregoing reasons, the *amici* identified in Appendix A to the accompanying proposed brief respectfully request that the Court grant this motion and accept for filing the accompanying *amicus curiae* brief.

DATED: March 2, 2022

Respectfully submitted,

By: /s/ Richard C. St. John

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