

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

MUNEER AWAD,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-10-1186-M
)	
PAUL ZIRIAX, <i>et al.</i> ,)	
)	
Defendants.)	
)	

MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF DEFENDANTS

U.S. Border Control, U.S. Border Control Foundation, The Lincoln Institute for Research and Education, and Conservative Legal Defense and Education Fund, all of which are nonprofit organizations dedicated, *inter alia*, to educating the public on a variety of public policy issues, including the proper construction of the United States Constitution and federal laws affecting the rights of Americans, through their undersigned counsel, request leave of this Court to file their *Amicus Curiae* Brief in Support of Defendants in the above-captioned action.

The grounds in support of this motion are as follows:

1. The movants, *amici curiae* U.S. Border Control, U.S. Border Control Foundation, The Lincoln Institute for Research and Education, and Conservative Legal Defense and Education Fund, are nonprofit organizations having mutual interests in public education, proper construction of the Constitution and laws of the United States, and limited government. Likewise, they have a common interest in the matters raised in this litigation, and are mutually concerned about the legality of an injunction against certifying the Oklahoma constitutional

amendment recently voted by the citizens of Oklahoma, when they approved State Question 775, amending Article 7, Section 1, of the Oklahoma Constitution. Plaintiff has challenged the legality of that amendment, and has asked this Court to enjoin Oklahoma officials from certifying the election results. These *amici curiae* believe that the plaintiff lacks standing to seek the requested relief, that he has presented no case or controversy which would confer standing under Article III of the Constitution, and has not met the standards for injunctive relief. These *amici* believe that the Brief they have prepared, which supports the defendants' position in this litigation, will be of assistance to this Court in fully appreciating the scope of the issues presented.

2. On November 9, 2010, the Court entered a temporary restraining order, enjoining defendants from certifying the election results for State Question 775, and set a briefing schedule as well as a hearing on plaintiff's request for a preliminary injunction for 10 a.m., November 22, 2010. This Court's scheduling order sets noon on November 16, 2010, as the deadline for defendants to submit their brief in the matter, and these *amicus'* Brief is being submitted to this Court with this motion prior to that deadline. These *amici curiae* are not aware of any provision, either in the Court's orders herein or in the rules of this Court, governing the filing of *amicus* briefs in this matter, and submit that their Brief, submitted with this motion, should be accepted for filing and considered by the Court.

3. The points and authorities in support of the movants' position are included and set forth in more detail in the attached *Amicus Curiae* Brief in Support of Defendants, which is submitted herewith for filing, and a proposed form of Order is attached.

4. Undersigned counsel for the movants has contacted, by e-mail, the pro se plaintiff and counsel for defendants. Counsel for defendants has given his consent to the filing of an brief by the movants in support of the position advocated by defendants in this litigation. Plaintiff Muneer Awad responded and said he did not consent.

WHEREFORE, the movants, *amici curiae* U.S. Border Control, U.S. Border Control Foundation, The Lincoln Institute for Research and Education, and Conservative Legal Defense and Education Fund, pray that their motion be granted and that they be given leave to file their *Amicus Curiae* Brief in Support of Defendants in this matter.

Respectfully submitted,

/s/ Kevin Calvey
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