

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

COMMONWEALTH OF VIRGINIA, ) EX REL. KENNETH T. CUCCINELLI, II, ) in his official capacity as Attorney ) General of Virginia, ) Plaintiff, ) )	)	
v.	)	No. 3:10-cv-00188-HEH
KATHLEEN SEBELIUS, ) Secretary of the Department of ) Health and Human Services, ) in her official capacity, ) )	)	
Defendant. )	)	
)	)	

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO PARTICIPATE AS  
AMICI CURIAE OF FORMER UNITED STATES ATTORNEYS GENERAL  
WILLIAM BARR, EDWIN MEESE, III, AND DICK THORNBURGH,  
IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Former United States Attorneys General William Barr, Edwin Meese, III, and Dick Thornburgh file this Memorandum in support of their Motion for Leave to Participate as *Amici Curiae* in Support of Plaintiff’s Motion for Summary Judgment.

**I. INTEREST OF AMICI CURIAE**

Movants are former Attorneys General of the United States. In that office, each was the chief lawyer of the Federal Government’s Executive Branch and led the Department of Justice. Edwin Meese, III served as Attorney General under President Reagan from 1985 to 1988. In addition, from 1981 to 1985, he was a Counselor to President Reagan. Dick Thornburgh succeeded Mr. Meese, serving as Attorney General under President Reagan as well as President George H. W. Bush from 1988 to 1991. Before that, he was a two-term Governor of Pennsylvania, Assistant Attorney General in charge of the Justice Department’s Criminal

Division (under President Ford), and a United States Attorney (under President Nixon). William Barr succeeded Mr. Thornburgh, serving as Attorney General from 1991 until the end of President Bush's administration in 1993. He also served as Deputy Attorney General (1990-91) and Assistant Attorney General in charge of the Justice Department's Office of Legal Counsel (1989-90).

An important part of movants' duties as Attorneys General, including in working with and overseeing the Justice Department's Office of the Solicitor General and Office of Legal Counsel, was to interpret, advise on, enforce, and vindicate in court both the powers that the United States Constitution truly grants to the Federal Government and the limits that the Constitution sets on governmental powers. In light of this experience, and the continuing sense of duty it has instilled, movants wish to present their views on the important issues implicated by this case in the hope that they will assist the Court.

## **II. GROUNDS FOR GRANTING THE MOTION**

This Court has broad discretion to grant the request of movants to participate as *amici curiae*. See *Waste Management of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D.Pa. 1995); *Concerned Area Residents for Environment v. Southview Farm*, 834 F. Supp. 1410, 1413 (W.D.N.Y. 1993). In this case, the Court has entered an Order providing for the filing of amicus briefs. Movants' brief is being filed in accordance with the requirements of the Court's Order. Movants believe that the proposed brief may be of assistance to the Court. See *Peters v. Jenney*, 327 F.3d 307, 319 n. 13 (4th Cir. 2003) (noting that an amicus curiae brief was "helpful to the court"); *Bradley v. School Board of City of Richmond*, 317 F. Supp. 555, 576 (E.D. Va. 1970) (same).

### III. CONCLUSION

For the reasons set forth above, the Motion for Leave to Participate as *Amici Curiae* in Support of the Plaintiff's Motion for Summary Judgment should be granted.

DATED: October 8, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of October, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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