

**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.)
KATHLEEN SEBELIUS,)
Secretary of the Department)
of Health and Human Services,)
in her official capacity,)
Defendant.)

No. 3:10-cv-00188-HEH

**MEMORANDUM IN SUPPORT OF MOTION OF SMALL BUSINESS
MAJORITY FOUNDATION, INC. AND THE MAIN STREET ALLIANCE
TO FILE BRIEF *AMICI CURIAE* IN SUPPORT OF
DEFENDANT’S MOTION TO DISMISS**

Small Business Majority Foundation, Inc. (“SBMF”) and The Main Street Alliance (“MSA”) file this Memorandum in support of their Motion for Leave to File Brief *Amici Curiae* In Support of the Government’s Motion to Dismiss.

I. INTEREST OF *AMICI CURIAE*

“SBMF” is a national, nonpartisan organization, founded and run by small business owners across the United States. SBMF is a District of Columbia non-profit organization exempt from tax as an educational organization under section 501(c)(3) of the Internal Revenue Code. SBMF advocates the interests of small business owners and researches and disseminates policy proposals addressing the special interests and needs of small businesses. Over the past few years, SBMF has been focused on the biggest single problem facing small businesses: the skyrocketing cost of health care. The enactment and successful implementation of the Patient

Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 199, the law that is the subject of this lawsuit, is of paramount importance to SBMF and the small business owners whose interests SBMF promotes.

MSA, a national network of small business coalitions, is a program of Northwest Federation of Community Organizations, a Washington State nonprofit charitable and educational organization exempt from tax under section 501(c)(3) of the Internal Revenue Code. MSA creates opportunities for small business owners to advocate for themselves on public policy issues affecting small business owners, their employee and the communities they serve. MSA's members have identified the need to make health care reform work for small businesses as the top priority for the MSA.

II. GROUND FOR GRANTING THE MOTION

This Court has broad discretion to grant the request of SBMF and MSA (collectively, "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. The Movants' brief is being filed in accordance with the requirements of the Court's Order. Movants submit that their brief will be useful to the Court in reaching its decision.

SMBF and MSA seek to aid the Court in its determination of Defendant's Motion to Dismiss by providing information about the particular impact of the disparate impact of the law at issue, the Patient Protection and Affordable Care Act, Pub L. No. 111-148, 124 Stat. 119, and the minimum coverage provisions of that Act, on small business owners. Neither party brings to the consideration of these issues the perspective of small business owners, nor does any other

entity that has filed an amicus brief to date in this action represent the views of the small business sector.

III. CONCLUSION

For the reasons set forth above, the Motion of Small Business Majority Foundation, Inc. and The Main Street Alliance for Leave to File a Brief *Amici Curiae* in Support of the Defendant's Motion to Dismiss should be granted.

June 17, 2010

Respectfully submitted,

/s/ John Hardin Young
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