

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 the
Attorney General for Virginia

Plaintiff,

v.

Civil Action No. 3: 10 cv 188

KATHLEEN SEBELIUS, SECRETARY,
DEPARTMENT OF HEALTH AND
HUMAN SERVICES
In her official capacity as Secretary

Defendant.

AMICUS CURIAE REPLY TO PLAINTIFF'S MEMORANDUM
OF JUNE 23, 2010 IN OPPOSITION TO DISMISS WITHOUT
PREJUDICE OR ALTERNATIVELY, FOR A CHANGE OF VENUE

The amicus curiae petitioner, Ray Elbert Parker pro se, the undersigned named below,
Hereby files the above reply pursuant to 28 U. S. C. §§ 88, 1391 et seq., 1404 (a), 1441 et seq.,
(Chapter 89); Rule 12 (a) (1) (C) of the Federal Rules of Civil Procedure; and Rule 7 (k) (1) (2) (3)
(4) of the Local Rules of the United States District Court for the Eastern District of Virginia,
Richmond Division, as amended.

Petitioner moves this Honorable Court to treat the Virginian's Memorandum as a Motion in accordance with Rule 12 (b) (h) (1) (A) (B) (1) (2) that's *flawed* both in procedure and substance.

The Virginian's opposition consists of only two arguments, which may be dispositive by the Court for reasons as follow:

I

THE VIRGINIAN'S DO NOT OPPOSE CHANGE OF VENUE

The counsel for the Office of the Attorney General for the Commonwealth of Virginia's admission on page one of their **June 23, 2010** opposition that "*The actual party defendant has 'waived' any objection to venue*" is consistent with both the letter and the spirit of the law set forth in Chapter 89 of 28 U.S. C. A. § 1441 et seq. as well as the amicus curie petitioner's legal position pursuant to 28 U. S. C. § 1391 et seq. as a friend of the Court, of counsel, and the proffering of a *reasonable* course of action by this Court to preclude injury to any and all parties whatsoever, without hearing or a decision, on the "*merits.*"

Petitioner submits that a change of venue is not only the correct action by this court, but that it is *well-settled* law in support of a single judge's decision. The court should rely on these precedents in support of its judicial action as follows: *Stjernholm v. Peterson*, 83 F. 3d 347, 349 [3] (CA 10th Cir.), cert. denied 117 S. Ct. 301, 519 U. S. 930; *Lamont v.*

Alexandria Haig, 590 F. 2d 1124, 1132 [4 II], 192 U. S. App. D. C. 8 (CA D. C. Cir., 1978); *Reuben H. Donnelly Corp. v. F. T. C.*, 580 F. 2d 264, 266 [1, 2] (CA 7th Cir., 1978); *Doe v. Casey*, 601 F. Supp. 581, 585 [1, 2] (U. S. Dist. Ct. D. C., 1985).

II

Amicus curiae petitioner's not required to be a party

The granting of *amicus curiae status* in the above cause of action was consistent with the discretion provided by law for such action by a single district court judge. In the case of *New England Patriots Football Club, Inc. v. University of Colorado*, 592 F. 2d 1196, 1198 [1] (CA 1st Cir., 1979) the court in addressing specifically the amicus issue said:

"An 'amicus' is one who, *not as a party*, but, just as any stranger might, gives information for the *assistance* of the Court on some matter of law in regard to which the court might be doubtful or mistaken rather than one who gives a highly *partisan* account of the facts."

Petitioner has no special interest nor does he seek any form of compensation from either the court or any of the parties. The case before the court presents a matter of *public importance* that affects everyone, either directly or indirectly, which is a matter of public interest that deserves the proper forum free of legal apprenticeship by governments with a bottomless pit of time, personnel and money as well as sophomoric supervision of litigation at taxpayer expense that holds the courts hostage to the political ambitions of a parade of empty suits and endless pleadings that can perpetuate a case to infinity. See *Leigh v. Engle*, 535 F. Supp. 418, 420 [1] (U. S. Dist. Ct., N. D. Illinois, E. D., 1982); *Northside Independent School District of Bexar, etc al., Counties, Texas v. Texas Education Agency*, 410 F. Supp. 360, 362 [4] (U. S. Dist. Ct., W. D. Texas, San Antonio Division, 1975).

In summary, an “amicus curiae” is technically *a friend of the court*, as distinguished from an advocate, and such position arises only via an *ex parte order* of

the court; and the *duty* of an *amicus curiae* is to at all times relevant *advise* the court on the law in order that justice may be attained with minimal cost and inconvenience to the parties of record and the judicial system itself. The court is requested to duly note the following cases: *Allen v. County School Board of Prince Edward County, etc al.*, 28 F. R. D. 358, 361 – 362 [2 at Footnote 2] (U. S. Dist. Ct. E. D. Virginia, Richmond Division, 4th Cir., 1961 – Judge Lewis); *Alexander v. Hall*, 64 F.R. D. 152, 155 [1] (U. S. Dist. Ct. South Carolina, Columbia Division, 4th cir., 1974); *U. S. v. State*, 356 F. Supp. 469, 472 – 473 [6] (U. S. Dist. Ct., E. D. Texas, Tyler Division, 1972).

A matter of intervention of *amicus curiae* is solely within the discretion of the trial court, which was granted for this petitioner on the 3rd day of June, 2010. See *Petition of Oskar Tiedemann & Co.*, 183 F. Supp. 129, 131 [3] (U. S. Dist. Ct. D. Delaware, 1960).

WHEREFORE, *Ray Parker*, the petitioner pro se, respectfully moves this Honorable Court to *deny* the Virginian’s Memorandum of June 23, 2010 and to dismiss the above cause of action, without prejudice, for reasons and on grounds as set forth in *all* of petitioner’s pleadings

that were filed with the court at all times relevant in this cause of action, which are incorporated herein in support of this timely *reply* pursuant to Rule 10 (c) of the Federal Rules of Civil Procedure, as if fully stated again.

POINTS: As stated above.

AUTHORITIES: As stated above.

Respectfully submitted,

/s/ 
RAY ELBERT PARKER PRO SE

Post Office Box 320636
Alexandria, Virginia 22320
(703) 328 - 2366

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 General of the Commonwealth of Virginia)

Plaintiff,)

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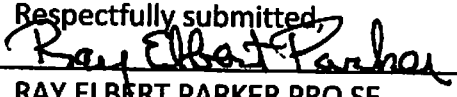
KATHLEEN SEBELIUS, SECRETARY,)
DEPARMEN OF HEALTH AND)
HUMAN SERVICES)
 In her official capacity.)

Defendant.)

CERTIFICATE OF SERVICE

Petitioner, **RAY ELBERT PARKER PRO SE**, hereby certifies *under oath* that a true copy of the above pleadings together with the certificate of service has this **28th day of June, 2010**, been served by first class mail, postage prepaid, upon **The Honorable Kenneth T. Cuccinelli, II, Attorney General of the Commonwealth of Virginia, Charles E. James, Jr., Esq.; Stephen R. McCulloug, Esq.; Earle Duncan Getchell, Jr., Esq.; and Wesly Glenn Russell, Jr., Esq.**, Assistant Attorney Generals, Office of the Attorney General for the Commonwealth of Virginia, 900 Main

Street,, Richmond, Virginia 23219; and upon **John H. Hanbrick, Esq.**, United States Attorney, 600 East Main Street, Suite 1800, Richmond, Virginia 23219; and upon **The Honorable Eric Holder, Attorney General of the United States, United States Department of Justice**, 950 Pennsylvania Avenue, NW, Suite 400. Washington, D. C. 20530; and **Jennifer R. Rivera, Esq.**, Director; **Sheila M. Lieber, Esq.**, Deputy Director; **Joel McElvan, Esq.**, **Erika L. Myers, Esq.**, Assistant United States Attorneys, United States Department of Justice, Civil Division Federal Programs Branch, 20 Massachusetts Avenue, NW, Room 7332, Washington, D. C. 20001.

Respectfully submitted,
/s/ 
RAY ELBERT PARKER PRO SE

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Alexandria, Virginia 22320
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