

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES HOUSE OF REPRESENTATIVES,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 14-cv-01967-RMC
)	
SYLVIA MATHEWS BURWELL,)	
in her official capacity as Secretary of the United States)	
Department of Health and Human Services, et al.,)	
)	
<i>Defendants.</i>)	

**OPPOSITION OF PLAINTIFF UNITED STATES HOUSE OF REPRESENTATIVES
TO MOTION OF MEMBERS OF CONGRESS FOR LEAVE TO FILE AMICI CURIAE
BRIEF IN SUPPORT OF DEFENDANTS**

Plaintiff United States House of Representatives (“House”) respectfully opposes, on timeliness grounds only, the Motion of Members of Congress for Leave To File Amici Curiae Brief in Support of Defendants (Dec. 8, 2015) (ECF No. 56) (“Motion for Leave”).¹

This case was filed more than a year ago, on November 21, 2014. Defendants filed their motion to dismiss on January 26, 2015. The Court heard oral argument on that motion on May 28, 2015, and ruled on that motion on September 9, 2015. On October 19, 2015, the Court denied defendants’ 28 U.S.C. § 1292(b) motion,² and established a schedule for briefing on the merits. All aspects of this case, including these developments in particular, have been widely reported. Accordingly, it is a given that the proposed amici have been aware of this case from

¹ We understand that another group of proposed amici who describe themselves as “economics and health policy scholars” also intend to seek leave later this week to file a separate memorandum as amici curiae in support of defendants. The House intends to take the same position with respect to their anticipated motion for leave to file.

² In that motion, defendants stressed that this matter was worthy of expedited review, a position shared by the House.

the outset and could have sought leave to participate as amici in a timely fashion. They did not.

The parties are now in the middle of the merits briefing schedule, having filed their motions for summary judgment on December 2, 2015. That briefing schedule is very tight, particularly the opposition round which culminates on January 4, 2016, because the opposition round spans the holiday season. The House's attorneys already have conformed their holiday plans to meet the schedule set by the Court.

Under these circumstances, the House urges the court to deny the Motion for Leave because it is not timely and because permitting the filing of amici memoranda now will disrupt the current briefing schedule. Given that an appeal from a final judgment in this matter is very likely, the proposed amici will have ample opportunity to present their views at a later date.

If, however, the Court determines to grant the Motion for Leave, the House respectfully requests that the Court modify the current briefing schedule to provide the House with adequate time to respond thoroughly to matters raised in the proposed Brief of Amici Curiae Members of Congress in Support of Defendants' Motion for Summary Judgment (as well as in the anticipated amici memorandum of the "economics and health policy scholars," should the Court also grant their motion for leave). The House requests that the schedule be modified as follows:

(i) oppositions to be due by January 15, 2016, and (ii) replies to be due by January 29, 2016.

Respectfully submitted,

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December 8, 2015

CERTIFICATE OF SERVICE

I certify that on December 8, 2015, I served one copy of the foregoing Opposition of Plaintiff United States House of Representatives to Motion of Members of Congress for Leave to File Amici Curiae Brief in Support of Defendants by CM/ECF on all registered parties.

/s/ Sarah Clouse
Sarah Clouse