

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**STATE OF OKLAHOMA, ex rel. Scott Pruitt, in his
official capacity as Attorney General of Oklahoma,

Plaintiff,**

v.

**KATHLEEN SEBELIUS, in her official capacity as
Secretary of the United States Department of Health
and Human Services; and JACOB J. LEW, in his
official capacity as Secretary of the United States
Department of the Treasury,

Defendants.**

No. 6:11-cv-00030-RAW

**DEFENDANTS’ OPPOSITION TO AMERICAN CIVIL RIGHTS UNION’S
MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

The defendants respectfully oppose the motion of the American Civil Rights Union (“movant”) for leave to file a brief in this matter as *amicus curiae*. ECF 103. The defendants respectfully state as follows:

1. On June 4, 2014, the movant filed a pleading styled as a motion “for leave to file hard copy *amicus curiae* motion and brief in support of plaintiff’s motion for summary judgment.” It is not apparent whether the movant, in this filing, seeks only to be excused from the Court’s ordinary CM/ECF requirements for future filings, or whether the movant also now asks the Court to grant it leave to file an *amicus curiae* brief. The defendants take no position as to whether the movant may be excused from the Court’s CM/ECF filing requirements. If the motion is construed as a motion for leave to file an *amicus curiae* brief, however, the defendants respectfully oppose the motion.

2. The parties have filed cross-motions for summary judgment, and the parties completed briefing on these motions on May 19, 2014. ECF 99. The movant, thus, seeks leave to participate in this case sixteen days after briefing has closed in this case.

3. The defendants would not have opposed the participation of *amici* in this case before briefing on the cross-motions for summary judgment closed. The participation of *amici* at this stage in the proceedings, however, would unduly complicate the resolution of the case. Multiple *amicus* briefs have been filed, in support of both the appellants and the appellees, in the cases pending in the courts of appeals addressing the issue presented in this case. *Halbig v. Sebelius*, No. 14-5018 (D.C. Cir.); *King v. Sebelius*, No. 14-1158 (4th Cir.). If *amicus* briefs were to be allowed at this stage in the proceedings in this case, some of the parties that participated in the appellate briefing may seek leave to participate here as well.

4. If *amicus curiae* briefs were to be permitted after the close of briefing on the summary judgment motions, the defendants would ask to be afforded the opportunity to respond to any filings in support of the plaintiff. Similarly, the plaintiff would likely seek the opportunity to respond to any filings in support of the defendants.

5. As a result, briefing in this matter would be unnecessarily complicated, and the resolution of this matter would be unnecessarily delayed.

6. The movant does not attempt to explain why it did not seek leave to participate in this case in a timely manner. Nor is there any apparent justification for the movant's late filing.

WHEREFORE, the defendants respectfully ask that the Courts deny the movant's request for leave to file an *amicus curiae* brief in this matter.

DATED this 5th day of June, 2014.

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

MARK F. GREEN
United States Attorney

SUSAN S. BRANDON
Assistant United States Attorney

s/ Joel McElvain

JENNIFER D. RICKETTS

Director

SHEILA M. LIEBER

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

E. Scott Pruitt
Patrick R. Wyrick
Office of the Attorney General
313 NE 21st St.
Oklahoma City, Oklahoma 73105

I also hereby certify that, on June 5, 2014, I served the following persons with this pleading, by mailing paper copies thereof by express delivery addressed to:

Leah Farish
2834 E. 26th Place
Tulsa, OK 74114

Peter Ferrara
American Civil Rights Union
20594 Wooldmere Court
Sterling, VA 20165

s/ Joel McElvain
JOEL McELVAIN