

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN ASSOCIATION of UNIVERSITY
PROFESSORS and AMERICAN FEDERATION
of TEACHERS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT of JUSTICE
et al.,

Defendants.

Case No. 1:25-cv-02429-MKV

**MEMORANDUM OF LAW IN SUPPORT OF CENTER FOR CONSTITUTIONAL
GOVERNANCE, KATE ANDRIAS, JESSICA BULMAN-POZEN,
AND OLATUNDE JOHNSON’S UNOPPOSED MOTION
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Amici curiae, the Center for Constitutional Governance at Columbia Law School, Kate Andrias, Jessica Bulman-Pozen, and Olatunde Johnson,¹ by and through their undersigned counsel, respectfully move the Court for unopposed leave to file the accompanying *amicus curiae* brief in the above-captioned case in support of Plaintiffs’ motion for preliminary injunction.² The proposed brief is attached.

IDENTITIES AND INTEREST OF *AMICI CURIAE*

Amici curiae are a nonpartisan legal and policy organization and law professors who are scholars of the Constitution and Title VI and directors of the organization.

¹ While no disclosure is required by this Court’s rules, out of an abundance of caution, *amici* hereby state that: (1) no party or party’s counsel authored this brief; and (2) no party or party’s counsel contributed money to fund preparing or submitting this brief.

² Counsel for Plaintiffs and counsel for Defendants have stated that their respective clients do not oppose this motion.

The Center for Constitutional Governance at Columbia Law School is a nonpartisan legal and policy organization devoted to the study of constitutional structure and authority.

Kate Andrias is a Faculty Director of the Center for Constitutional Governance and the Patricia D. and R. Paul Yetter Professor of Law at Columbia Law School.

Jessica Bulman-Pozen is a Faculty Director of the Center for Constitutional Governance and the Betts Professor of Law at Columbia Law School.

Olatunde Johnson is a Faculty Director of the Center for Constitutional Governance and the Ruth Bader Ginsburg '59 Professor of Law at Columbia Law School.

Professors Andrias, Bulman-Pozen, and Johnson have significant expertise in constitutional law, separation of powers, civil rights, and administrative law. They teach courses and have published widely in these fields.

The Center and its scholar directors have an interest in ensuring that the separation of powers and rule of law are upheld.

ARGUMENT

“A district court has broad discretion in deciding whether to accept an *amicus* brief.” *City of New York v. United States*, 971 F. Supp. 789, 791 n.3 (S.D.N.Y. 1997), *aff’d*, 179 F.3d 29 (2d Cir. 1999). Courts in this district routinely accept *amicus* briefs that provide “unique information or perspective that can help the court.” *Sec. & Exch. Comm’n v. Ripple Labs, Inc.*, No. 20-cv-10832 (AT), 2021 WL 4555352, at *5 (S.D.N.Y. Oct. 4, 2021); *see also New York v. United States Dep’t of Health & Hum. Servs.*, 414 F. Supp. 3d 475, 497 (S.D.N.Y. 2019) (“the Court benefited...from 10 helpful *amicus* briefs”); *C & A Carbone, Inc. v. Cnty. of Rockland, NY*, No. 08-CV-6459-ER, 2014 WL 1202699, at *4 (S.D.N.Y. Mar. 24, 2014) (*amicus* brief “helps ensure that there has been a complete and plenary presentation of difficult issues so that the court may

reach a proper decision”) (quotation marks and citation omitted); *Auto. Club of N.Y. v. Port Auth. of N.Y. and N.J.*, No. 11-6746, 2011 WL 5865296, at *1 (S.D.N.Y. Nov. 22, 2011) (“An *amicus* brief should normally be allowed when . . . the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.”). “The primary role of the *amicus* is to assist the Court in reaching the right decision in a case affected with the interest of the general public.” *Russell v. Bd. of Plumbing Examiners*, 74 F. Supp. 2d 349, 351 (S.D.N.Y. 1999).

The proposed brief amply satisfies those standards. *Amici*, a respected legal and policy organization and directors of that organization who are leading scholars on constitutional law, separation of powers, civil rights, and administrative law, have a strong interest in this Court’s application of constitutional and statutory law to uphold fundamental principles regarding the separation of powers and the Spending Clause. Proposed *Amici* submit this brief to assist the Court’s understanding of the jurisprudence concerning the Spending Clause and the application of that jurisprudence to the actions by Defendants that Plaintiffs have challenged.

CONCLUSION

For the reasons stated above, the *Amici* respectfully request that the Court grant leave to file the proposed brief.

Dated: April 24, 2025

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