

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

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CAMPAIGN LEGAL CENTER,  <i>Plaintiff,</i>  v.  FEDERAL ELECTION COMMISSION,  <i>Defendant.</i>	Civil Action No. 20-CV-0809-ABJ  The Hon. Amy Berman Jackson  THE INSTITUTE FOR FREE SPEECH'S MOTION FOR LEAVE TO FILE <u>AMICUS CURIAE BRIEF</u>
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Pursuant to LCvR 7(o)(2), the Institute for Free Speech (“IFS” or the “Institute”) respectfully submits this Motion for Leave to File an *Amicus Curiae* Brief. The Institute’s brief does not support any party in this case. But “the brief will assist the [Court] by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties’ briefs.” *In re Search of Info. Associated with @mac.com that is Stored at Premises Controlled by Apple, Inc.*, 13 F. Supp. 3d 157, 167 (D.D.C. 2014) (internal quotation marks and citation omitted) (“*In re Search of Info.*”).

The *amicus curiae* brief, and a proposed order are attached to this Motion.

INTEREST OF AMICUS CURIAE

The Institute is a nonpartisan, nonprofit § 501(c)(3) organization that promotes and protects the First Amendment political rights of speech, press, assembly, and petition. In addition to scholarly and educational work, the Institute is actively involved in targeted litigation against unconstitutional laws at both the state and

federal levels. The Institute strives to ensure that the Federal Election Commission (“FEC,” or the “Commission”) lawfully enforces federal campaign finance laws.

A faction of FEC commissioners recently implemented a scheme (the “Scheme”) that violates the Due Process Clause of the Fifth Amendment, is an arbitrary and capricious application of the Federal Election Campaign Act (“FECA”), and which abuses the Commission’s administrative discretion. The Scheme’s goal is to manipulate the Court into granting Plaintiff’s motion for default judgment so that Plaintiff, and groups like it, can enforce FECA through private litigation.

IFS moves to submit the attached *amicus curiae* brief to inform the court about the Scheme so that it will deny Plaintiff’s motion for default judgment.

#### ARGUMENT

“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.” *Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008) (citation omitted). Indeed, courts allow “parties to file *amicus* briefs where the brief will assist the judges by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties’ briefs.” *In re Search of Info.*, 13 F. Supp. 3d at 167 (internal quotation marks and citation omitted).

“Courts in this district have granted leave where a movant sought to provide information regarding a significant, unclear legal issue and denied leave where a movant sought to present arguments and insights that were not relevant to the

stage of the litigation.” *Wilderness Soc’y v. Trump*, No. 17-cv-02587, 2019 U.S. Dist. LEXIS 237858 at \*12 (D.D.C. Mar. 20, 2019) (citing *Jin*, 557 F. Supp. 2d at 138; *In re Search of Info.*, 13 F. Supp. 3d at 167).

The Institute presents this motion and the attached *amicus* brief as a true “friend of the court,” because it “does not represent the parties but participates only for the benefit of the Court.” *Jin*, 557 F. Supp. 2d at 136 (internal quotation marks and citation omitted). The IFS brief provides important information that will not otherwise be presented in this case, *see id.*, which “will benefit the court,” *Wilderness Soc’y v. Trump*, No. 17-cv-02587, 2019 U.S. Dist. LEXIS 237858 at \*12 (D.D.C. Mar. 20, 2019), by explaining the Scheme and how it violates the Fifth Amendment and FECA.

Because of Plaintiff’s pending motion for default judgment, “the procedural posture of the case” is ripe for the submission of IFS’s brief. *Id.* The brief “address[es] [the] limited issue” in Plaintiff’s motion and shows why it should be denied. *Id.* at \*13.

IFS’s “position is not adequately represented by a party” because the Scheme benefits Plaintiff and the Commission is absent from this case. LCvR 7(o)(2).

Plaintiff consented to the filing of this brief, subject to LCvR 7(o)(2).

Counsel for Defendant was contacted via email on the morning of August 13, 2021, to determine whether the FEC consented to the filing of this brief. As of the afternoon of August 16, 2021, counsel for Defendant has not responded.

The court should exercise its discretion to grant this motion.

Dated: August 16, 2021

Respectfully submitted,

/s/ Ryan Morrison

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