

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

THE PUBLIC INTEREST LEGAL)
FOUNDATION, INC.,)
)
Plaintiff,)
)
v.)
)
LARRY HAAKE, in his official capacity as)
General Registrar for Chesterfield County,)
)
Defendant.)
_____)

Civil Action No. 3:16-cv-836

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF
AND CORPORATE DISCLOSURE STATEMENT**

The Republican Party of Virginia, Inc., by and through their undersigned counsel, respectfully move for leave to file the attached *amicus curiae* brief in opposition to Defendant’s motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6). In further support of its motion, it states as follows:

The Republican Party of Virginia, Inc., (hereinafter, the "Party") is a political party committee headquartered in Richmond, VA. The organization nominates candidates for public office and advocates for their election by, among other things, communicating with registered voters.

The Court’s decision to permit *amici curiae* to participate in a pending case is “solely within the broad discretion of the district court.” *Tafas v. Dudas, et al.*, 511 F.Supp.2d 652 (E.D. VA 2007) (overruled on other grounds); citing *Waste Mgmt., Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995); see *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982). While there is no rule governing the appearance of *amici* in a district court, the courts have recognized they have

broad discretion whether to permit a non-party to participate as *amicus curiae*. “Even when a party is well represented, an *amicus* may provide important assistance to the court.”

Neonatology Assocs., P.A. v. Commissioner of Internal Revenue, 293 F.3d 128, 132 (3rd Cir. 2002). Indeed the courts have regularly permitted parties with both pecuniary and policy interests to appear as *amici*. As explained by Judge Alito:

A restrictive policy with respect to granting leave to file may . . . create at least the perception of viewpoint discrimination. Unless a court follows a policy of either granting or denying motions for leave to file in virtually all cases, instances of seemingly disparate treatment are predictable. A restrictive policy may also convey an unfortunate message about the openness of the court.

Neonatology Assocs., P.A., 293 F.3d at 133; *see also United States v. Alkaabi*, 223 F. Supp. 2d. 583, 592 (D.N.J. 2002).

Amicus curiae's interest in this case is to ensure that election officials comply with disclosure laws that permit parties access to voter registration data. *Amicus curiae* relies on registered voter data in the possession of the Defendant and similarly-situated registrars such that if the Defendant's motion were granted, it would potentially severely restrict the transparency of the election process and impair access to important election related data, depriving the Party and its nominees of the ability to communicate effectively with the electorate.

The Supreme Court has acknowledged that the interest of political parties in effective electioneering and party-building efforts is a legitimate State regulatory interest for election regulations. *Clingman v. Beaver*, 544 U.S. 581, 594 (2005) citing *Nader v. Schaffer*, 417 F. Supp. 837, 845 (Conn.), *aff'd*, 429 U.S. 989. As one of the two major party committees in Virginia, *Amicus curiae* is better situated than either party to this suit to address this critical interest that would be compromised if Defendant's motion to dismiss is granted.

Counsel for both Plaintiff and Defendant have consented to the filing of this motion.

For the foregoing reasons, the Republican Party of Virginia, Inc. respectfully request that this Court grant leave to allow this appearance and to accept the brief of *amicus curiae*.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. Civ. P. 7.1 and Local Rule 7.1, the Republican Party of Virginia, Inc., states that there is nothing to report under Local Civil Rule 7.1(A)(1)(a) and (b).

Dated: December 13, 2016

Respectfully submitted,

_____/S/_____

Christopher M. Marston (VSB# 65703)
Republican Party of Virginia, Inc.
115 E Grace St
Richmond, Virginia 23218
Telephone: (571) 482-7690
Facsimile: (703) 997-2549
Email: cmarston@rpv.org

Attorney for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2016, I transmitted the foregoing document to the named parties' emails by means of an electronic filing pursuant to the ECF system.

_____/S/_____

Christopher M. Marston (VSB# 65703)
Republican Party of Virginia, Inc.
115 E Grace St
Richmond, Virginia 23218
Telephone: (571) 482-7690
Facsimile: (703) 997-2549
Email: cmarston@rpv.org