

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

MARK HORTON,

Plaintiff-Appellant,

v.

MIDWEST GERIATRIC MANAGEMENT, LLC,

Defendant-Appellee.

Appeal No. 18-1104

**MOTION FOR LEAVE TO FILE BRIEF OF 47 BUSINESSES AND  
ORGANIZATIONS AS *AMICI CURIAE***

Pursuant to Fed. R. App. P. 29(a), the undersigned businesses and organizations (“*amici*”) respectfully move for leave to file the accompanying brief as *amici curiae* in support of Plaintiff-Appellant.

1. The 47 businesses and organizations that join this proposed brief share an interest in equality because they know that ending discrimination in the workplace is good for business, their employees, and the U.S. economy as a whole. The below businesses and organizations are committed to giving everyone the opportunity to earn a living, excel in their profession, and provide for their family free from fear of unequal treatment. *Amici* support the notion that no one should be passed over for a job, paid less, fired, or subject to harassment or any other form of discrimination based on nothing more than their sexual orientation, which is inherently sex-based. Creating workplaces in which employees are and feel safe

from discrimination frees them to do their best work, with substantial benefits for their employers.

2. Interpreting Title VII of the Civil Rights Act of 1964 to exclude sexual orientation from protections against sex discrimination, as the district court did in the decision below, has wide-ranging, negative consequences for businesses, their employees, and the U.S. economy. Businesses' first-hand experiences—supported by extensive social-science research—confirm the significant costs for employers and employees when sexual orientation discrimination is not forbidden by a uniform law, even where other policies exist against such discrimination. Our nation's employers and employees would benefit from this Court's ruling that members of the nation's large and productive lesbian, gay, bisexual and transgender workforce need not fear discrimination for simply being who they are.

3. It is anticipated that *amici*'s proposed brief will address issues that the parties may not fully or specifically cover. *See Neonatology Assoc., Inc. v. Comm'r of Internal Rev.*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.) (*amici* may provide “important assistance to the court” when they “explain the impact a potential holding might have on an industry or other group”). *Amici* will thus “fulfill the classic role of *amicus curiae* by assisting in a case of general public interest, ... supplementing the efforts of counsel, and drawing the court's attention

to law that might otherwise escape consideration.” *Funbus Sys., Inc. v. Cal. Pub. Utils. Comm’n*, 801 F.2d 1120, 1125 (9th Cir. 1986).

4. Plaintiff-Appellant has consented to the filing of this brief. On March 6, 2018, counsel for *amici* contacted counsel for Defendant-Appellee requesting consent to file this brief. On March 8, 2018, counsel for Defendant-Appellee responded that “[a]t this point, we are not able to consent.” Thus, the instant motion is required.

### **RELIEF SOUGHT**

*Amici* respectfully request that this Court grant this motion to file the accompanying proposed brief as *amici curiae* in this matter.

Dated: March 14, 2018      Respectfully submitted,

By: /s/ Todd Anten

Todd Anten (*counsel of record*)

Justin T. Reinheimer

Cory D. Struble

QUINN EMANUEL URQUHART & SULLIVAN, LLP

51 Madison Ave., 22nd Floor

New York, NY 10010

(212) 849-7000

Tico Almeida

QUINN EMANUEL URQUHART & SULLIVAN, LLP

1300 I St. NW, Suite 900

Washington, DC 20005

(202) 538-8000

*Attorneys for proposed amici curiae AdRoll, Inc.  
d/b/a AdRoll Group; Airbnb; BASF Corporation;  
Caldwell Partners; CBS Corporation;*

*Christopher Street Financial; Citrix Systems, Inc.; Clockwork; Diageo North America, Inc.; Diversified Health and Wellness Center, LLC; DoorDash, Inc.; Dropbox, Inc.; Eastern Bank; eBay; Edelman; The Estée Lauder Companies; FiftyThree, Inc.; Freedom for All Americans Education Fund; Gusto; IAC/InterActiveCorp; Kargo; KEO Marketing Inc.; Levi Strauss & Co.; Linden Research, Inc. d/b/a Linden Lab; Lyft; Mapbox; MassMutual; National Gay & Lesbian Chamber of Commerce (NGLCC); NIO U.S.; OBOX Solutions; Out Leadership; PayPal Holdings, Inc.; Pinterest; Replacements, Ltd.; Rhapsody International Inc. d/b/a Napster; salesforce.com, inc.; Thumbtack, Inc.; Ultragenyx Pharmaceutical Inc.; Viacom Inc.; Witeck Communications*

Brian D. Klar

KLAR, IZSAK & STENGER, L.L.C.

1505 S. Big Bend Blvd.

St. Louis, Missouri 63117

(314) 863-1117

*Attorneys for proposed amici curiae City National Bank; Deutsche Bank; Microsoft Corporation; Morgan Stanley; RBC Bank (Georgia), N.A.; RBC Capital Markets, LLC; Royal Bank of Canada*

**CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(g), this motion complies with the type-volume limitations of Fed. R. App. P. 27(d)(2) because it contains 474 words, based on the Microsoft Word word-count function.

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it was prepared with Microsoft Word in 14-point Times New Roman, a proportionally spaced font.

Dated: March 14, 2018

/s/ Todd Anten \_\_\_\_\_  
Todd Anten

**CERTIFICATE OF SERVICE**

I certify that on the 14th day of March, 2018, I electronically filed the foregoing document with the United States Court of Appeals for the Eighth Circuit via the appellate CM/ECF system. I certify that all counsel of record are registered CM/ECF users, and that I served them on the 14th day of March, 2018, via this Court's CM/ECF system.

Dated: March 14, 2018

/s/ Todd Anten  
Todd Anten