

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

AUGUST DEKKER, et al.,

Plaintiffs,

v.

Case No. 4:22-cv-00325-RH-MAF

SIMONE MARSTILLER, et al.,

Defendants.

_____ /

**DEFENDANTS' RESPONSE IN OPPOSITION TO MOTION FOR
LEAVE TO FILE HUSSEIN ABDUL-LATIF, ET AL. AMICUS BRIEF AND
ACCOMPANYING MEMORANDUM**

Defendants Secretary Marsteller and the Agency for Health Care Administration oppose the motion for leave to file the Hussein Abdul-Latif, et al. amicus brief.

MEMORANDUM

The motion for leave to file an amicus brief should be denied for three reasons.

First, responding to the amicus brief would put the Defendants at an unfair disadvantage. This case is proceeding under a truncated briefing and hearing schedule because the Plaintiffs have asked for such a schedule. Counsel for the Defendants and the Defendants' experts are working diligently to respond to the Plaintiffs' motion for preliminary injunction. Responding to an amicus brief would divert time and attention away from that motion.

Second, and relatedly, the proposed amicus brief is untimely. While the Northern District of Florida Local Rules do not contemplate filing amicus briefs, the Federal Rules of Appellate Procedure require such briefs to be filed “no later than 7 days after the principal brief of the party being supported is filed”—that is 7 days after the principal brief when proceeding under the ordinary (not expedited) briefing schedule. Fed. R. App. P. 29(a)(6). The motion contravenes the rule because the proposed amici waited 18 days after the Plaintiffs filed their motion for preliminary injunction to file their motion for leave. That leaves the Defendants only 3 days to respond to the amicus brief’s arguments before the deadline for their response in opposition.

Third, counsel for the parties are more than able to present arguments and scientific information to this Court. Outside assistance is not necessary.

As such, the motion for leave should be denied. If, however, this Court is inclined to grant the motion, the Defendants ask this Court to alter its briefing and hearing schedule to afford the Defendants more time to respond to the arguments made in the amicus brief.

Respectfully submitted,

/s/ Mohammad O. Jazil
Mohammad O. Jazil (FBN 72556)
Gary V. Perko (FBN 855898)
Michael Beato (FBN 1017715)
mjazil@holtzmanvogel.com
gperko@holtzmanvogel.com
mbeato@holtzmanvogel.com
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK PLLC

119 S. Monroe St., Suite 500
Tallahassee, FL 32301
(850) 270-5938
*Counsel for Secretary Marstiller and the
Agency for Health Care Administration*

LOCAL RULE CERTIFICATIONS

The undersigned certifies that this memorandum contains 275 words, excluding the case style and certifications. Plaintiffs oppose any delay of the briefing schedule or preliminary injunction hearing *but* don't oppose amici filing a brief in support of Plaintiffs' position.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2022, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Mohammad O. Jazil
Mohammad O. Jazil