

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MASSACHUSETTS COALITION FOR
IMMIGRATION REFORM, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Case No. 1:20-cv-3438 (TNM)

**UNOPPOSED MOTION OF IMMIGRATION REFORM LAW INSTITUTE FOR LEAVE TO
FILE A MEMORANDUM OF LAW AS *AMICUS CURIAE* IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to FED. R. CIV. P. 7 and LCvR 7(o), the Immigration Reform Law Institute (“IRLI”) respectfully requests this Court’s leave to file the accompanying memorandum of law as *amicus curiae* in support of Plaintiffs’ motion for summary judgment. IRLI’s counsel has conferred with counsel for the parties, and Plaintiffs consent to the filing of the attached *amicus* memorandum of law, while Defendants take no position on its filing. Therefore, this motion is unopposed.

IRLI is a nonprofit 501(c)(3) public interest law firm dedicated both to litigating immigration-related cases in the interests of United States citizens and to assisting courts in understanding federal immigration law. IRLI has litigated or filed *amicus curiae* briefs in a wide variety of immigration-related cases. For more than twenty years the Board of Immigration Appeals has solicited supplementary briefing, drafted by IRLI staff, from

the Federation for American Immigration Reform, of which IRLI is a supporting organization.

““The extent, if any, to which an *amicus curiae* should be permitted to participate in a pending action is solely within the broad discretion of the district court.”” *Sierra Club v. Fed. Emergency Mgmt. Agency*, 2007 U.S. Dist. LEXIS 84230, at *2 (S.D. Tex. Nov. 14, 2007) (quoting *Waste Mgmt. of Pa., Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995)). Local Rule LCvR 7(o)(2) requires a motion for leave to file an *amicus* brief to set forth the reasons why an *amicus* brief is desirable, why the movant’s position is not adequately represented by a party, and why the matters asserted are relevant to the disposition of the case. IRLI submits that its proffered memorandum of law is both desirable and not duplicative of Plaintiffs’ position because, in the following ways, the memorandum provides grounds, in addition to those provided by Plaintiffs, for concluding that Defendants’ actions were arbitrary and capricious:

- Demonstrating that the failure of the Defendant Department of Homeland Security (“DHS”) to explain why it did not follow the procedures set forth in its non-binding Instruction Manual renders the challenged actions arbitrary and capricious.
- Showing that inconsistent practice by DHS also renders its actions in this case arbitrary and capricious, in light of 1) recent factual findings by the United States District Court for the Northern District of Florida that some of the challenged immigration actions in this case have resulted in a predictable surge in population of over one million and 2) a recent DHS

action in which DHS complied with NEPA requirements even though that action—delaying an enforcement date—has inconsequential environmental effects.

These issues are all relevant to this Court’s decision on Plaintiffs’ motion for summary judgment; accordingly, the attached memorandum may aid the Court.

For the foregoing reasons, IRLI respectfully requests that the Court grant its motion for leave to file the accompanying memorandum of law as *amicus curiae*.

Respectfully submitted on April 5, 2023,

/s/ Christopher J. Hajec
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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2023, a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) and served on all counsel of record.

/s/ Christopher J. Hajec
CHRISTOPHER J. HAJEC