

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

ASYLUM SEEKERS TRYING TO ASSURE THEIR SAFETY, <i>et al.</i> , Plaintiffs, v. TAE D. JOHNSON, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement, <i>et al.</i> , Defendants.	No. 23-cv-00163-RCL
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**UNOPPOSED MOTION OF THE IMMIGRATION REFORM LAW INSTITUTE
FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*
IN SUPPORT OF DEFENDANTS’ MOTION TO DISMISS**

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 Defendants’ Motion to Dismiss. IRLI’s counsel has conferred with counsel for the parties and report that Plaintiffs do not oppose and Defendants consent. 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 Defendants' position because the memorandum provides grounds, in addition to those provided by Defendants, for concluding that Plaintiffs' claims should be dismissed:

- Showing that Plaintiffs are not entitled to the constitutional protections they claim because they have not effected an "entry" into the United States.
- Showing that the only protection afforded by Congress to which Plaintiffs are entitled is the opportunity to establish a credible fear of persecution and that Plaintiffs have already been afforded that opportunity.

These issues are all relevant to this Court's decision on Defendants' motion to dismiss; accordingly, the attached memorandum may aid the Court.

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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*.

Dated: April 11, 2023

Respectfully submitted,

/s/ Gina D'Andrea

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2023, a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) and served on all counsel of record.

/s/ Gina D'Andrea