

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

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<b>UNITED STATES HOUSE OF REPRESENTATIVES,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:14-cv-01967-RMC
	)	
<b>SYLVIA MATHEWS BURWELL, in her official capacity</b>	)	
as Secretary of Health and Human Services, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**MOTION OF ECONOMIC AND HEALTH POLICY SCHOLARS FOR LEAVE TO  
FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS**

Pursuant to Local Rule 7(o), *amici curiae* Economic and Health Policy Scholars move for leave to file the attached *amici curiae* brief in support of Defendants’ motion for summary judgment. In support of this motion, *amici* state as follows:

1. *Amici curiae* are a group of distinguished professors and internationally recognized scholars of economics and health policy who have taught and researched the economic and social forces operating in the health care and health insurance markets.<sup>1</sup> *Amici* have closely followed the development, adoption, and implementation of the Affordable Care Act and are very familiar with its purpose and structure.

2. This Court has “wide discretion in deciding whether to grant [third parties] leave to file an [amici] curiae brief.” *Matter of Search of Info. Associated with [redacted]@mac.com that is Stored at Premises Controlled by Apple, Inc.*, 13 F. Supp. 3d 157, 167 (D.D.C. 2014). “Court[s] have permitted parties to file amicus briefs where ‘the brief will assist the judges by

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<sup>1</sup> A full list of the *amici* is included in the attached proposed brief.

presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties' briefs" and where "the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *Id.* (quoting *Voices for Choices v. Illinois Bell Tel. Co.*, 339 F.3d 542, 545 (7th Cir. 2003), and *Jin v. Ministry of State Sec'y*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008)).

3. The proposed, attached brief offers these scholars' expert perspective on the economic and health policy reasons why cost-sharing subsidies are necessary for the Affordable Care Act's reforms to function as intended by Congress. That the cost-sharing subsidies are integral to the successful operation of the Act is relevant to this Court's consideration of whether those subsidies are subject to a permanently authorized appropriation or instead to annual appropriations. *Amici's* "unique . . . perspective" is "not to be found in the parties' briefs," and *amici's* position is thus not adequately represented by any party. *Id.* *Amici's* perspective is desirable because it "can help the court beyond the help that the lawyers for the parties are able to provide." *Id.*

4. This motion and the attached brief have been filed within seven days of the filings by the parties in support of their motions for summary judgment in this case. This Court has previously accepted *amicus* briefs filed within similar timeframes, including in this case. *See, e.g.*, Minute Order granting Motion for Leave to File Brief as Amici Curiae, Sept. 9, 2015 (seven days); Minute Order granting Motion for Leave to File amicus brief, *Prevor v. F.D.A.*, No. 1:11-cv-01187-RMC (Feb. 2, 2012) (twelve days); *cf.* Fed. R. App. P. 29(e) (requiring that *amicus* briefs be filed within seven days of the filing of "the principal brief of the party being supported"). Moreover, the filing of this brief will neither delay this Court's consideration of the merits of this case nor prejudice the parties. The parties' merits briefing is not scheduled to

conclude until January 18, 2016, and between now (December 8, 2015) and then the parties will have the opportunity to address the arguments of *amici* in their responsive briefs due January 4, 2016, and reply briefs due January 18, 2016.

5. Counsel for *amici* contacted counsel for the parties to determine whether they oppose the filing of this brief. Counsel for Plaintiff has indicated that Plaintiff opposes this motion and will file an opposition. Counsel for Defendants has indicated that they do not oppose this motion.

6. For the foregoing reasons, *amici* respectfully ask this Court to grant leave to *amici* to submit the attached *amici curiae* brief.

Dated: December 8, 2015

Respectfully submitted,

/s/ Matthew E. Price

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**CERTIFICATE OF SERVICE**

I certify that on December 8, 2015, the foregoing Motion of Economic and Health Policy Scholars for Leave to File Brief as *Amici Curiae* in Support of Defendants, the attached Brief *Amici Curiae* for Economic and Health Policy Scholars in Support of Defendants, and the attached Proposed Order were served via the CM/ECF filing system of the United States District Court for the District of Columbia on all registered parties.

Dated: December 8, 2015

/s/ Matthew E. Price