

No. 2017-1994

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

MODA HEALTH PLAN, Inc.,

Plaintiff-Appellee

v.

UNITED STATES,

Defendant-Appellant

On Appeal from the United States Court of Federal Claims,
in case no. 1:16-cv-00649, Judge Thomas C. Wheeler

Unopposed Motion By THE STATES OF OREGON, ALASKA, CALIFORNIA,
CONNECTICUT, DELAWARE, HAWAII, KENTUCKY, MARYLAND,
MASSACHUSETTS, MINNESOTA, NEW MEXICO, NORTH CAROLINA,
PENNSYLVANIA, RHODE ISLAND, VERMONT, WASHINGTON,
WYOMING, AND THE DISTRICT OF COLUMBIA, To File Amici Curiae Brief
In Support Of Petition For Rehearing En Banc

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Under Federal Circuit Rules 35(g) and 40(g), the States Of Oregon, Alaska, California, Connecticut, Delaware, Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, New Mexico, North Carolina, Pennsylvania, Rhode Island, Vermont, Washington, Wyoming, and the District of Columbia seek permission to file a brief as *amici curiae* in support of the petition for rehearing en banc.

This case implicates the states' interests as the primary regulators of the health insurance industry. *See* 15 U.S.C. § 1012(a) (“[t]he business of insurance * * shall be subject to the laws of the several States”); 15 U.S.C. § 1011 (“the continued regulation and taxation by the several States of the business of insurance is in the public interest”). Because of those interests, 18 states and the District of Columbia participated as *amici curiae* at the panel stage as of right under Fed. R. App. P. 29(b)(2). The states continue to have a strong interest in the proper resolution of this case and therefore request permission to be heard on the issues presented in the petition for rehearing en banc.

The parties consent to this motion.

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For those reasons, this court should grant the states permission to appear as *amici curiae* and accept for filing the brief that the states previously submitted.

Respectfully submitted,

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/s/ Benjamin Gutman

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CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2018, I filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Benjamin Gutman

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