

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

| | | |
|-----------------------------|---|-------------|
| STATE OF NEW YORK, ET AL., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. 18-1747 |
| |) | |
| UNITED STATES DEPARTMENT OF |) | |
| LABOR, ET AL., |) | |
| |) | |
| Defendants. |) | |

**MOTION OF THE RESTAURANT LAW CENTER
FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF
IN SUPPORT OF DEFENDANTS’ MOTION TO DISMISS, OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT,
AND OPPOSITION TO PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

The Restaurant Law Center hereby requests leave to file an *amicus curiae* brief in support of Defendants’ Motion to Dismiss, or, in the Alternative, for Summary Judgment, and Opposition to Plaintiffs’ Motion for Summary Judgment. In support of their request, the Restaurant Law Center states as follows:

1. The Restaurant Law Center is an independent public policy organization affiliated with the National Restaurant Association, the largest foodservice trade association in the world. The Association supports over 500,000 restaurant businesses including many small businesses. The restaurant industry in the United States comprises over one million restaurants and other foodservice outlets employing almost 15 million people – approximately ten percent of the United States’ workforce.

2. As such, the Restaurant Law Center has a profound interest in laws and regulations generally governing the provision of healthcare benefits to restaurant employees

throughout the United States, including those laws and regulations designed to enhance the provision of healthcare coverage to the employees of small businesses and to working owners.

4. Accordingly, the Restaurant Law Center supports Defendants' position that the Final Rule at issue in this case – which effectively expands the ability of small businesses and self-employed individuals to form associations to obtain affordable, high-quality health insurance – should not be vacated, and further support the Final Rule's allowance for continuation of the prior means by which a “bona fide group or association of employers” may form an association health plan to obtain health coverage for their employees.

5. The Restaurant Law Center's proposed *amicus* brief will help clarify for the Court the challenges faced by small businesses in the health coverage marketplace and the importance of the Final Rule both in preserving the pre-Final Rule guidance on the existence of a “bona fide group or association of employers” and also providing a new, alternate pathway for businesses and working owners to band together to access to affordable healthcare coverage for their employees. The brief thus will provide context for the Final Rule, its purposes, and the public interest, which the parties have not addressed but which bear directly on the importance of the case's disposition.

5. Plaintiffs and Defendants have consented to the Restaurant Law Center filing a brief as *amicus curiae*.

WHEREFORE, the Restaurant Law Center requests leave to file a brief, as *amicus curiae* in support of Defendants' Motion to Dismiss, or, in the Alternative, for Summary Judgment, and Opposition to Plaintiffs' Motion for Summary Judgment, on or before December 19, 2018.

Respectfully submitted,

/s/ Jaclyn L. West Hamlin

Jaclyn L. West Hamlin, DC Bar No. 989236
James J. Plunkett, DC Bar No. 998679
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
1909 K Street, N.W., Ste. 1000
Washington, DC 20006
202.600.2584
Jaclyn.hamlin@ogletreedeakins.com

David L. Schenberg
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
7700 Bonhomme Avenue, Ste. 650
St. Louis, MO 63105
314.802.3956
David.schenberg@ogletreedeakins.com

Kristine M. Bingman
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
The KOIN Center
222 SW Columbia Street, Ste. 1500
Portland, OR 97201
503.552.2140
Kristine.bingman@ogletreedeakins.com

*Attorneys for Proposed Amicus Curiae
The Restaurant Law Center*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November, 2018, I caused a copy of the foregoing to be filed with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Matthew Colangelo
Susan Joan Cameron
Elizabeth Richer Chesler
Matthew William Grieco
Lisa Landau
Sara Haviva Mark
OFFICE OF THE NEW YORK STATE
ATTORNEY GENERAL
Health Care Bureau
28 Liberty St.
19th Floor
New York, NY 10005
(212) 416-6305
Matthew.Colangelo@ag.ny.gov
susan.cameron@ag.ny.gov
elizabeth.chesler@ag.ny.gov
Matthew.Grieco@ag.ny.gov
lisa.landau@ag.ny.gov
sara.mark@ag.ny.gov
Attorneys for State of New York

Eric M. Gold
Stephen B. Vogel
Office of the Massachusetts Attorney General
Health Care Division
1 Ashburton Place
Boston, MA 02108
617-727-2200
Eric.gold@state.ma.us
Stephen.vogel@state.ma.us
Attorneys for Commonwealth of Massachusetts

Robyn R. Bender
Andrew J. Saindon
Valerie M. Nannery
OFFICE OF ATTORNEY GENERAL/DC
441 4th Street, NW
Suite 630 South
Washington, DC 20001
(202) 724-6610
(202) 730-0657 (fax)
Robyn.Bender@dc.gov
Andrew.saindon@dc.gov
Valerie.nannery@dc.gov
Attorneys for District of Columbia

Julie Weng-Gutierrez
Kathleen Boergers
Nimrod P. Elias
Karli Eisenberg
OFFICE OF ATTORNEY GENERAL/CA
1300 I Street, P.O. Box 944255
Sacramento, CA 94244
(916) 210-7913
Julie.wenggutierrez@doj.ca.gov
Kathleen.boergers@doj.ca.gov
Nimrod.elias@doj.ca.gov
Karli.eisenberg@doj.ca.gov
Attorneys for State of California

Ilona Kirshon
Deputy State Solicitor
Jessica M. Willey
Delaware Department of Justice
Civil Division
820 N. French Street
6th floor
Wilmington, DE 19801
302-674-7387
Ilona.kirshon@state.de.us
Jessica.willey@state.de.us
Attorneys for State of Delaware

John Michael Brown, Sr.
La Tasha Arnae Buckner
S. Travis Mayo
Taylor Payne
OFFICE OF THE ATTORNEY GENERAL,
COMMONWEALTH OF KENTUCKY
700 Capitol Avenue
Suite 118
Frankfort, KY 40601
502-696-5300
jmichael.brown@ky.gov
latasha.buckner@ky.gov
Travis.mayo@ky.gov
Taylor.payne@ky.gov
Attorneys for Commonwealth of Kentucky

Steven A. Sullivan
Kimberly S. Cammarata
Maryland Office of the Attorney General
Consumer Protection Division, Health Education
and Advocacy
200 St. Paul Place
Baltimore, MD 21202
410-576-7038
ssullivan@oag.state.md.us
kcammarata@oag.state.md.us
Attorneys for State of Maryland

Matthew Berns
Jeffrey S. Posta
OFFICE OF THE ATTORNEY GENERAL/NJ
P.O. Box 117
25 Market Street
Trenton, NJ 08625
(609) 376-2965
Matthew.berns@njoag.gov
Jeffrey.posta@law.njoag.gov
Attorneys for State of New Jersey

Scott J. Kaplan
Henry Kantor
Sarah Weston
Office of the Attorney General
Oregon Department of Justice
100 Market Street
Portland, OR 97201
(971) 673-1880
Scott.Kaplan@doj.state.or.us
Scott.kaplan@doj.state.or.us
Henry.kantor@doj.state.or.us
Sarah.weston@doj.state.or.us
Attorneys for State of Oregon

Michael J. Fischer
Nikole N. Brock
Pennsylvania Office of Attorney General
Civil Law Division
1600 Arch St.
Suite 300
Philadelphia, PA 19103
(215) 560-2171
mfischer@attorneygeneral.gov
nbrock@attorneygeneral.gov
Attorneys for Commonwealth of Pennsylvania

Toby J. Heytens
Matthew R. McGuire
Michelle S. Kallen
OFFICE OF THE ATTORNEY GENERAL/VA

Jeffrey G. Rupert
Jeffrey T. Sprung
Marta Deleon
OFFICE OF THE WASHINGTON

Solicitor General
202 North Ninth Street
Richmond, VA 23219
(804) 786-7240
theytens@oag.state.va.us
mmcguire@oag.state.va.us
mkallen@oag.state.va.us
Attorneys for Commonwealth of Virginia

ATTORNEY GENERAL
Complex Litigation Division
800 Fifth Avenue
Suite 2000
Seattle, WA 98104
(206) 326-5492
(206) 623-0594 (fax) Jeffrey.rupert@atg.wa.gov
Jeff.sprung@atg.wa.gov
Marta.deleon@atg.wa.gov
Attorneys for State of Washington

Ashley Alexandra Cheung
Tamra Tyree Moore
U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
20 Massachusetts Ave.
Washington, DC 20530
(202) 616-8267
ashley.cheung@usdoj.gov
tamra.moore@usdoj.gov
*Attorneys for United States Department of
Labor, United States of America, and R.
Alexander Acosta*

/s/ Jaclyn L. West Hamlin
Attorney for Proposed *Amicus Curiae*

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| UNITED STATES DEPARTMENT OF |) | |
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| Defendants. |) | |

[PROPOSED] ORDER

AND NOW, this ____ day of _____, 2018, upon consideration of The Restaurant Law Center’s Motion for Leave to File an *Amicus Curiae* Brief in Support of Defendants’ Motion to Dismiss, or, in the Alternative, for Summary Judgment, and Opposition to Plaintiffs’ Motion for Summary Judgment, it is HEREBY ORDERED that the Motion is GRANTED, such brief to be filed on or before December 19, 2018.

BY THE COURT:

Hon. John D. Bates
United States District Judge