

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JILL STEIN, et al.,</b>	:	
	:	
<b>Plaintiffs,</b>	:	
	:	
<b>v.</b>	:	<b>Civ. No. 16-6287</b>
	:	
<b>PEDRO A. CORTÉS, in his official</b>	:	
<b>capacity as Secretary of the</b>	:	
<b>Commonwealth, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

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**MOTION OF THE AMERICAN CENTER FOR LAW AND JUSTICE FOR  
LEAVE TO FILE ITS *AMICUS CURIAE* BRIEF**

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GREGORY R. REED  
(PA. No. 23705)  
JOSHUA A. REED  
(PA. No. 307666)  
REED LAW  
4303 Derry Street  
Harrisburg, PA 17111  
Telephone: (717) 238-0434  
Facsimile: (717) 238-8469  
Email: lawoffice@reedpalaw.com  
*Associate Counsel for  
Amicus Curiae*

JAY ALAN SEKULOW\*  
STUART J. ROTH\*\*  
COLBY M. MAY\*\*  
CECE HEIL\*\*  
MATTHEW R. CLARK\*\*  
BENJAMIN P. SISNEY\*\*  
OLIVIA F. SUMMERS\*\*  
AMERICAN CENTER FOR LAW AND JUSTICE  
201 Maryland Avenue, NE  
Washington, D.C. 20002  
Telephone: (202) 546-8890  
Facsimile: (202) 546-9309  
Email: sekulow@aclj.org  
*Counsel for Amicus Curiae*

\*Application for Admission Pro Hac Vice forthcoming

\*\*Not admitted in this jurisdiction

AND NOW COMES Movant, the American Center for Law and Justice (“ACLJ”), by and through its undersigned counsel, and files this Motion for Leave to File its *Amicus Curiae* Brief. A copy of the proposed brief has been submitted with this Motion.

**I. PARTIES’ POSITION ON THIS MOTION.**

Pursuant to Local Rule 7.1(b), Movant certifies that this Motion is uncontested. Movant sent electronic correspondence to counsel for Plaintiffs but have not, at the time of this filing, received a response indicating whether or not Plaintiffs contested the Motion. Counsel for Defendants responded to Movant’s request for consent and stated they have no objection to the instant Motion being granted. Counsel for Intervenor Defendants responded to Movant’s request for consent and stated they do not contest the instant Motion.

**II. DISTRICT COURTS HAVE AUTHORITY TO ACCEPT *AMICUS* BRIEFS.**

Federal district courts possess the inherent authority to accept *amicus* briefs. *Avellino v. Herron*, 991 F. Supp. 730, 732 (E.D. Pa. 1998) (“A district court has inherent authority to designate amici curiae to assist it in a proceeding.”). “No statute, rule, or controlling case defines a federal district court’s power to grant or deny leave to file an amicus brief, . . . and in the absence of controlling authority, district courts commonly refer to [Federal Rule of Appellate Procedure] 29 for guidance.” *United States ex rel. Gudur v. Deloitte Consulting Llp*, 512 F. Supp. 2d

920, 927 (S.D. Tex. 2007) (quoting *Waste Management of Pa. v. City of York*, 162 F.R.D. 34, 36-37 (M.D. Pa. 1995)). “Factors relevant to the determination of whether amicus briefing should be allowed include whether the proffered information is ‘timely and useful’ or otherwise necessary to the administration of justice.” *Id.* *Amicus’* role is to assist the court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *N.A.A.C.P. v. Town of Harrison*, 940 F.2d 792, 808 (3d Cir. 1991). This authority supports this Court’s exercise of its discretion to accept this Movant’s *amicus* brief.

### III. INTEREST OF THE MOVANT

Movant, The American Center for Law and Justice, is an organization dedicated to the defense of constitutional liberties secured by law. Counsel for the ACLJ have presented oral argument, represented parties, and submitted *amicus* briefs before the United States Supreme Court and numerous state and federal courts around the country in cases concerning the First Amendment and election law, including *FEC v. Wisconsin Right to Life*, 551 U.S. 449 (2007), *McConnell v. FEC*, 540 U.S. 93 (2003), and *Bush v. Gore*, 531 U.S. 98 (2000).

“Amicus curiae status is generally granted when: (1) the petitioner has a ‘special interest’ in the particular case; (2) the petitioner's interest is not

represented competently or at all in the case; (3) the proffered information is timely and useful; and (4) the petitioner is not partial to a particular outcome in the case.” *Liberty Resources v. Philadelphia Housing Author.*, 395 F. Supp.2d 206, 209 (E.D. Pa. 2005). “Courts have found the participation of an amicus especially proper where . . . ‘an issue of general public interest is at stake.’” *Liberty Resources, Inc. v. Philadelphia Housing Auth.*, 395 F. Supp. 2d 206, 209-210 (E.D.Pa. 2005). Clearly, the case before this Court implicates issues of general public interest. The proper resolution of this case is a matter of utmost concern to the ACLJ because of its impact on the integrity of American presidential election process, and the importance of protecting the votes cast by residents of Pennsylvania, many of which are members of the ACLJ.

The ACLJ has been active in advocacy and litigation concerning the need for protecting the integrity of the 2016 Presidential Election process. The ACLJ previously filed an *amicus curiae* brief in the Commonwealth Court of Pennsylvania in the case brought at the behest of, and voluntarily dismissed by, the same activists who have now filed in this Court. *In re: The Matter of the 2016 Presidential Election*, 659 MD 2016 (Pa. Cmmw. Ct.).

The ACLJ’s Committee to Protect the Integrity of the 2016 Presidential Election Process represents over 100,000 Americans, including 4,000 Pennsylvanians, who oppose actions jeopardizing the integrity of the presidential

election process. These individuals are negatively impacted by Plaintiffs' action and the relief Plaintiffs seek from this Court.

Movant believes it can offer this Court information or perspective that will assist it in deciding the pending issues. Therefore, Movant respectfully submits that its participation as *amicus curiae* will aid the Court in resolving this case and requests that this Court grant its motion for leave to appear as *amicus curiae* and to accept for filing their *amicus curiae* brief.

#### **IV. MOVANT'S BRIEF IS TIMELY AND USEFUL TO THE DISPOSITION OF THE ISSUES BEFORE THE COURT.**

Movant has submitted its *amicus curiae* brief along with this motion prior to the deadlines set for Defendants and Defendant Intervenors to submit briefing. This brief complies with pertinent Local Rules of this Court and Federal Rule of Appellate Procedure 29 where applicable.

The issues presented before this Court are complex matters of constitutional law. The ACLJ's team of constitutional lawyers are uniquely situated to provide insight into the matters now before this Court.

#### **V. CONCLUSION**

Movant respectfully requests that this Court grant this motion, allow it to participate as *amicus curiae*, and accept for filing the *amicus curiae* brief submitted herewith.

Respectfully submitted,

/s/ Gregory R. Reed

GREGORY R. REED,  
(PA. No. 23705)

/s/ Joshua A. Reed

JOSHUA A. REED  
(PA. No. 307666)

REED LAW  
4303 Derry Street  
Harrisburg, PA 17111  
Telephone: (717) 238-0434  
Facsimile: (717) 238-8469  
Email: lawoffice@reedpalaw.com  
*Associate Counsel for*  
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\* *Application for Admission Pro Hac Vice Forthcoming*

\*\* *Not admitted in this Jurisdiction*

Dated: December 8, 2016

### CERTIFICATE OF SERVICE

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I hereby certify that a true and correct copy of the foregoing Motion of the American Center for Law and Justice for Leave to File its *Amicus Curiae* Brief, the proposed Brief of *Amicus Curiae*, and the proposed Order granting leave, were electronically filed with the Clerk of Court on December 8, 2016, using CM/ECF, which will send notification of such filing to counsel of record.

I hereby certify that a true and correct copy of the foregoing Motion of the American Center for Law and Justice for Leave to File its *Amicus Curiae* Brief, the proposed Brief of *Amicus Curiae*, and the proposed Order granting leave, will be served by first-class mail, postage prepaid, on December 8, 2016 on the following individuals at the following addresses:

Ilann M. Maazel  
Emery Celli Brinckerhoff & Abady LLP  
600 Fifth Avenue, 10th Floor  
New York, NY 10020  
Phone: 212-763-5000  
Fax: 212-763-5001  
Email: [imaazel@ecbalaw.com](mailto:imaazel@ecbalaw.com)

Jeffrey Cutler  
P.O. BOX 2806  
YORK, PA 17405  
215 872-5715  
(Movant) PRO SE

/s/ Joshua A. Reed

JOSHUA A. REED (PA. No. 307666)

REED LAW

4303 Derry Street

Harrisburg, PA 17111

Telephone: (717) 238-0434

Facsimile: (717) 238-8469

Email: lawoffice@reedpalaw.com

*Associate Counsel for Amicus Curiae*

Dated: December 8, 2016