

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Melvin Wallace, Shirley Hardt,
Lewis Simpson, William Cobb,
Erica Davis-Holder, Rotem
Cohen, Julian Wagner, Rose
Wagner, Erin Stilwell, Maria
Eugenia Saenz Valiente and
Adam Burnham, individually and on
behalf of others similarly situated,

Plaintiffs,

v.

ConAgra Foods, Inc.,

Defendant.

Case No. 12-cv-01354 (DWF-TNL)

**MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE AN
AMICUS BRIEF**

The National Jewish Commission on Law and Public Affairs, The OK Kosher Certification, Star-K Certification, Inc., Agudath Israel of America, The National Council of Young Israel, Agudas Horabonim, and Rabbinical Alliance of America (collectively, “the *amici*”) have moved for leave to file an *amicus* brief not to exceed 13 pages in support of Defendant ConAgra Foods, Inc. The *amici* wish to set forth their views as to legal issues raised in the motion to dismiss scheduled to be heard by the Court on November 30, 2012. As the grounds for their motion for leave to file an *amicus* brief, the *amici* state:

1. The Plaintiffs’ Memorandum of Law in Opposition to Defendant’s Motion to Dismiss for Lack of Subject Matter Jurisdiction refers to contentions presented by COLPA on behalf of Orthodox Jewish organizations in litigation over the

constitutionality of state and local laws protecting kosher consumers. COLPA is submitting this *amicus curiae* brief to respond to these references as well as to present the position of the *amici* on constitutional questions raised by the complaint in this case.

2. The *amici* are several major *kashrut* supervision agencies and Orthodox Jewish Rabbinical and lay groups in the United States. They and their members are deeply involved in ensuring the quality and availability of kosher foods in the United States. They have a vital interest in the legal issues presented in this case and are uniquely able to assist the Court in appreciating the adverse effect that this case may have on the freedom of religious communities in the United States.

3. The *amici* take no position regarding the underlying facts alleged in the plaintiffs' complaint. They seek to address only the narrow question of whether, as a matter of established law, the Court may entertain and resolve the religious controversies necessarily raised by the plaintiffs' complaint.

4. The *amici* wish to help the Court understand and appreciate the unique context and widespread implications of the issues raised in this matter. The plaintiffs seek a ruling by the Court that certain products were not "100% Kosher." Such a ruling would require the Court to delve into, and resolve, religious controversies including whether particular practices are required under religious law and doctrine. The principles of religious liberty in enshrined in the First Amendment militate strongly against such an inquiry by a civil court.

5. A request to file an *amicus* brief is subject to the Court's discretion. This Court has previously granted such a request under similar circumstances. *See, e.g.,*

Minnesota Voters Alliance, et al., v. Ritchie, et al., Civ. No. 12-519 (DWF/LIB), Doc. No. 75 (granting leave to file *amicus* brief after oral argument on motion to dismiss). Here, the *amici*'s request is made well before the hearing scheduled for November 30, 2012, allowing the parties ample time to respond to the arguments raised in the *amicus* brief.

6. For the foregoing reasons, the *amici* believe that an *amicus* brief would be helpful to the Court and respectfully request that the Court grant them permission to file their brief.

Dated: November 1, 2012

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s/Clifford M. Greene

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**LR 7.1(f) CERTIFICATE OF
COMPLIANCE REGARDING THE
MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE AN
AMICUS BRIEF**

I, Clifford M. Greene, certify that the Memorandum in Support of Motion for Leave to File Amici Curiae Brief complies with Local Rule 7.1(f).

I further certify that, in preparation of this brief, Microsoft Word Version 2007 (using the Word 97-2003 file format) was used, and that this word processing program has been applied specifically to include all text, including headings, footnotes, and quotations in the following word count.

I further certify that the above referenced memorandum contains 625 words.

Dated: November 1, 2012

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