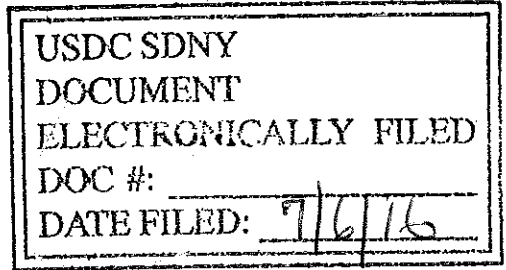


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA ex rel. ANTI- :  
DISCRIMINATION CENTER OF METRO NEW :  
YORK, INC., :  
Plaintiff, :  
-v- :  
WESTCHESTER COUNTY, NEW YORK, :  
Defendant. :  
-----X

06 Civ. 2860 (DLC)  
ORDER

DENISE COTE, District Judge:

On May 11, 2016, the Anti-Discrimination Center of Metro New York ("ADC") filed a proposed submission as amicus curiae.<sup>1</sup> It also included an expert report attached as an exhibit to its submission ("Beveridge Report"). The submission proposes new interpretations of several provisions of the August 10, 2009 Consent Decree and requests additional relief, including extending the Consent Decree for a period of seven years. On May 13, the Court ordered that the parties address both ADC's request to make an amicus submission and the requests for relief contained in that submission. On June 14, ten entities jointly filed a letter requesting to submit a brief as amici curiae. That brief largely supports the contentions in ADC's submission and argues that the ADC brief should be accepted by the Court.

On June 17, the County argued that ADC's submission should not be accepted and its requests for relief should not be granted. On June 24, both the Government and the Monitor echoed

<sup>1</sup> On May 5, the Center for Individual Rights also filed a motion to make an amicus submission. The Court denied that motion on May 5.

that view and asked the Court not to accept ADC's submission. On June 27, the Court denied ADC's request for leave to file a reply brief. For the reasons that follow, ADC's request to be heard as an amicus is denied, but decision is reserved concerning whether to accept the Beveridge Report.<sup>2</sup> The June 14 request to file an amicus brief on behalf of ten entities is also denied.

"There is no governing standard, rule or statute prescribing the procedure for obtaining leave to file an amicus brief in the district court." C & A Carbone, Inc. v. Cty. of Rockland, NY, No. 08cv6459 (ER), 2014 WL 1202699, at \*3 (S.D.N.Y. Mar. 24, 2014) (citation omitted). Courts in this district often rely on a set of principles set forth by the Seventh Circuit in determining whether an amicus brief should be permitted. Id. The Seventh Circuit's test is:

An amicus brief should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the amicus to intervene and become a party in the present case), or when 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. Otherwise, leave to file an amicus curiae brief should be denied.

Ryan v. Commodity Futures Trading Comm'n, 125 F.3d 1062, 1063 (7th Cir. 1997) (citation omitted). Moreover, "[a] potential

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<sup>2</sup> In its June 24 brief, the Government indicated that it does not oppose the Court receiving the Beveridge Report.

amicus's partiality is a factor to be considered, but amici need not be completely disinterested in the outcome of the litigation." Carbone, 2014 WL 1202699 at \*4 (citation omitted). Ultimately, "[a] court may grant leave to appear as an amicus if the information offered is timely and useful."

Lehman XS Trust, Series 2006-GP2 v. Greenpoint Mortgage Funding, Inc., No. 12cv7935 (ALC), 2014 WL 265784, at \*2 (S.D.N.Y. Jan. 23, 2014).

The factors identified by the Seventh Circuit weigh against allowing ADC and the other proposed amici to file their briefs. First, the United States is ably represented in this case. Second, ADC has not identified an interest it has in another case that may be affected by the outcome of this litigation. Although ADC claims to have an interest in the case because it was the original qui tam relator, that is insufficient. This Court previously ruled, in connection with ADC's 2011 motion to intervene, that since the United States entered this qui tam action, "ADC has no greater status than any other stranger to this litigation." U.S. ex rel. Anti-discrimination Ctr. of Metro New York, Inc. v. Westchester Cty., N.Y., No. 06cv2860 (DLC), 2012 WL 13777, at \*6 (S.D.N.Y. Jan. 4, 2012).

The ten other proposed amici identify a variety of interests in the current dispute. The group consists largely of non-profits from various states across the country that are either affordable housing providers or have an interest in legal

precedents associated with enforcement of federal fair housing laws. These interests are not sufficient to grant them status as amici, especially since the arguments they present are almost exclusively in support of ADC's submission, which is rejected.

Third, nothing suggests that either ADC or the other proposed amici have a unique perspective that can assist the Court beyond the help that the lawyers for the parties are able to provide. The issues in ADC's submission relate to the interpretation of the Consent Decree and additional steps it argues the Court should take to ensure the County's compliance. The Monitor and the Government have litigated issues surrounding the Consent Decree for many years, and they continue to do so now. There is nothing to suggest that ADC's requests for relief should be considered alongside the Monitor's or that ADC has unique information that neither the Monitor nor the Government can provide.

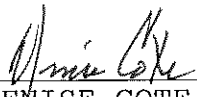
Moreover, ADC's submission significantly expands the issues before the Court and proposes extensive remedies beyond the scope of the Monitor's pending requests for relief. Requiring the County, the Government, and the Monitor to respond to ADC's analysis and requests beyond the consideration given in response to the Order of May 13 will impose significant burdens on the parties, distract them from the issues they are already litigating, and inhibit efficient resolution of important disputes related to the Consent Decree. The Court issued the

Order of May 13 and invited the parties' responses to the ADC application to assure itself that a just resolution of this action, including the appropriate enforcement of the Consent Decree, did not require exploration of new issues presented by ADC. The parties' and the Monitor's submissions have assured the Court that further consideration of ADC's submission and the requests therein is not necessary. Accordingly, having considered each of the submissions and the history of proceedings in this action, it is hereby

ORDERED that ADC's May 11, 2016 motion to file an amicus brief is denied. Decision is reserved concerning whether the Court will accept the Beveridge Report.

IT IS FURTHER ORDERED that the June 14, 2016 request of ten other amici to file a brief is denied.

Dated: New York, New York  
July 6, 2016

  
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DENISE COTE  
United States District Judge