



VIA ECF

February 14, 2017

The Honorable Carol Bagley Amon
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Amici Curiae* Brief of Members of Congress in *Darweesh v. Trump*, Case No. 17-cv-480

Dear Judge Amon:

We, along with co-counsel Davis Wright Tremain, represent Members of Congress in this litigation, and we write to seek the Court's permission to file an *amici curiae* brief in support of Petitioners and Intervenor-Plaintiff in this case. In the alternative, we request a pre-motion conference to authorize leave to file such a brief, pursuant to Rule 3(A) of this Court's Individual Rules.

“District courts have broad discretion in deciding whether to accept *amicus* briefs.” *Jamaica Hosp. Med. Ctr., Inc. v. United Health Grp., Inc.*, 584 F. Supp. 2d 489, 497 (E.D.N.Y. 2008) (citation omitted). “An *amicus* brief should normally be allowed 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.” *Citizens Against Casino Gambling in Erie Cnty. v. Kempthorne*, 471 F. Supp. 2d 295, 311 (W.D.N.Y. 2007) (citation omitted).

The *amicus* brief proposed by Members of Congress satisfies this standard. The legislators who seek to submit this brief are familiar with the Immigration and Nationality Act (INA) and other laws passed by Congress related to immigration and national security concerns, as well as the interplay between those laws and constitutional guarantees. *Amici* are also committed to ensuring that our immigration laws and policies comport with fundamental constitutional principles, such as religious freedom and equal protection under the law. *Amici* are thus particularly well-situated to provide the Court with insight into the limitations that both the Constitution and federal immigration laws impose on the Executive Branch's discretion to limit admission into the country.

In particular, *amici* propose to provide the Court with their insights into why Congress adopted the INA's prohibition on discrimination in the issuance of immigrant visas based on, among other things, “nationality, place of birth, or place of residence,” 8 U.S.C. § 1152(a)(1)(A),

and the relevance of that provision here. Moreover, in their proposed brief, Members will also provide the Court with information about the text and original meaning of the Religion Clauses of the Constitution, as well as the equal protection guarantee contained within the Due Process Clause of the Fifth Amendment.

Amici therefore seek leave to file a brief in support of Petitioners and Plaintiff-Intervenor that draws on their unique perspective, expertise, and knowledge of statutory and constitutional history and practice and will assist this Court in resolving issues of national importance.

For the foregoing reasons, we respectfully request permission to file an *amici curiae* brief by no later than the February 16, 2017 deadline for the brief of Petitioners Darweesh and Alshawi, or on an alternative date selected by the Court. In the alternative, we request a pre-motion conference concerning leave to file our brief.

Counsel for Petitioners and intervenor New York have consented to the filing of this brief. Counsel for Respondents has stated that Respondents take no position on this filing.

Respectfully yours,

/s/ David H. Gans

David H. Gans (DG 6677)
Constitutional Accountability Center