

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JAMES L. SHERLEY, <i>et al.</i> ,)	
)	
Appellees,)	
)	No. 10-5287
v.)	
)	[District Court Case
KATHLEEN SEBELIUS, <i>et al.</i> ,)	No. 1:09-cv-01575-RCL]
)	
Appellants.)	

**MOTION OF
COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH
FOR LEAVE TO FILE BRIEF AMICUS CURIAE**

Pursuant to Fed. R. App. Proc. 29 and D.C. Cir. R. 29, the Coalition for the Advancement of Medical Research (“CAMR”) hereby moves for leave to file a brief amicus curiae in the above-captioned appeal in conjunction with the State of Wisconsin and other amici in support of Appellants. The State of Wisconsin is filing the brief amicus curiae as of right pursuant to Fed. R. App. P. 29(a).

CAMR, a not-for-profit organization under section 501(c)(4) of the Internal Revenue Code, is a coalition of approximately 100 nationally recognized patient organizations, universities, scientific societies, and foundations that engages in advocacy and education regarding breakthrough research and technologies in the

field of medical and health research, including stem cell research. A list of CAMR's members is attached hereto as Exhibit A.

CAMR's members and their constituents were directly affected by the preliminary injunction that is the subject of this appeal, prior to this Court's decision staying that injunction *pendente lite*, and they will be directly affected by the outcome of this proceeding. Many of CAMR's member institutions and their employees conduct federally-funded research that uses previously-derived human embryonic stem cells ("hESCs"), as well as other types of stem cells. Other CAMR members are professional societies whose members engage in such research. Finally, other CAMR members are patient advocacy organizations whose members stand to benefit from advances in medical science to be achieved through research that uses previously-derived hESCs.

CAMR is, therefore, uniquely situated to provide the related, but distinct, perspectives of these diverse constituencies to the Court. These perspectives are particularly relevant with respect to the severe adverse impact of the preliminary injunction on third parties and on the strong public interest in the continued funding of research using hESCs. These elements of the familiar four-factor test for a preliminary injunction are the primary areas addressed in the amicus brief

supporting Appellants' position that the District Court erred in entering the preliminary injunction.¹

CAMR notes that the Court has established an expedited briefing schedule. Order dated September 30, 2010 [Dkt. 1268997]. However, that schedule does not reflect a deadline for amicus briefs. The amicus brief in which CAMR is joining is being filed on October 18, 2010, two business days after the filing of the Brief for Appellants and ten days before the October 28, 2010, due date for the Brief for Appellees, who will have ample time to respond to arguments set forth in the brief.

Counsel for Defendants/Appellants have authorized the undersigned to state that Defendants/Appellants consent to CAMR's amicus participation. Counsel for Plaintiffs/Appellees have indicated that they were willing to consent to CAMR's amicus participation only in a consolidated amicus brief filed on behalf of all amici in support of Appellants. However, pursuant to this Court's sua sponte Order, amicus the Regents of the University of California are filing their own brief in support of Appellants and have not agreed to file a consolidated brief with other amici supporting Appellants. Accordingly, although CAMR is participating in a consolidated amicus brief on behalf of all other amici supporting Appellants, the condition required for Appellees' consent is not satisfied.

¹ See, e.g., *Davis v. Pension Benefit Guaranty Corp.*, 571 F.3d 1288, 1291 (D.C. Cir. 2009); *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006).

WHEREFORE, CAMR prays for an Order granting it leave to participate as amicus curiae in a consolidated brief filed by the State of Wisconsin and other amici.

Respectfully submitted,

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Dated: October 18, 2010

EXHIBIT A

Albert Einstein College of Medicine of Yeshiva University

Alliance for Aging Research

Alpha-1 Foundation

ALS Association

American Academy of Neurology

American Association for Cancer Research

American Association for Dental Research

American Association of Neurological Surgeons/Congress of Neurological Surgeons

American Autoimmune Related Diseases Association

American Diabetes Association

American Gastroenterological Association

American Parkinson Disease Association: Arizona Chapter

American Society for Cell Biology

American Society for Microbiology

American Society for Neural Therapy and Repair

American Society for Reproductive Medicine

American Society of Hematology

Association of Public and Land-Grant Universities

Association of American Medical Colleges

Association of American Universities

Association of Independent Research Institutes

Axion Research Foundation

Biophysical Society

Biotechnology Industry Organization

B'nai B'rith International

Brown University

California Institute for Regenerative Medicine

California Institute of Technology

Californians for Cures

Cedars-Sinai Health System

Cerebral Palsy International Research Foundation

Children's Hospital Boston

Children's Neurobiological Solutions

Christopher and Dana Reeve Foundation

City of Hope

Coalition for Life Sciences

Columbia University Medical Center

Cornell University

C3: Colorectal Cancer Coalition

Davis Phinney Foundation

Duke University School of Medicine

Emory Univeristy

Familial Dysautonomia Hope Foundation (FD Hope)

FasterCures

Federation of American Societies for Experimental Biology (FASEB)

Foundation Fighting Blindness

Friends of Cancer Research

Genetics Policy Institute

Hadassah

Harvard University

Hereditary Disease Foundation

International Cancer Advocacy Network (ICAN)

International Society for Stem Cell Research

Johns Hopkins Institutions

Juvenile Diabetes Research Foundation International

The Leukemia & Lymphoma Society

LiveStrong

The Methuselah Foundation

The Michael J. Fox Foundation for Parkinson's Research

Michigan Citizens for Stem Cell Research and Cures

Missouri Coalition for Lifesaving Cures

Mount Sinai School of Medicine

National Alliance for Eye and Vision Research

National Association for Biomedical Research

National Coalition for Cancer Research

National Health Council

National Multiple Sclerosis Society

National Parkinson Foundation

Nebraska Coalition for Lifesaving Cures

New York Stem Cell Foundation

New York University Langone Medical Center

Northwestern University

Packard Center for ALS Research at Johns Hopkins

Parkinson's Action Network

The Parkinson Alliance

Parkinson's Disease Foundation

Penn State College of Medicine

Prevent Cancer Foundation

Rensselaer Polytechnic Institute

Research!America

Resolve: The National Infertility Association

Rutgers, The State University of New Jersey

Sarcoma Foundation of America

Society for Women's Health Research

Stanford University

Stony Brook University

Student Society for Stem Cell Research

Texans for Advancement of Medical Research

Tourette Syndrome Association, Inc.

Travis Roy Foundation

Unite 2 Fight Paralysis

United Spinal Association

University of California System

University of Michigan

University of Minnesota

University of Pittsburgh School of Medicine

University of Rochester Medical Center

University of Southern California

University of Wisconsin-Madison

Vanderbilt University and Medical Center

Washington University in St. Louis

Wayne State University School of Medicine and Physician Group

Wisconsin Alumni Research Foundation

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2010, I filed and served the foregoing Motion of the Coalition for the Advancement of Medical Research For Leave To File Brief Amicus Curiae with the Clerk of the Court by causing a copy to be electronically filed via the appellate CM/ECF system.

Service was accomplished on the following by the CM/ECF system:

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**DISCLOSURE STATEMENT OF
COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH**

Pursuant to Circuit Rule 26.1, proposed amicus curiae Coalition for the Advancement of Medical Research (“CAMR”) hereby provides this Disclosure Statement.

CAMR, a not-for-profit organization under section 501(c)(4) of the Internal Revenue Code, is a coalition of nearly 100 nationally recognized patient organizations, universities, scientific societies, and foundations that engages in advocacy and education regarding breakthrough research and technologies in the field of medical and health research, including stem cell research. CAMR’s members are listed in Exhibit A hereto.

CAMR's members do not have any ownership interests in the non-profit organization, which is in the nature of a trade association or professional association. CAMR's members are not for profit organizations and are not publicly held companies that issue shares or debt securities to the public.

Respectfully submitted,

/s/ Andrew T. Karron

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