

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

AUGUST DEKKER, *et al.*,

Plaintiffs,

v.

Case No. 4:22-cv-00325-RH-MAF

JASON WEIDA, in his official
capacity as Secretary of the
Florida Agency for Healthcare
Administration, *et al.*,

Defendants.

_____ /

**DR. JAY W. RICHARDS' MOTION FOR LEAVE
TO APPEAR AS AMICUS CURIAE IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Jay W. Richards, Ph.D, respectfully requests leave to appear as amicus curiae in support of Defendants' Motion for Summary Judgment. The proposed brief is attached to this motion.

Identity and Interest of Amicus Curiae

As amicus curiae, Dr. Richards proposes to offer this Court a unique perspective based on real-world experience that will assist this Court in resolving the important legal issues presented in this case. Dr. Richards' amicus brief will lay

bare the fallacies in Plaintiffs' legal, factual, and scientific positions, which Plaintiffs have inaccurately presented to this Court as beyond dispute.

Dr. Richards is a scholar and researcher who focuses on medical and public policy issues involving gender dysphoria. Dr. Richards is the director of the Richard and Helen DeVos Center for Life, Religion, and Family and the William E. Simon Senior Research Fellow in Religious Liberty and Civil Society at The Heritage Foundation. He is also a senior fellow at the Discovery Institute and Executive Editor of *The Stream*.

Dr. Richards is the author or editor of more than a dozen books, including the New York Times bestsellers *Infiltrated* (2013) and *Indivisible* (2012); *The Human Advantage; Money, Greed, and God* (2009), winner of a 2010 Templeton Enterprise Award; *The Hobbit Party* (2014) with Jonathan Witt; and *Eat, Fast, Feast* (2020). Dr. Richards's articles and essays have been published in *The Harvard Business Review*, *Wall Street Journal*, *Barron's*, *Washington Post*, *The New York Post*, *Newsweek*, *Forbes*, *Fox News*, *National Review Online*, *The Hill*, *Investor's Business Daily*, *Washington Times*, *The Philadelphia Inquirer*, *The Huffington Post*, *The Federalist*, *The Daily Caller*, and many other publications. His work has been covered widely in publications such as *The New York Times*, *The Washington Post*, *The Wall Street Journal*, *The Washington Times*, *Nature*, *Science*,

Astronomy, Physics Today, The Chronicle of Higher Education, and Congressional Quarterly Researcher.

Through his amicus brief, Dr. Richards seeks to provide the Court the benefit of his extensive research in this field, and specifically to demonstrate that the scientific debate is far from settled regarding the efficacy and propriety of pediatric use of puberty blockers, hormonal treatments, and gender re-assignment surgeries. Dr. Richards will also discuss the experience learned from systemic reviews launched by the official health systems of multiple European countries regarding the treatment of minors facing gender dysphoria. Finally, Dr. Richards will discuss critical misunderstandings that frequently arise in debates about gender dysphoria treatments.

Memorandum of Law

This Court should grant Dr. Richards leave to appear as amicus curiae in support of Defendants' Motion for Summary Judgment. Dr. Richards' scholarly interests and experience are relevant to the issues before the Court, and he is in a unique position to provide helpful insight and argument related to those issues. Along with Defendants' Motion for Summary Judgment, the proposed amicus brief will demonstrate that Florida's challenged policy is rooted in sound judgment, and reflects a reasonable—and indeed, mainstream—position in light of the current state of the scientific debate surrounding gender dysphoria treatment.

This Court possesses “the inherent authority to appoint ‘friends of the court’ to assist in their proceedings.” *In re Bayshore Ford Trucks Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006); *accord Resort Timeshare Resales, Inc. v. Stuart*, 764 F.Supp. 1495 (SD. Fla. 1991) (district courts possess inherent authority and discretion to permit participation by amicus curiae). As amicus curiae, Dr. Richards would “participate[] solely for the benefit of the court” as the Court resolves the important issues before it. *Lathrop v. Unidentified, Wrecked & Abandoned Vessel*, 817 F.Supp. 953, 961 (M.D. Fla. 1993).

“Courts have recognized that permitting friends of the court may be advisable where the third parties can contribute to the court’s understanding of the matter in question.” *Conservancy of Sw. Fla. v. U.S. Fish & Wildlife Serv.*, 2:10-cv-00106-FTM-SPC, 2010 WL 3603276, at *1 (M.D. Fla. Sept. 9, 2010). Thus, district courts in Florida routinely recognize the propriety and helpfulness of amicus briefs. *See, e.g., Vazzo v. City of Tampa*, Case No. 8:17-cv-02896-T-36AAS, 2018 WL 1629216, at *6 (M.D. Fla. Mar. 15, 2018) (allowing amicus brief that would provide a “helpful, alternative viewpoint” to the Court’s resolution of the issues); *Brenner v. Scott*, 298 F.R.D. 689, 691–92 (N.D. Fla. 2014) (granting leave to “file a memorandum as amicus curiae on any motion” and noting that while intervention was improper, the movant’s “view as amicus will be welcome”); *A.R. v. Dudek*, No. 13-61576-CIV, 2014 WL 12519764, at *4 (S.D. Fla. Apr. 7, 2014) (explaining that

the Court did not wish to deny proposed intervenor “a voice” or to “extinguish any potential value that its independent investigation into the matter may bring,” and therefore granting permission to “file amicus curiae memoranda as they become relevant”); *Friends of Everglades, Inc. v. S. Fla. Water Mgmt. Dist.*, No. 02-80309-CIV, 2005 WL 8160352, at *1 (S.D. Fla. Nov. 1, 2005) (“Movants’ brief, submitted with their Motion, was timely filed and Movants’ ability to inform the Court concerning their interpretation of the legal issues presented will not harm the adjudication of the summary judgment motions currently before the Court.”).

This Court previously denied motions for leave to file amicus briefs at the preliminary injunction stage “based solely on timing,” and directed “any further proposed amicus brief” to be “submitted by not later than the deadline for the corresponding filing of the party whose position the amicus seeks to support.” ECF No. 43. The instant motion for leave satisfies this requirement, as it (including the accompanying amicus brief) is filed not later than the deadline for Defendants’ motion for summary judgment. *See also Friends of the Everglades, Inc.*, 2005 WL 8160352, at *1 (accepting “timely filed” amicus brief filed alongside motion for leave).

In sum, Dr. Richards’ participation as amicus curiae “would provide the court with [a] ‘helpful, alternative viewpoint’ without causing undue delay or prejudice of the original parties’ rights,” but instead, will “allow the original parties to run their

own case while still permitting [Dr. Richards] to present [his] viewpoint and legal arguments on the matters central to this lawsuit.” *Vazzo*, 2018 WL 1629216 at *6.

Conclusion

In consideration of the important legal issues in this case, the unique interests and experiences of the proposed amicus curiae, and the relevance of the proposed amicus brief, Jay W. Richards, Ph.D, respectfully requests leave to appear as amicus curiae in support of Defendants’ Motion for Summary Judgment.

Certificate of Conferral

Counsel for the proposed amicus curiae have conferred with counsel for all parties regarding the relief sought in this motion. Plaintiffs stated that they “will consent/not oppose the filing” of this brief and will “defer to the court’s discretion on whether the amicus briefs are desirable or proper.” Defendants consent to the requested relief.

Certificate of Word Count

The undersigned certifies that this motion contains 1,082 words.

Dated April 7, 2023.

Respectfully submitted,

/s/ Andy Bardos

Andy Bardos (FBN 822671)
andy.bardos@gray-robinson.com
Ashley Lukis (FBN 106391)
ashley.lukis@gray-robinson.com
GRAYROBINSON, P.A.
301 South Bronough Street, Suite 600
Tallahassee, Florida 32301-1724
Telephone: 850-577-9090

/s/ Daniel D. Mauler

Daniel D. Mauler *
D.C. Bar No. 977757
Dan.Mauler@heritage.org
214 Massachusetts Avenue, NE
Washington, D.C. 20002
Telephone: 202-608-6183

** Pro Hac Vice Motion Forthcoming*

Attorneys for Proposed Amicus Curiae