

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

CRAIG ZUCKER,

*Plaintiff,*

v.

U.S. CONSUMER PRODUCT SAFETY  
COMMISSION, and  
ROBERT ADLER, in his official capacity  
as Acting Chairman of the  
U.S. Consumer Product Safety Commission,

*Defendants.*

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Civil No. 8:13-cv-03355-DKC

**UNOPPOSED MOTION OF NATIONAL FEDERATION OF INDEPENDENT  
BUSINESS SMALL BUSINESS LEGAL CENTER TO PARTICIPATE AS *AMICUS  
CURIAE* AND FOR LEAVE TO ADOPT THE *AMICUS CURIAE* BRIEF OF THE  
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA**

The National Federation of Independent Business Small Business Legal Center (“NFIB Legal Center”), by and through its undersigned counsel, respectfully requests leave to participate as *amicus curiae* in these proceedings and to adopt the *amicus curiae* brief of the Chamber of Commerce of the United States of America (“the Chamber”) (Dkt. #33) supporting Plaintiff’s Opposition to Motion Dismiss. In support of its motion, NFIB Legal Center states:

1. NFIB Legal Center is a nonprofit, public interest law firm and is the legal arm of the National Federation of Independent Business (NFIB). NFIB is the nation’s leading small business association, representing about 350,000 small businesses across the United States. NFIB Legal Center’s mission is to represent the voice of the small business community in the nation’s courts.

2. The Chamber filed its Motion for Leave to File *Amicus Curiae* Brief on April 8, 2014 (Dkt. #30). The Court granted the Chamber’s Motion on April 9, 2014 (Dkt. #32).

3. It is within the discretion of the Court to allow NFIB Legal Center to file the proposed *amicus curiae* brief. See *Bryant v. Better Business Bureau of Greater MD., Inc.*, 923 F. Supp. 720, 728 (D. Md. 1996). Further, since the Court has the inherent authority to manage its proceedings, the Court may allow a moving party to adopt the brief of another *amicus curiae*. See, e.g., *Washington Gas & Light Co. v. Prince George's Cnty. Council*, No. 08-0967, 2012 WL 832756, at \*1 (Mar. 9, 2012) (granting motion for leave to adopt the *amicus curiae* memorandum of Howard County submitted by Anne Arundel County); see also *Southern Cal. Edison Co.*, 375 U.S. 919 (1963) (granting motion for leave to join *amicus curiae* brief).

4. As a representative of America's small business community, the NFIB Legal Center has a substantial interest in this case. The NFIB Legal Center shares the Chamber's concerns over the U.S. Consumer Product Safety Commission's ("CPSC") novel application of the "responsible corporate officer" doctrine. NFIB Legal Center has a keen interest in protecting small business owners against expansive veil piercing theories, and has consistently defended small business interests by reminding courts of the importance of respecting corporate formalities. As NFIB explained in an April 7, 2014 letter to the Members of the Committee on Commerce, Science and Transportation, expansive veil piercing theories threaten to chill innovation and job creation.

5. NFIB Legal Center's participation in this case is desirable because the interests of small business owners would be compromised if the Court permits the CPSC to continue its pursuit of holding the plaintiff, a former small business owner, personally liable for millions of dollars of costs associated with a product recall. The CPSC's unprecedented expansion of the "responsible corporate officer" doctrine has significant liability implications for small business owners in the context of product recalls and beyond.

6. NFIB Legal Center has obtained consent for this filing from the Plaintiff's counsel. Defendants' counsel does not oppose the motion. NFIB Legal Center has likewise confirmed that the Chamber consents to NFIB's motion to adopt its *amicus curiae* brief.

7. NFIB Legal Center's participation as *amicus curiae* will result in no delays in the proceeding and will prejudice no party.

8. NFIB Legal Center has no parent corporations and no publicly held corporation owns 10% or more of the stock of the NFIB Legal Center.

9. No person or entity other than the NFIB Legal Center and its counsel has made a monetary or other contribution to the preparation or submission of this motion.

WHEREFORE, the NFIB Legal Center respectfully requests that the Court grant it leave to participate as *amicus curiae* and to adopt the *amicus* brief of the Chamber supporting the Plaintiff's Opposition to the Motion to Dismiss.

Apr. 11, 2014

Respectfully submitted,

/s/ Cary Silverman

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