

ATTACHMENT B

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FOR IMMEDIATE RELEASE

**Liphatech CEO Carl Tanner Elected to Board of Directors for
Industry Trade Association RISE**

*Not-for-profit Responsible Industry for a Sound Environment® (RISE) represents specialty
pesticide and fertilizer manufacturers*

MILWAUKEE (October 6, 2008) Carl Tanner, chief executive officer of Liphatech, the leading developer of rodent control products, has been elected to the board of directors for RISE.

Responsible Industry for a Sound Environment® (RISE) is a not-for-profit trade association that represents the interests of manufacturers in the North American specialty pesticide and fertilizer markets.

Tanner has been a voting member of RISE for many years; he was nominated by a peer in the association to serve a three-year term on the organization's governing board. He has served as CEO of Liphatech, Inc., for the past six years.

Headquartered in Washington, D.C., RISE provides information to lawmakers whose decisions affect the industry. The organization educates legislators, media members and key influencers about the benefits of specialty pesticide and fertilizer use and the risks posed by pests that left untreated could cause serious health and safety issues.

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“RISE is the single most important and effective body representing pesticide and fertilizer makers in this country,” said Tanner. “The most critical aspect of the association’s mission is wrestling with political and regulatory issues that affect the use of our products. We need the public and the regulating bodies to know us and to understand that these are useful and necessary products.”

RISE represents varied business segments, including: Structural pest control – pesticides for everything from rats and fleas to termites; turf and ornamental – products for healthy turf grass and landscaping; vegetation management – noxious weeds control, fertilizers that encourage desirable vegetation; nursery and greenhouse – protecting commercially grown shrubs, trees and plants; forestry – control of undesirable vegetation while enhancing tree growth; aquatics – weed reduction in lakes, rivers and streams; and public health – control of mosquitoes and ticks, as well as other transmitters of infections and disease.

“RISE represents pesticides and fertilizer products that manage populations of rodents or limit harmful vegetation, problems that are legitimate public health concerns,” said Tanner.

“I’m pleased, on Liphatech’s behalf, to be a part of this important work.”

For more information about Liphatech or Liphatech products and services, call (888) 331-7900 or visit Liphatech.com. For more information about RISE, visit pestfacts.org.

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About Liphatech

Headquartered in Milwaukee, Liphatech has a long history of advancing the science of rodent control through research and product innovation. Combining the most advanced technology available with the highest level of customer service and technical support, Liphatech delivers solutions that allow pest management professionals (PMPs) to quickly and cost-effectively generate results for both commercial and residential customers.

Liphatech's product line includes highly palatable rodenticides such as Generation[®], formulated with Difethialone - the newest single-feed anticoagulant on the market, as well as Maki[®], BlueMax[™] and Rozol[®]. Liphatech also provides the latest bait station technology with its "fast-to-service" Aegis[®] line of bait stations. This includes the highly versatile Aegis[®]-RP with a unique design that allows rodents to "see their exit before entry." Industry research shows that rodents are more likely to enter a bait station and feed sooner when they can see an escape route. For more information about Liphatech and its comprehensive line of products, call 888-331-7900 or visit www.liphatech.com

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ATTACHMENT C



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Professional Resumes

Attorneys

Shareholders

Lynn L. Bergeson, born Grosse Pointe, Michigan; admitted to bar, 1980, District of Columbia. Education: Michigan State University (B.A., magna cum laude, 1975); Columbus School of Law, Catholic University of America (J.D., 1979). Member: Catholic University of America Law Review, 1977-1979. Author: "Other Regulatory Developments: Federal and European Union Chemical Management Initiatives in 2010," in *Environmental Regulation and Commercial Implications 2010: How the New Administration, Congress and the Courts Have Changed the Rules*, Practising Law Institute (2010) (co-author); "Pesticides, Chemical Regulation, and Right-to-Know: 2009 Annual Report," in *Environment, Energy, and Resources Law: The Year in Review 2009*, ABA (2010) (co-author); "Nanotechnology: Environmental Law, Policy, and Business Considerations," ABA (2009); "Pesticides, Chemical Regulation, and Right-to-Know: 2008 Annual Report," in *Environment, Energy, and Resources Law: The Year in Review 2008*, ABA (2009) (co-author); *Genomics and Environmental Regulation: Science, Ethics, and Law*, Johns Hopkins University Press (2008) (co-author); *Nanotechnology and the Environment*, CRC Press (2008) (co-author); "Pesticides, Chemical Regulation, and Right-to-Know: 2007 Annual Report," in *Environment, Energy, and Resources Law: The Year in Review 2007*, ABA (2008) (co-author); *Nanotechnology Deskbook*, ELI (2008) (co-author); "Regulation of New Forms of Food Packaging Produced Using Nanotechnology," in *Intelligent and Active Packaging for Fruits and Vegetables*, CRC Press (2007) (co-author); "Pesticides, Chemical Regulation, and Right-to-Know: 2006 Annual Report" in *Environment, Energy, and Resources Law: The Year in Review 2006*, ABA (2007); *The Nanotechnology-Biology Interface: Exploring Models for Oversight*, Center for Science, Technology & Public Policy, University of Minnesota (2006); "Pesticides, Chemical Regulation, and Right-to-Know: 2005 Annual Report — The Risks and Benefits of Nanoscale Materials," in *Environment, Energy, and Resources Law: The Year in Review 2005*, ABA (2006); "Pesticides, Chemical Regulation, and Right-to-Know: 2004 Annual Report" in *Environment, Energy, and Resources Law: The Year in Review 2004*, ABA (2005); "The RCRA Practice Manual," ABA (2004) (co-author); *Air Quality Compliance and Permitting Manual*, McGraw-Hill (2002) (co-author); "RCRA's Statutory Scheme and Strategies for Reform," *Contemporary Legal Notes* No. 39, Washington Legal Foundation (2001) (co-author); "The TSCA Basic Practice Book," ABA (2000); "The FIFRA Basic Practice Book," ABA (2000); "Pesticides Law Handbook," *Government Institutes* (1999); "Avoiding Liability for Hazardous Waste: RCRA, CERCLA and Related Corporate Law Issues," *Bureau of National Affairs, Corporate Practice Series* (1999); Chapter 7 — Liability, "Environmental Law Practice Guide," Matthew Bender (1992); "Facts and Consequences," *The Environmental Forum* (November/December 2010); "TSCA IUR Revision Poses Challenges for Firms," *Chemical Watch European Business Briefing* (October 2010); "TSCA Section 5(b)(4) 'Chemicals of Concern' List: Questions, Issues, Concerns," *BNA Daily Environment Report* (May 2010) (co-author); "EPA's Action Plans Signal a New Chapter for TSCA While Informing the Future Legislative Debate on Chemicals," *Environmental Law Reporter* (March 2010) (co-author); "Turkey Enacts REACH-Like Chemical Program," *Chemical Regulation Reporter* (January 2010) (co-author); "FIFRA Scientific Advisory Panel (SAP) Considers Nanosilver," *Environmental Law Reporter* (December 2009); "Chemical Regulation: Preparing to Address the Challenges Ahead," *The Environmental Forum* (January/February 2009); "Food and Drug Administration's Regulation of Nanotechnology," *BNA Daily Environment Report* (September 2008) (co-author); "The New Business of Nanotechnology: Exploring Commercial Opportunities and Risks," *Environmental Claims Journal* (April 2008); "TSCA and Engineered Nanoscale Substances, Nanotechnology Law and Business" (March 2007); "TSCA — Chemical Testing Issues," *ELR News & Analysis* (February 2005) (co-author); "Selected Challenges in Applying Toxicogenomic Data in Federal Regulatory Settings," *Proceedings of Workshop on Genetics and Environmental Regulation* (2005) (co-author); "Reading the Small Print," *The Environmental Forum* (March/April 2004) (co-author); "The Environmental Regulatory Implications of Nanotechnology," *BNA Chemical Regulation Reporter* (April 2004) (co-author); "The Expanding Scope of Liability for Environmental Damage and Its Impact on Business Transactions," *The Corporation Law Review* (Spring, 1985). Editorial Board, *Nanotechnology Law and Business*, 2008–; Press Advisory Board, *Environmental Law Reporter*, *Environmental Law Institute (ELI)*, 2007–; Editorial Advisory Board, *The Environmental Forum (ELI)*, 2004–; Contributing Editor, *Environmental Quality Management*, 2002–; Editorial Advisory Board, *Environmental Quality Management*, 2002–; Editorial Advisory Board, *Chemical Processing*, 2002–; Contributing Editor, *Pesticide & Toxic Chemical News*, 2002–; Editorial Advisory Board, *Pesticide & Toxic Chemical News*, 2002–; Editorial Board, *Manufacturing Today*, 2002–; Editorial Advisory Board, *EPA Administrative Law Reporter*, 1996–; Contributing Editor, *The Environmental Corporate Counsel Report*, 1994–; Editorial Advisory Board, *The Environmental Corporate Counsel*, 1994–; Contributing Editor, *Corporate Legal Times*, 1992–; Editorial Advisory Board, *Pollution Prevention Review*, 1990–; Editorial Advisory Board, *Pollution Engineering*, 1990–; Legal Editor, *Pollution Engineering*, 1987–. Member, Earth Day Network Board of Directors, 2007–; Member, Earth Day Network Executive Committee, 2007–; Member, President's Council of Advisors on Science and Technology (PCAST) Nanotechnology Technical Advisory Group (PCAST nTAG), 2007–2008; Member, EPA's Steering Committee for the Pollution Prevention Through Nanotechnology Conference, 2007–; Member, Steering Committee for the Organization for Economic Cooperation and Development's (OECD) Potential Environmental Benefits of Nanotechnology: Fostering Safe Innovation-Led Growth Conference, 2009–; Member, American National Standards Institute (ANSI) ISO Technical Committee 229 on Nanotechnologies, 2007–; Member, ALI-ABA Environmental Law Advisory Panel, 2006–; Chair, ABA Section of Environment, Energy, and Resources (SEER), 2005-2006; Chair, ABA SEER Committee on Pesticides, Chemical Regulation and Right-to-Know (PCRRTKC), 2006-2008; Chair, ABA SEER Special Committee on TSCA Reform, 2009–; Vice Chair of the PCRRTKC, 2008–; Member, ANSI Nanotechnology Standards Panel (NSP) Steering Committee, 2004-2005. Founding Member, The

Society of Women Environmental Professionals. Member: The District of Columbia Bar; Bar Association of the District of Columbia; American Bar Association (Section of Environment, Energy, and Resources); Women's Bar Association of the District of Columbia; The Cosmos Club. [Martindale-Hubbell® Lawyer Profile Page]

Lisa M. Campbell, born New York, New York; admitted to bar, 1985, Arizona; 1988, District of Columbia. Education: University of Arizona (B.S., 1982); Stanford Law School (J.D., 1985). Co-Author: "The TSCA Basic Practice Book," ABA (2000); "The FIFRA Basic Practice Book," ABA (2000); "Pesticides Law Handbook," Government Institutes (1999); "Treated Article Exemption: Going, Going, Gone?," BNA Chemical Regulation Reporter, Apr. 17, 1998; Chapter 7 — Liability, "Environmental Law Practice Guide," Matthew Bender, 1992. Member: The District of Columbia Bar; State Bar of Arizona; American Bar Association. [Martindale-Hubbell® Lawyer Profile Page]

Of Counsel

Bethami Auerbach, born Los Angeles, California; admitted to bar, 1974, California; 1975, District of Columbia. Education: Pomona College (B.A., magna cum laude, 1970); Stanford Law School (J.D., 1974); University of Iowa (M.F.A., 1983). Board of Editors, Stanford Law Review. Phi Beta Kappa. Law Clerk to Judge Joseph T. Sneed, U.S. Court of Appeals, Ninth Circuit, 1974-75. Office of General Counsel, EPA, 1977-1980. Visiting Associate Professor of Law, University of Iowa College of Law, 1981-1983. Visiting Associate Professor of Law, Temple University Law School, 1984-1985. Co-Author: "Pesticides Law Handbook," Government Institutes (1999). Member: The District of Columbia Bar; State Bar of California (inactive). [Martindale-Hubbell® Lawyer Profile Page]

Timothy D. Backstrom, born Mauston, Wisconsin; admitted to bar, 1979, District of Columbia. Education: Massachusetts Institute of Technology (B.S., 1973); Yale Law School (J.D., 1979). Office of General Counsel, EPA, 1979-2004. While in EPA's Pesticides and Toxic Substances Division of the Office of General Counsel, Mr. Backstrom was responsible for negotiations with paint and coating manufacturers, which led to the elimination of mercury compounds used in paints and coatings. He also supervised extensive litigation involving the chemical dinoseb, including nine federal court actions and four formal administrative adjudications. Mr. Backstrom managed complex litigation involving hazardous air pollutants (HAP) and fuel additives while in EPA's Air and Radiation Division. He also worked on a variety of rulemakings implementing the 1990 Clean Air Act Amendments, including issuance of various emission standards for HAPs, delisting of particular HAPs and source categories, and review of the National Ambient Air Quality Standards for nitrogen oxides and carbon monoxide. Member: The District of Columbia Bar; Bar of the U.S. Court of Appeals, D.C. Circuit; Bar of the U.S. Court of Appeals, Fourth Circuit.

Lisa Rothenberg Burchi, born Larchmont, New York; admitted to bar, 1996, New York; 1998, District of Columbia. Education: Tufts University (B.A., cum laude, 1990); The National Law Center, George Washington University (J.D., with honors, 1995). Co-Author: "The TSCA Basic Practice Book," ABA (2000). George Washington University Journal of International Law and Economics, 1994-1995. Member: The District of Columbia Bar; The New York Bar (retired). [Martindale-Hubbell® Lawyer Profile Page]

Michael F. Cole, admitted to bar, 1966, New York; 1999, District of Columbia. Education: Vanderbilt University (B.A., magna cum laude, with honors, 1963); New York University (L.L.B., 1966); Phi Beta Kappa; Phi Eta Sigma. Root-Tilden Scholar. Research Editor, New York University Law Review. Member: The District of Columbia Bar; The New York Bar; New York State Bar Association. [Martindale-Hubbell® Lawyer Profile Page]

Non-Attorney Professionals

James V. Aidala, born Akron, Ohio. Education: undergraduate and graduate studies at Massachusetts Institute of Technology; Brown University; and Harvard University. Former Assistant Administrator for the U.S. Environmental Protection Agency's (EPA) Office of Prevention, Pesticides, and Toxic Substances (OPPTS) (now the Office of Chemical Safety and Pollution Prevention (OCSPP)) (2000-2001); former Associate Assistant Administrator for OPPTS (1993-2000); Senior Professional Staff member on the Government Operations Committee, Subcommittee on Environment, Energy, and Natural Resources in the U.S. House of Representatives, where he was in charge of oversight of EPA's implementation of FIFRA and TSCA (1991-1993); Director of Policy Development at the Wallace Institute for Alternative Agriculture (1990-1991); policy expert on FIFRA and TSCA at the Congressional Research Service (1983-1990), which is part of the U.S. Library of Congress; Professional Staff member for the U.S. Senate Committee on Government Affairs, Subcommittee on Energy (1981-1983).

Christopher R. Bryant. Education: University of Maryland (B.S. in Animal Science). Mr. Bryant has over 20 years of experience in environmental, health and safety (EHS) compliance and legislative, regulatory and policy issues. Previously, he was the Managing Director of the Chemical Products and Technology Division at the American Chemistry Council where he directed strategic efforts on improving support to the chemical industry. He managed a broad array of issues, including federal and state legislative activities, product de-selection, and advocacy with EPA and state environmental agencies. Prior to his tenure at the American Chemistry Council, Mr. Bryant consulted General Electric (GE) on EHS matters. He assisted in the implementation of GE's EHS management system across all GE business units. He conducted EHS management system training sessions for GE business leaders, which led to significant improvement in GE's EHS performance. He also conducted audits, operating reviews, and management system reviews at GE facilities. Additionally, he provided regulatory consulting on hazardous waste, hazardous materials transportation, clean air, and OSHA regulatory programs. Mr. Bryant was formerly President of The Technical Group, LLC, which specialized in hazardous

substance and OSHA matters. He was the Director of EPA's RCRA/Superfund Industrial Assistance Hotline and a field chemist with GSX Services, Inc.

Sheryl Lindros Dolan. Education: Cornell University (B.A. in Chemistry); The National Law Center, George Washington University (J.D.). Ms. Dolan has significant experience in chemical regulation and pesticide registration matters. She has assisted both domestic and international clients in obtaining pesticide registrations through EPA. Ms. Dolan worked previously for The Shaw Group and Stone & Webster-JSC Management Consultants, Inc. (formerly Jellinek, Schwartz & Connolly, Inc.). Ms. Dolan regularly manages corporate-wide TSCA and FIFRA compliance audits, prepares and obtains TSCA PMNs and related TSCA submissions, and is heavily engaged in developing compliance strategies involving TSCA's new Inventory Update Rule requirements. Ms. Dolan also has particular expertise in federal environmentally preferable and bio-based product procurement programs and in assisting clients in leveraging product attributes into sales opportunities.

Henry M. Jacoby, born Sheboygan, Wisconsin. Education: St. Norbert College (B.S. in Chemistry); Frostburg State University (M.S. in Management). Mr. Jacoby has over 34 years of experience in assisting pesticide, insecticide, herbicide, fungicide, antimicrobial, wood preservation, and antifouling paint manufacturers and formulators in the area of environmental science and applications for federal and state pesticide registrations and tolerance petitions. Twenty-five years of his experience were gained at EPA, where he worked in the Office of Pesticide Programs as a Chemist, Product Manager, Senior Staff Member, and Branch Chief. Upon retiring from EPA, Mr. Jacoby joined the consultant firm of Charles, Conn & van Gemert, LLC as Director of Environmental Affairs. In 2001, Mr. Jacoby established his own regulatory consultant business.

Leslie S. MacDougall, Education: Old Dominion University (B.S., 1988); The University of Maryland (post-graduate education in Toxicology, 1990); John Hopkins University (post-graduate education in Risk Assessment, 1992). Ms. MacDougall has extensive experience in chemical-related matters. Previously, she was the Programs Manager for the OECD SIDS Program and the ICCA Initiative for EPA's Office of Pollution Prevention and Toxics (1997-2006). During her tenure at EPA, Ms. MacDougall functioned as a liaison for EPA, industry representatives, OECD, and OECD member country governments. Also, Ms. MacDougall served as the U.S. representative on technical REACH-related issues; reviewed OECD and ICCA programmatic directives to formulate the U.S. position; performed peer review of assessments for test plans, dossier/robust summaries, and SIDS Initial Assessment Reports for individual chemical and categories; and functioned as an advisor to the High Production Volume Chemicals Branch Chief and Risk Assessment Division Director. Ms. MacDougall performed health and environmental effects screening level assessments of existing chemicals in support of other office programs, which included: the High Production Volume Challenge Program (HPV Challenge Program), TSCA Sections 4 and 8(e), the Risk Management 1 (RM1) process, and data evaluations on FYI submissions. After leaving EPA, Ms. MacDougall established her own regulatory consultant business, M8, Inc., where she consulted with clients on international developments in chemical management, direct industry submissions under the OECD SIDS Program, TSCA Section 4 matters, and REACH-related issues.

R. David Peveler, Ph.D., born Savannah, Georgia. Education: Georgia Institute of Technology (B.S. in Chemistry, 1969); Rutgers University (M.B.A., 1984); Northwestern University (Ph.D. in Organic Chemistry, 1975); University of Maine (post-doctoral Fellowship). Dr. Peveler's many areas of expertise include domestic and Canadian product regulatory compliance, FFDCa food contact and packaging matters, FIFRA product registration and labeling matters, DOT classification and labeling issues, and product safety (OSHA and WHMIS compliant MSDSs and labels). Dr. Peveler is familiar with the Systems, Applications and Products (SAP) enterprise resource planning software for the EHS module and the role it can play in support of regulatory compliance. Most recently, Dr. Peveler served as a consultant to Evonik Degussa Corporation and managed a variety of product regulatory compliance matters under TSCA, FFDCa, and related chemical product laws and regulatory programs with special emphasis on FDA regulations around bulk Active Pharmaceutical Ingredients, including Drug Master Files, Drug Establishment Registrations, Drug Product Listings, labeling and import requirements. Prior to his work with Evonik Degussa, Dr. Peveler was a Senior Regulatory Scientist with Chemtura Corporation, where he managed TSCA and Canadian Domestic Substance List (DSL) issues and chemistries, ranging from mineral oils to complex reaction products, a wide variety of FFDCa direct and indirect food contact matters, and DOT classification and training issues. Previously, Dr. Peveler was Chemtura's predecessor in interest, Witco Corporation, R&D Group Leader where he directed a group of researchers in a variety of areas involving polymer additives including PVC heat stabilizers and polymeric plasticizers, and antioxidants for polyolefins.

Joseph E. Plamondon, Ph.D., born Dubuque, Iowa. Education: Loras College (B.S. in Chemistry); University of California at Berkeley (M.S. in Bio-organic Chemistry); University of California at Davis (Ph.D.). Dr. Plamondon brings a wealth of experience in the regulatory arena and is well known in the industrial chemical community. He has spent over 25 years working on TSCA matters and more recently on REACH. Dr. Plamondon has extensive experience working within the regulated community in positions with the Rohm and Haas Company and Akzo Nobel, and has published a book based on his 25 years of experience entitled *The Underlying Foundation of Science Used in the Regulation of Industrial Chemicals*. The book addresses chemical identity and nomenclature issues, along with risk assessment and toxicology, under both TSCA and REACH. In addition to his work within the chemical industry, Dr. Plamondon has spent over ten years consulting with chemical companies on a broad range of TSCA issues. Projects have included providing strategic preparation and submission of premanufacture notifications (PMN) designed to avoid TSCA Section 5(e) consent orders and other adverse regulations, as well as offering guidance to companies in the determination of whether certain health and safety information is reportable under TSCA Section 8(e). Dr. Plamondon has presented at many conferences and professional meetings, e.g., the American Chemistry Council's Global Chemical Regulations Conference (Living with TSCA), among others, and has spoken at major global REACH conferences sponsored by the Rapra group in Boston in April 2008, Houston in January 2009, and Amsterdam in June 2009, and a conference sponsored by Fresenius in Cologne in December 2009. Dr. Plamondon had written extensively on chemical regulatory matters prior to the book publication. Recent publications include *TSCA and Engineered Nanoscale Substances, Nanotechnology Law and Business* (2007) (co-author) and *The DuPont TSCA Enforcement Action: Implications for the Chemical Industry, Environmental Quality Management* (2006).

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Kathleen M. Roberts, born Camp Hill, Pennsylvania. Education: University of North Carolina, Chapel Hill (B.S., 1986). Ms. Roberts has over 17 years of experience in domestic and international science and policy program management. She was a Senior Director with Regulatory and Technical Affairs at the American Chemistry Council where she directed strategic efforts on improving the current chemical management system, including creation of legislative proposals, communication documents, and educational materials. Under the American Chemistry Council's product stewardship programs, she developed guidance materials and performance measures, advocated Council policies, and provided managerial support to several action groups engaged in regulatory advocacy and public outreach activities. Ms. Roberts has served as a spokesperson for industry at national and international conferences, including the Association of International Chemical Manufacturers, ChemCon Americas, Responsible Care® Conference, and GlobalChem Conference. As part of the American Chemistry Council's CHEMSTAR team (now Chemical Products and Technology Division), Ms. Roberts managed multiple chemical-specific groups, with individualized membership, budgets, and strategy plans, which included advocacy, research, communication, education, and litigation activities.

Susan Hunter Youngren, Ph.D., born Agana, Guam. Education: Michigan State University (B.S. in Microbiology and Public Health, 1977); Virginia Polytechnic Institute and State University (M.S. in Environmental Sciences and Engineering, 1986); and George Mason University (Ph.D. in Environmental Biology and Public Policy, 1996). Dr. Youngren has more than 18 years of experience in the field of risk assessment, with particular emphasis on exposure assessment. Dr. Youngren has served as the project manager/senior scientist for a diverse range of risk assessments required under FIFRA, including residential, dietary, and microbial exposure assessments, under Proposition 65, including MADL and NSRL development, and under RCRA, including CERCLA/RCRA hazardous waste site assessment. Dr. Youngren is well-versed in the preparation of individual, aggregate, and cumulative residential and consumer product exposure assessments using deterministic and Monte Carlo techniques. Dr. Youngren has managed and conducted numerous residential and occupational exposure assessments on behalf of clients to assess dermal, inhalation, and oral exposures to humans from pesticide products, such as termiticides; flea and tick products for pets, carpets, and turf; fungicides for turf and home gardens; and indoor and outdoor insecticide fogger products. Dr. Youngren has held positions with environmental science consulting firms involving the conduct of exposure assessments to support human health risk assessments responding to a wide range of regulatory requirements. She is a member of the Society of Risk Analysis (SRA) and the International Society of Exposure Analysis (ISEA), and is a Counselor for the ISEA. At the SRA, Dr. Youngren served on the Editorial Board of the SRA Residential Exposure Assessment Project and as post-Chair of the SRA Exposure Assessment Specialty Group.

Allison J. MacDougall Davidson, Manager of Non-Attorney Professional Staff, born Dedham, Massachusetts. Education: Bentley College (A.S. Degree in Paralegal Studies, 1988).

Carla N. Hutton, born Adelphi, Maryland; admitted to bar, 1995, Maryland. Education: University of Pennsylvania (B.A., with honors, 1991); Washington College of Law (J.D., 1994).

Barbara Christianson, Legal Assistant, born Pensacola, Florida. Education: University of Maryland (B.A. in History, 1995).

Colin P. Carroll, born Barre, Massachusetts; admitted to the bar, 2004, Massachusetts. Education: Northeastern University (B.A., *cum laude*, 2001); Vermont Law School (J.D., *cum laude*, MSEL, 2004).

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ATTACHMENT D



BERGESON & CAMPBELL, P.C.

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Overview of the Firm

Bergeson & Campbell, P.C. is an AV-rated (highest ranking) Washington, D.C. law firm focusing on conventional and nanoscale industrial, agricultural, and specialty chemicals and medical device, product approval and regulation, product defense, and associated business issues. Bergeson & Campbell's clients are involved in many businesses, including basic, specialty, and agricultural and antimicrobial chemicals; biotechnology, nanotechnology, and emerging transformative technologies; pharmaceuticals, medical devices, and diagnostic products; fibers; paints and coatings; printing and publishing; and plastic products.

We represent and counsel individuals, business entities, trade associations, and industry coalitions. Our professionals conduct advocacy before EPA, FDA, HHS, OSHA, ATSDR, NTP, OMB, the Departments of State, Interior, and U.S. Special Trade Representative, state governmental bodies, federal and state courts, and in other forums, and play active roles in business strategy development, compliance planning, toxic tort defense, acquisitions, and related activities.

Our fundamental goals are to solve our clients' existing problems, and to minimize future difficulties. Reliance on only a single set of skills often is not enough. Legislative opportunities, rulemaking, and litigation options must be coordinated and effectively implemented.

We take a multi-disciplinary approach in assisting our clients, partnering with toxicological, chemical, engineering, economic, and other experts on individual matters as necessary to achieve results effectively and efficiently. Attention must be paid to the interplay of all branches of government and interest groups. Our capabilities, borne of site- and issue-specific experience, combined with our national and international view on policy and regulatory developments, position us to handle all these tasks with judgment, creativity, and efficiency.

Lynn L. Bergeson is a founding member of Bergeson & Campbell, P.C., in Washington, D.C. She has practiced chemicals regulation, environmental, and occupational safety and health since 1980. She represents individual corporations and a wide range of trade associations on chemical-specific legislative, regulatory, and enforcement-related matters. Ms. Bergeson's practice areas include TSCA, FIFRA, EPCRA, RCRA, CAA, CWA and OSHA compliance and litigation. Ms. Bergeson is widely published and lectures frequently on regulatory and policy issues affecting chemicals under federal, state, and international regulatory programs.

Lisa Campbell has practiced environmental law since 1985. She concentrates on chemicals regulation and compliance matters under TSCA, FIFRA, RCRA, OSHA, and other environmental statutes and assists corporations and trade associations on a wide variety of matters in these areas. Ms. Campbell writes frequently on chemical regulatory issues.

IN FOCUS :

Professional Resumes

Detailed Practice Description

B&C is a proud member of the following organizations:

CropLife America

Environmental Law Network

Nanotechnology Industries Association

Consortium Management :

Administration Services

Communication Services

Financial Services

BIOTECH: Biotechnology Practice

FDA : FDA Practice

FDA-EPA Jurisdictional Questions

Food Contact Notification Experience

Medical Device Experience

FIFRA : FIFRA Practice

FIFRA : Pesticide Registration

FIFRA : FIFRA, Federal Insecticide, Fungicide, and Rodenticide Act, Basic Practice Series

FUEL : Fuel and Fuel Additive Practice

NANOTECH : Nanotechnology Practice

TSCA : TSCA Practice

TSCA : TSCA, Toxic Substances Control Act, Basic Practice Series

REACH Services

Directions to B&C

Bergeson & Campbell's consulting affiliates, The Acta Group, L.L.C. (Acta) and The Acta Group EU, Ltd (Acta EU), were established to control the spiraling costs and inefficiencies encountered by clients seeking approvals to market chemicals, products of biotechnology and nanotechnology, and medical device products. Acta and Acta EU manage products from concept to approval, utilizing the skills and experience of professionals who have worked in the specific product areas in government and industry. Acta and Acta EU represent the following disciplines: regulatory affairs, with particularized expertise with REACH; toxicologists; and government affairs. Acta and Acta EU professionals have experience in regulations affecting chemical product approvals under North American (USA, Canada, and Mexico), European Union, South American, Asian, and Pacific Rim regulatory programs. They regularly track significant legislative, administrative, and scientific initiatives that relate to the business of clients marketing chemicals and medical products for multiple uses.

The experience and expertise of Acta and Acta EU professionals cover a wide range of chemicals and products, including pesticides; industrial and specialty chemicals regulated under TSCA; products of biotechnology and nanotechnology; and medical devices. Acta and Acta EU concentrate on obtaining and maintaining product approvals and overcoming impediments to the successful and profitable marketing of approved products. The multi-disciplinary skills possessed by members of Acta and Acta EU are essential to a cost-effective and timely product approval project. Today's regulatory approvals hinge on the utilization of multiple sources of information, resources, and skills. Acta and Acta EU offer a complete line of services intended to take a product or product concept to the point of its commercial marketing, to protect the market position of new and existing products, and to maintain products once they have been approved.

We also make substantial use of non-attorney regulatory analysts. These professionals provide counseling, monitoring, project support and direct client assistance on a variety of federal and state regulatory, legislative, and policy issues.

October 2010

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CHEMICAL PRODUCT DEVELOPMENT AND DEFENSE

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Lynn L. Bergeson, Principal. Education: Michigan State University (B.A., magna cum laude); Columbus School of Law, Catholic University of America (J.D.). Ms. Bergeson has practiced chemicals regulation and occupational safety and health law for over two decades. She assists individual companies and a wide range of trade groups or *ad hoc* consortia on chemical-specific legislative and regulatory matters. Ms. Bergeson's practice areas include Toxic Substances Control Act (TSCA), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Emergency Planning and Community Right-to-Know Act (EPCRA), Resource Conservation and Recovery Act (RCRA), Clean Air Act (CAA), Clean Water Act (CWA), Occupational Safety and Health Act (OSHA) compliance and litigation matters, and Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation. Ms. Bergeson is widely published and lectures frequently on regulatory and policy issues affecting chemicals under federal, state, and international regulatory programs.

Lisa M. Campbell, Principal. Education: University of Arizona (B.S.); Stanford Law School (J.D.). Ms. Campbell has practiced chemicals regulation and compliance matters under TSCA, FIFRA, RCRA, OSHA, and assists corporations and trade groups on a wide variety of matters in these areas. Ms. Campbell writes frequently on chemical regulatory issues.

James V. Aidala, Vice President, Policy and Government Affairs. Education: undergraduate and graduate studies at Massachusetts Institute of Technology; Brown University; and Harvard University. Former Assistant Administrator for the U.S. Environmental Protection Agency's (EPA) Office of Prevention, Pesticides, and Toxic Substances (OPPTS) (now the Office of Chemical Safety and Pollution Prevention (OCSPP)) (2000-2001); former Associate Assistant Administrator for OPPTS (1993-2000); Senior Professional Staff member of the Government Operations Committee, Subcommittee on Environment, Energy, and Natural Resources in the U.S. House of Representatives, where he was in charge of oversight of EPA's implementation of FIFRA and TSCA (1991-1993); Director of Policy Development at the Wallace Institute for Alternative Agriculture (1990-1991); policy expert on FIFRA and TSCA at the Congressional Research Service (1983-1990), which is part of the U.S. Library of Congress; Professional Staff member for the U.S. Senate Committee on Government Affairs, Subcommittee on Energy (1981-1983).

Christopher R. Bryant. Education: University of Maryland (B.S. in Animal Science). Mr. Bryant has over 20 years of experience in environmental, health and safety (EHS) compliance and legislative, regulatory and policy issues. Previously, he was the Managing Director of the Chemical Products and Technology Division at the American Chemistry Council where he directed strategic efforts on improving support to the chemical industry. He managed a broad array of issues, including federal and state legislative activities, product de-selection, and advocacy with EPA and state environmental agencies. Prior to his tenure at the American Chemistry Council, Mr. Bryant consulted General Electric (GE) on EHS matters. He assisted in the implementation of GE's EHS management system across all GE business units. He conducted EHS management system training sessions for GE business leaders, which led to significant improvement in GE's EHS performance. He also conducted audits, operating reviews, and management system reviews at GE facilities. Additionally, he provided regulatory consulting on hazardous waste, hazardous materials transportation, clean air, and OSHA regulatory programs. Mr. Bryant was formerly President of The Technical Group, LLC, which specialized in hazardous substance and OSHA matters. He was the Director of EPA's RCRA/Superfund Industrial Assistance Hotline and a field chemist with GSX Services, Inc.

Lisa Rothenberg Burchi. Education: Tufts University (B.A., cum laude, 1990); The National Law Center, George Washington University (J.D., with honors, 1995). Ms. Burchi has over 10 years of experience in domestic and international chemical and pesticide regulation. Ms. Burchi also assists corporations in conducting corporate-wide TSCA and FIFRA compliance audits and manages various consortia on chemical-specific legislative and regulatory matters. Ms. Burchi is a co-author of "The TSCA Basic Practice Book," ABA (2000) and "TSCA and the Future of Chemical Regulation" (2000).

Sheryl Lindros Dolan. Education: Cornell University (B.A. in Chemistry); The National Law Center, George Washington University (J.D.). Ms. Dolan has significant experience in chemical regulation and pesticide registration matters. She has assisted both domestic and international

clients in obtaining pesticide registrations through EPA. Ms. Dolan worked previously for The Shaw Group and Stone & Webster-JSC Management Consultants, Inc. (formerly Jellinek, Schwartz & Connolly, Inc.). Ms. Dolan regularly manages corporate-wide TSCA and FIFRA compliance audits, prepares and obtains TSCA premanufacture notifications (PMN) and related TSCA submissions, and is heavily engaged in developing compliance strategies involving TSCA's new Inventory Update Rule requirements. Ms. Dolan also has particular expertise in federal environmentally preferable and bio-based product procurement programs and in assisting clients in leveraging product attributes into sales opportunities.

Henry M. Jacoby. Education: St. Norbert College (B.S. in Chemistry); Frostburg State University (M.S. in Management). Mr. Jacoby has over 34 years of experience in assisting pesticide, insecticide, herbicide, fungicide, antimicrobial, wood preservation, and antifouling paint manufacturers and formulators in the area of environmental science and applications for federal and state pesticide registrations and tolerance petitions. Twenty-five years of his experience were gained at EPA, where he worked in the Office of Pesticide Programs as a Chemist, Product Manager, Senior Staff Member, and Branch Chief. Upon retiring from EPA, Mr. Jacoby joined the consultant firm of Charles, Conn & van Gemert, LLC as Director of Environmental Affairs. In 2001, Mr. Jacoby established his own regulatory consultant business.

Leslie S. MacDougall. Education: Old Dominion University (B.S., 1988); The University of Maryland (post-graduate education in Toxicology, 1990); John Hopkins University (post-graduate education in Risk Assessment, 1992). Ms. MacDougall has extensive experience in chemical-related matters. Previously, she was the Programs Manager for the Organization of Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) Program and the International Council of Chemical Associations (ICCA) Initiative for the U.S. Environmental Protection Agency's (EPA) Office of Pollution Prevention and Toxics (OPPT) (1997-2006). During her tenure at EPA, Ms. MacDougall functioned as a liaison for EPA, industry representatives, OECD, and OECD member country governments. Also, Ms. MacDougall served as the U.S. representative on technical REACH-related issues; reviewed OECD and ICCA programmatic directives to formulate the U.S. position; performed peer review of assessments for test plans, dossier/robust summaries, and SIDS Initial Assessment Reports for individual chemical and categories; and functioned as an advisor to the High Production Volume Chemicals Branch Chief and Risk Assessment Division Director. Ms. MacDougall performed health and environmental effects screening level assessments of existing chemicals in support of other office programs, which included: the High Production Volume Challenge Program (HPV Challenge Program), TSCA Sections 4 and 8(e), the Risk Management 1 (RM1) process, and data evaluations on FYI submissions. After leaving EPA, Ms. MacDougall established her own regulatory consultant business, M8, Inc., where she consulted with clients on international developments in chemical management, direct industry submissions under the OECD SIDS Program, TSCA Section 4 matters, and REACH-related issues.

R. David Peveler, Ph.D., born Savannah, Georgia. Education: Georgia Institute of Technology (B.S. in Chemistry, 1969); Rutgers University (M.B.A., 1984); Northwestern University (Ph.D. in Organic Chemistry, 1975; University of Maine (post-doctoral Fellowship). Dr. Peveler's many areas of expertise include domestic and Canadian product regulatory compliance, FFDCa food contact and packaging matters, FIFRA product registration and labeling matters, DOT classification and labeling issues, and product safety (OSHA and WHMIS compliant MSDSs and labels). Dr. Peveler is familiar with the Systems, Applications and Products (SAP) enterprise resource planning software for the EHS module and the role it can play in support of regulatory compliance. Most recently, Dr. Peveler served as a consultant to Evonik Degussa Corporation and managed a variety of product regulatory compliance matters under TSCA, FFDCa, and related chemical product laws and regulatory programs with special emphasis on FDA regulations around bulk Active Pharmaceutical Ingredients, including Drug Master Files, Drug Establishment Registrations, Drug Product Listings, labeling and import requirements. Prior to his work with Evonik Degussa, Dr. Peveler was a Senior Regulatory Scientist with Chemtura Corporation, where he managed TSCA and Canadian Domestic Substance List (DSL) issues and chemistries, ranging from mineral oils to complex reaction products, a wide variety of FFDCa direct and indirect food contact matters, and DOT classification and training issues. Previously, Dr. Peveler was Chemtura's predecessor in interest, Witco Corporation, R&D Group Leader where he directed a group of researchers in a variety of areas involving polymer additives including PVC heat stabilizers and polymeric plasticizers, and antioxidants for polyolefins.

Joseph E. Plamondon, Ph.D. Education: Loras College (B.S. in Chemistry); University of California at Berkeley (M.S. in Bio-organic Chemistry); University of California at Davis (Ph.D.). Dr. Plamondon brings a wealth of experience in the regulatory arena and is well known in the industrial chemical community. He has spent over 25 years working on TSCA matters and more recently on REACH. Dr. Plamondon has extensive experience working within the regulated community in positions with the Rohm and Haas Company and Akzo Nobel, and has published a book based on

his 25 years of experience entitled *The Underlying Foundation of Science Used in the Regulation of Industrial Chemicals*. The book addresses chemical identity and nomenclature issues, along with risk assessment and toxicology, under both TSCA and REACH. In addition to his work within the chemical industry, Dr. Plamondon has spent over ten years consulting with chemical companies on a broad range of TSCA issues. Projects have included providing strategic preparation and submission of PMNs designed to avoid TSCA Section 5(e) consent orders and other adverse regulations, as well as offering guidance to companies in the determination of whether certain health and safety information is reportable under TSCA Section 8(e). Dr. Plamondon has presented at many conferences and professional meetings, e.g., the American Chemistry Council's Global Chemical Regulations Conference (Living with TSCA), among others, and has spoken at major global REACH conferences sponsored by the Rapra group in Boston in April 2008, Houston in January 2009, and Amsterdam in June 2009, and a conference sponsored by Fresenius in Cologne in December 2009. Dr. Plamondon had written extensively on chemical regulatory matters prior to the book publication. Recent publications include *TSCA and Engineered Nanoscale Substances*, *Nanotechnology Law and Business* (2007) (co-author) and *The DuPont TSCA Enforcement Action: Implications for the Chemical Industry*, Environmental Quality Management (2006).

Kathleen M. Roberts. Education: University of North Carolina, Chapel Hill (B.S., 1986). Ms. Roberts has over 17 years of experience in domestic and international science and policy program management. She was a Senior Director with Regulatory and Technical Affairs at the American Chemistry Council where she directed strategic efforts on improving the current chemical management system, including creation of legislative proposals, communication documents, and educational materials. Under the American Chemistry Council's product stewardship programs, she developed guidance materials and performance measures, advocated Council policies, and provided managerial support to several action groups engaged in regulatory advocacy and public outreach activities. Ms. Roberts has served as a spokesperson for industry at national and international conferences, including the Association of International Chemical Manufacturers, ChemCon Americas, Responsible Care® Conference, and GlobalChem Conference. As part of the American Chemistry Council's CHEMSTAR team (now Chemical Products and Technology Division), Ms. Roberts managed multiple chemical-specific groups, with individualized membership, budgets, and strategy plans, which included advocacy, research, communication, education, and litigation activities.

Susan Hunter Youngren, Ph.D. Education: Michigan State University (B.S. in Microbiology and Public Health); Virginia Polytechnic Institute and State University (M.S. in Environmental Sciences and Engineering); and George Mason University (Ph.D. in Environmental Biology and Public Policy). Dr. Youngren has significant experience in the field of risk assessment, with particular emphasis on exposure assessment. Dr. Youngren has served as the project manager/senior scientist for a diverse range of risk assessments required under FIFRA, including residential, dietary, and microbial exposure assessments, under Proposition 65, including Maximum Allowable Dose Level (MADL) and No Significant Risk Level (NSRL) development, and under RCRA, including Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/RCRA hazardous waste site assessment. Dr. Youngren is well-versed in the preparation of individual, aggregate, and cumulative residential and consumer product exposure assessments using deterministic and Monte Carlo techniques. Dr. Youngren has managed and conducted many residential and occupational exposure assessments on behalf of corporate clients and trade associations to assess dermal, inhalation, and oral exposures to humans from pesticide products, such as termiticides; flea and tick products for pets, carpets, and turf; fungicides for turf and home gardens; indoor and outdoor insecticide fogger products; and a wide range of non-pesticide consumer and personal care products. Dr. Youngren has held positions with environmental science consulting firms involving the conduct of exposure assessments to support human health risk assessments responding to a wide range of regulatory requirements. She is a member of the Society of Risk Analysis (SRA) and the International Society of Exposure Analysis (ISEA), and is a Counselor for the ISEA. At the SRA, Dr. Youngren served on the Editorial Board of the SRA Residential Exposure Assessment Project and as post-Chair of the SRA Exposure Assessment Specialty Group.

Allison MacDougall Davidson, Business Manager. Education: Bentley College (A.S. Degree in Paralegal Studies). Ms. MacDougall Davidson has practiced as an environmental professional since 1991.

For more information, please contact us or call us at (202) 266-5020.

December 2009

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ATTACHMENT E



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ATTACHMENT F



30 of 38 DOCUMENTS

SIERRA CLUB, Plaintiff, VS. FEDERAL EMERGENCY MANAGEMENT AGENCY, et al., Defendants.

CIVIL ACTION NO. H-07-0608

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

2007 U.S. Dist. LEXIS 84230

November 14, 2007, Decided

November 14, 2007, Filed

SUBSEQUENT HISTORY: Motion granted by *Sierra Club v. Fed. Emergency Mgmt. Agency, 2008 U.S. Dist. LEXIS 47405 (S.D. Tex., June 11, 2008)*

COUNSEL: [*1] For Sierra Club, Plaintiff: James B Blackburn, Jr, LEAD ATTORNEY, Blackburn Carter PC, Houston, TX; David Alfred Kahne, Attorney at Law, Houston, TX.

For Federal Emergency Management Agency, Director R David Paulison, Regional Director William E. Peterson, Defendant: Charmaine Michele Aarons Holder, LEAD ATTORNEY, Asst US Atty, Houston, TX.

R D Smith, President, CCFCC, Amicus, Pro se, Cypress, Tx.

JUDGES: Lee H. Rosenthal, United States District Judge.

OPINION BY: Lee H. Rosenthal

OPINION

MEMORANDUM AND ORDER

The Sierra Club, a national nonprofit environmental organization, filed this suit under *Section 4104(g)* of the

National Flood Insurance Act, *42 U.S.C. § 4104(g)*. The Sierra Club is appealing the denial of their administrative appeal of a final flood elevation determination for the Cypress Creek watershed made by the Federal Emergency Management Agency (FEMA) for Harris County, Texas and incorporated areas. (Docket Entry No. 1). FEMA also denied the administrative appeal filed by the Cypress Creek Flood Control Coalition ("CCFCC"), which raised the same objections as the Sierra Club's appeal. (Docket Entry No. 16 at 6-7; *id.*, Ex. A at 3-5). Unlike the Sierra Club, CCFCC did not file suit to seek judicial review [*2] of FEMA's flood elevation determinations. Instead, CCFCC decided to seek revisions of various flood elevations determinations through an administrative revision process. (Docket Entry No. 16 at 10-11). The timetable for that work is uncertain.

CCFCC seeks leave to file an *amicus curiae* brief in the action filed by the Sierra Club. CCFCC asserts that its participation will help the court understand the complex issues relating to flooding and flood elevation determinations and provide valuable local information about the potential impacts of mistakes in those determinations. (Docket Entry No. 22). The defendants oppose CCFCC's motion to file an *amicus curiae* brief on the same grounds that provided the basis for their earlier motion to dismiss, that this court lacks subject matter jurisdiction because the United States has not waived its

sovereign immunity and the plaintiffs lack standing. (Docket Entry No. 25). These defendants' motion to dismiss was denied.

"The extent, if any, to which an *amicus curiae* should be permitted to participate in a pending action is solely within the broad discretion of the district court." *Waste Mgmt. of Pa., Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995); [*3] *see also United States ex rel. Gudur v. Deloitte Consulting L.L.P., Civil Action No. H-00-1169, 512 F. Supp. 2d 920, 2007 U.S. Dist. LEXIS 18297, 2007 WL 836935, at *6 (S.D. Tex. March 15 2007); Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982); *Concerned Area Residents for the Env't v. Southview Farm*, 834 F. Supp. 1410, 1413 (W.D.N.Y. 1993); *United States v. Gotti*, 755 F. Supp. 1157, 1158 (E.D.N.Y. 1991); *Pa. Envtl. Def. Found. v. Bellefonte Borough*, 718 F. Supp. 431, 434 (M.D. Pa. 1989); *Leigh v. Engle*, 535 F. Supp. 418, 420 (N.D. Ill. 1982). One court has cautioned that "a district court lacking joint consent of the parties should go slow in accepting, and even slower in inviting, an *amicus* brief unless, as a party, although short of a right to intervene, the *amicus* has a special interest that justifies his having a say, or unless the court feels that existing counsel may need supplementing assistance." *Strasser v. Doorley*, 432 F.2d 567, 569 (1st Cir. 1970).

"No statute, rule, or controlling case defines a federal district court's power to grant or deny leave to file an *amicus* brief." *Gudur*, 2007 U.S. Dist. LEXIS 18297, 2007 WL 836935, at *6. District courts commonly seek guidance from *Federal Rule of Appellate Procedure* 29, which establishes standards for [*4] filing an *amicus* brief in the United States Courts of Appeals. ¹ *Id.* A district court must keep in mind the differences between the trial and appellate court forums in determining whether it is appropriate to allow an *amicus curiae* to participate. Chief among those differences is that a district court resolves fact issues. *Leigh v. Engle*, 535 F. Supp. 418, 422 (N.D. Ill. 1982). "An *amicus* who argues facts should rarely be welcomed." *Strasser*, 432 F.2d at 569. An *amicus* may be useful at the appellate level but not in the district court. *Yip*, 606 F. Supp. at 1568; *Leigh*, 535 F. Supp. at 422.

¹ *Rule 29 of the Federal Rules of Appellate Procedure* provides:

(a) When Permitted. The United

States or its officer or agency, or a State, Territory, Commonwealth, or the District of Columbia may file an *amicus-curiae* brief without the consent of the parties or leave of court. Any other *amicus curiae* may file a brief only by leave of court or if the brief states that all parties have consented to its filing.

(b) Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

(1) the movant's interest; and

(2) the reason why an *amicus* brief is desirable and why the matters asserted [*5] are relevant to the disposition of the case.

(c) Contents and Form. An *amicus* brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If an *amicus curiae* is a corporation, the brief must include a disclosure statement like that required of parties by Rule 26.1. An *amicus* brief need not comply with Rule 28, but must include the following:

(1) a table of contents, with page references;

(2) a table of authorities--cases (alphabetically arranged), statutes and other authorities--with references to the

pages of the brief where they are cited;

(3) a concise statement of the identity of the *amicus curiae*, its interest in the case, and the source of its authority to file;

(4) an argument, which may be preceded by a summary and which need not include a statement of the applicable standard of review; and

(5) a certificate of compliance, if required by Rule 32(a)(7).

(d) Length. Except by the court's permission, an *amicus* brief may be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission [*6] to file a longer brief, that extension does not affect the length of an *amicus* brief.

(e) Time for Filing. An *amicus curiae* must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An *amicus curiae* that does not support either party must file its brief no later than 7 days after the appellant's or petitioner's principal brief is filed. A court may grant leave for later filing, specifying the time within which an opposing

party may answer.

(f) Reply Brief. Except by the court's permission, an *amicus curiae* may not file a reply brief.

(g) Oral Argument. An *amicus curiae* may participate in oral argument only with the court's permission.

A district court should consider whether the information offered through the *amicus* brief is "timely and useful" or otherwise necessary. *Id.* A court should also consider whether the individual or organization seeking to file the *amicus* brief is an advocate for one of the parties. *Southview Farm, 834 F. Supp. at 1413.* While federal appellate courts often permit the submission of highly partisan *amicus* briefs, *see Leigh, 535 F. Supp. at 422*, there is significant [*7] variance in the extent to which district courts are willing to permit the participation of an *amicus* who acts primarily as an advocate for one party. Some district courts express strong reservations about permitting the submission of *amicus* briefs that strongly favor one side over the other. In *Leigh v. Engle*, the court denied the Secretary of Labor's motion for leave to file an *amicus* brief supporting the plaintiffs' ERISA claim. The Secretary had not submitted the memorandum as an *amicus curiae* but rather as an "*amicus petit*," or "friend of the plaintiff." *Id.* The court stated that the defendants were "entitled to have their contentions and arguments on the summary judgment motions considered without having the weight of the United States, speaking through the Secretary of Labor, joining plaintiffs in the assertion that there are no issues of material fact, that defendants have violated the provisions of ERISA, and thus are liable to a judgment ordering them to disgorge profits they have made from alleged breaches of trust." *Id.* The *Leigh* court also pointed to the lack of complexity or ambiguity in the law as a reason for denying the motion. *Id.*

The district court in *United States [*8] v. Gotti* refused to permit the submission of an *amicus* brief for similar reasons. In *Gotti*, the court did not allow the New York Civil Liberties Union to file an *amicus* in part because "[r]ather than seeking to come as a "friend of the court" to provide the court with an "objective, dispassionate, neutral discussion of the issues, it is apparent that the NYCLU has come as an advocate for

one side, having only the facts of one side at the time." 755 F. Supp. at 1159. Other considerations also weighed against permitting the *amicus*, including that the parties had not jointly consented to the filing, the parties were well represented and their counsel did not need assistance, the brief did not raise new issues, and the NYCLU did not comply with the *Rule 29* requirements. *Id.* at 1158-59.

In *Yip v. Pagano*, the district court echoed the concerns about partisan *amici* laid out in *Leigh* and *Gotti*, stating, "Where a petitioner's attitude toward the litigation is patently partisan, he should not be allowed to appear as *amicus curiae*." *Yip v. Pagano*, 606 F. Supp. 1566, 1568 (D.N.J.) (quoting *Casey v. Male*, 63 N.J. Super. 255, 164 A.2d 374, 377 (N.J. Super. Ct. 1960)). However, the court in *Yip* took a somewhat more permissive [*9] approach than the *Leigh* court and allowed a group of congressmen to file an *amicus* brief supporting the immunity claim of a defendant sued for making defamatory remarks during a congressional hearing. *Id.* at 1568-69. The court distinguished *Leigh* on the ground that in *Leigh* the would-be *amicus* had waited until three years into the proceedings to file his motion and that granting the motion would cause further delay. *Id.* at 1568. Faced with what the *Leigh* court had described as an "*amicus petit*," the *Yip* court did not find the congressmen's brief to be so "patently partisan" that it would be inappropriate to allow the group to participate as an *amicus curiae*.

Other courts routinely permit organizations to file *amicus* briefs when their interests are closely aligned with those of one party. Courts that take this approach stress that "[t]here is no rule . . . that *amici* must be totally disinterested," *Hoptowit*, 682 F.2d at 1260, and that "by the nature of things an *amicus* is not normally impartial," *Strasser*, 432 F.2d at 569.² In *Concerned Area Residents for the Env't v. Southview Farm*, 834 F. Supp. at 1413, the district court permitted a private organization to file an *amicus* brief despite [*10] having contributed at least \$ 10,000 to defray the defendants' legal costs. In *Hoptowit v. Ray*, 682 F.2d at 1260, the Ninth Circuit upheld the district court's appointment of the United States Department of Justice and the United States Attorney for the Eastern District of Washington as *amicus curiae* in a lawsuit challenging conditions at a state prison despite the fact that "the United States Attorney acted exclusively on behalf of the points of view taken by the inmates." The Ninth Circuit emphasized that there was no indication "that *amicus*

controlled the litigation, or that the inmates were mere strawmen to confer standing so that *amicus* could litigate its views." *Id.*

2 One court recounts how one attorney, when asked for his response to the argument of an *amicus*, responded, "That fellow isn't any more a friend of the court than I am." *Strasser*, 432 F.2d at 569 n. 2.

In this case, the defendants opposed CCFCC's motion to file an *amicus curiae* brief. (Docket Entry No. 25). No party has consented to the filing. The parties are sophisticated and ably represented by counsel. It is unclear what new perspective or information CCFCC could provide. CCFCC has the same interests and policy [*11] objectives as the Sierra Club. There is no reason to think that CCFCC has access to greater technical, scientific, or legal expertise than the Sierra Club. It appears that CCFCC seeks to litigate fact issues; such a role is generally inappropriate for an *amicus*. *Strasser*, 432 F.2d at 569.

The partisanship of CCFCC also weighs against permitting it to participate as *amicus curiae*. CCFCC filed an administrative appeal raising the same objections as this lawsuit. (Docket Entry No. 16 at 6-7; *id.*, Ex. A at 3-5). Not only are CCFCC's interests in this litigation squarely aligned with those of the Sierra Club, but CCFCC has as much of a stake in the outcome as the Sierra Club. CCFCC's organizational interests will be directly affected by any court ruling on a substantive matter.

Finally, CCFCC made a deliberate decision to forgo litigating. Rather than appeal FEMA's denial of their administrative appeal of the final flood elevation determinations for the Cypress Creek watershed, CCFCC elected to work within the administrative process for revising final flood elevation determinations. (Docket Entry No. 16 at 10-11). CCFCC does not have standing to litigate because it did not comply with the [*12] administrative requirements for filing suit. *See 42 U.S.C. § 4104(g)*. Having decided not to seek judicial review as a party, the CCFCC should not be able to proceed in court as an *amicus*.

CCFCC's motion for leave to file an *amicus curiae* brief is denied.

SIGNED on November 14, 2007, at Houston, Texas.

/s/ Lee H. Rosenthal

United States District Judge

Lee H. Rosenthal

ATTACHMENT G



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

Mr. Allen James, President
Responsible Industry for a Sound Environment
1156 15th St. NW, Ste. 400
Washington, DC 20005

May 15, 2009

Dear Mr. James:

It has been brought to our attention that certain pesticides are being sold, distributed, and promoted with the inappropriate words "Professional" and "Professional Grade" in product names and advertising. EPA's Office of Pesticide Programs (OPP) provides information to stakeholders on its website about the regulations that govern labels and advertising, and tools for understanding how the Agency reviews pesticide labels (www.epa.gov/pesticides/regulating/labels/label_review.htm). As part of our overall outreach strategy, we are soliciting the aid of RISE in getting key messages regarding permissible claims on distributor products out to your membership. Broad circulation of this letter to stakeholders will help remind them of Federal pesticide label regulations and the OPP's process for addressing misbranded products, such as those with false and misleading statements.

OPP would like to take this opportunity to explain its position on the use of words "professional" and "professional grade" in product names and in marketing materials. OPP is aware that a distributor is selling and distributing products under a brand name that includes "Professional Grade." In addition to naming its products as "Professional Grade," product advertising has used claims such as "Professional Grade Results" and "Put the power of the professional in your hands."

Section 12(a)(1)(E) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") states that it is unlawful to distribute or sell "any pesticide which is ... misbranded." A pesticide is misbranded if "its labeling bears *any* statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular." FIFRA § 2(q)(1)(A)(emphasis added). The following describes why EPA finds use of "Professional Grade" in these products' labeling and marketing to be a false or misleading claim and therefore unacceptable.

EPA has listed examples of statements that are false or misleading in its regulations as 40 CFR § 156.10(a)(5). Of interest relating to "professional grade," the list includes "a false or misleading statement concerning the effectiveness of the product as a pesticide or device" and "a false or misleading comparison with other pesticides or devices." 40 CFR § 156.10(a)(5)(ii) and (iv). "Professional Grade" implies a falsehood that pesticides are classified by grade, which they are not. This is a false or misleading comparison to other pesticides under 40 CFR § 156.10(a)(5)(ii).

"Professional Grade" implies or could well imply that the products are more efficacious than

competitors' products. This is likely a false or misleading statement about the comparative effectiveness of the product under 40 CFR § 156.10(a)(5)(iv).

The use of "professional" is misleading in that it does not explain which professionals are being referenced. None of the products in question have ever been classified as restricted use (40 CFR § 152.160), therefore, the sale or use of these products is not restricted to any particular group and the products are legally available for purchase by average consumers.

The product advertising includes phrases that use the term "professional", include the following: "Professional Grade Ingredients!", "Professional Grade Results! Now Available to Consumers," and "Put the Power of the Professionals in your Hands." Section 12(a)(1)(B) of FIFRA states that it is unlawful to distribute or sell "any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration." OPP has not approved the use of "professional" in claims for these products either at the distributor or basic registrant level.

OPP would like to remind basic registrants and supplemental distributors that only limited changes may be made between basic registered products and their supplementally distributed products per 40 CFR § 152.132(d). Specific claims may be deleted from distributor-product labels but they may not be added per 40 CFR § 152.132(d)(5). When distributor-product names contain new claims that have not been accepted for the basic registration, the label is in violation of 40 CFR § 152.132(d). Both the distributor and the basic registrant are liable for violations pertaining to the distributor product.

I hope this letter clarifies OPP's position regarding use of "professional grade" and "professional" in pesticide product labels and advertising. OPP is considering whether to refer this and similar matters to the Office of Enforcement and Compliance Assurance (OECA) for potential enforcement action. OPP will be reviewing the supplemental distribution agreements required under 40 CFR § 152.132(a) more closely in an attempt to rectify improper brand names before they reach the marketplace.

We ask that this letter be widely circulate to your membership, and we thank you in advance for your help. If you have any questions, please feel free to call Meredith Laws, Chief of the Insecticide-Rodenticide Branch, at (703) 308-7038.

Sincerely,



Lois Rossi, Director,
Registration Division
EPA's Office of Pesticide Programs

ATTACHMENT H



LEXSEE

**ANIMAL PROTECTION INSTITUTE, Plaintiff v. ROLAND D. MARTIN,
Commissioner of the Maine Department of Inland Fisheries and Wildlife, Defendant.**

CV-06-128-B-W

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

2007 U.S. Dist. LEXIS 13378

February 23, 2007, Decided

February 23, 2007, Filed

SUBSEQUENT HISTORY: Motion granted by *Animal Prot. Inst. v. Martin*, 241 F.R.D. 71, 2007 U.S. Dist. LEXIS 83774 (D. Me., 2007)

Motion denied by *Animal Prot. Inst. v. Martin*, 511 F. Supp. 2d 196, 2007 U.S. Dist. LEXIS 70783 (D. Me., 2007)

PRIOR HISTORY: *Animal Prot. Inst. v. Martin*, 241 F.R.D. 66, 2007 U.S. Dist. LEXIS 13377 (D. Me., 2007)

COUNSEL: [*1] For ANIMAL PROTECTION INSTITUTE, Plaintiff: BRUCE M. MERRILL, LEAD ATTORNEY, PORTLAND, ME.; JAMES J. TUTCHTON, LEAD ATTORNEY, ENVIRONMENTAL LAW CLINIC, DENVER, CO.; DAVID A. NICHOLAS, DAVID A. NICHOLAS, ESQ., NEWTON, MA.

For MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE COMMISSIONER, Defendant: CHRISTOPHER C. TAUB, LEAD ATTORNEY, MAINE ATTORNEY GENERAL'S OFFICE, AUGUSTA, ME.

For OSCAR CRONK, DONALD DUDLEY, FUR TAKERS OF AMERICA, MAINE TRAPPERS ASSOCIATION, SPORTSMANS ALLIANCE OF MAINE, ALVIN THERIAULT, US SPORTSMENS ALLIANCE FOUNDATION, Intervenor Defendants:

JAMES H. LISTER, WILLIAM P. HORN, LEAD ATTORNEYS, BIRCH, HORTON, BITTNER & CHEROT, WASHINGTON, DC.; PHILLIP D. BUCKLEY, RUDMAN & WINCHELL, BANGOR, ME.

For BRIAN F COGILL, SR, NATIONAL TRAPPERS ASSOCIATION, Intervenor Defendants: BARBARA A. MILLER, LAURENCE J. LASOFF, KELLEY DRYE & WARREN, LEAD ATTORNEYS, WASHINGTON, DC.; PHILLIP D. BUCKLEY, LEAD ATTORNEY, RUDMAN & WINCHELL, BANGOR, ME.

For SAFARI CLUB INTERNATIONAL, SAFARI CLUB INTERNATIONAL FOUNDATION, Amici: DOUGLAS S. BURDIN, LEAD ATTORNEY, SAFARI CLUB INTERNATIONAL, WASHINGTON, DC.; EUGENE C. COUGHLIN, SETH D. HARROW, LEAD ATTORNEYS, VAFIADES, BROUNTAS [*2] & KOMINSKY, BANGOR, ME.

JUDGES: JOHN A. WOODCOCK, JR., UNITED STATES DISTRICT JUDGE.

OPINION BY: JOHN A. WOODCOCK, JR.

OPINION

ORDER ON MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE

Concluding that Safari Club International and Safari Club International Foundation's participation as *amici curiae* in this law suit may be beneficial to the Court by providing a countervailing and distinct perspective, the Court grants their motion to participate as *amici curiae*.

I. BACKGROUND

Animal Protection Institute (API) filed an action against Roland D. Martin, in his official capacity as Commissioner of the Maine Department of Inland Fisheries and Wildlife (DIFW), seeking declaratory and injunctive relief for his alleged violation of the Endangered Species Act (ESA), 16 U.S.C. §§ 1531 *et seq.*, for "authorizing and allowing trapping activities that 'take' Bald Eagles, Canada Lynx and Gray Wolves -- species listed as protected from take under the ESA." ¹ *Compl.* P 1 (Docket # 1). Commissioner Martin is represented by the Maine State Attorney General's Office. By this motion, Safari Club International and Safari Club International Foundation (Safari) [*3] seek to participate as *amici curiae*; API objects. *Mot. of Safari Club Int'l and Safari Club Int'l Found, for Leave to Participate as Amici Curiae and Mem. of Law in Supp.* (Docket # 10) (*Safari Mot.*); *Pl.'s Opp'n to Mot. to Participate as Amici Curiae* (Docket # 33) (*API Opp'n*); *Reply in Supp. of Mot. of Safari Club Int'l and Safari Club Int'l Found, for Leave to Participate as Amici Curiae* (Docket # 34) (*Safari Reply*).

¹ 16 U.S.C. § 1538(a)(1)(B) provides: "[W]ith respect to any endangered species offish or wildlife . . . , it is unlawful for any person subject to the jurisdiction of the United States to take any such species within the United States or the territorial sea of the United States."

According to its motion, Safari is a nonprofit corporation with approximately 50,000 members from the United States and worldwide. *Safari Mot. Ex. A, Decl. of Kevin Anderson* P 3. Its mission is "conservation of wildlife, protection of the hunter, and education [*4] of the public concerning hunting and its use as a conservation tool." ² *Id.* P 4. Safari Club has about 200 members in Maine. *Id.* P 13. Safari asks for a "limited form of the *amicus*-plus status recognized by this Court." *Safari Mot.* at 1-2. It seeks: (1) to present briefs on motions without the direction of the state of Maine; (2) to participate separately in oral argument on dispositive motions; and, (3) to serve and receive documents and notice of events as if a party. *Id.* at 6.

² Safari Foundation is similarly organized and shares a similar mission. *Safari Mot. Ex. A, Decl. of Kevin Anderson* 16.

API opposes the motion on a variety of grounds. It claims that Safari's motion is a companion to a motion to intervene filed by four other organizations and three individuals -- each of whom supports trapping -- and complains that the cumulative impact of these motions, if granted, will "maximize the volume of participation by trapping interests in this litigation." *API Opp'n* at [*5] 2. API argues that the effect would be to "allow two functional interventions, when either group would ordinarily be adequately represented by the other." *Id.* API also opposes the motion because it is premature, since no motions or memoranda have been filed. ³ *Id.* at 3.

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API cites *Forest Service Employees for Environmental Ethics v. U.S. Forest Service*, CV-03-165-M-DWM, slip op. (D. Mont. Feb. 11, 2004) for the proposition that a motion for leave to participate as *amicus* should wait until the briefs are filed. *Forest Service* denied the motion "subject to renewal at the appropriate time." *Id.* at 3. In *Forest Service*, Judge Malloy correctly perceives the difficulty in granting leave to participate when it is unclear how helpful and necessary the *amicus*'s participation will turn out to be. But, as Chief Magistrate Judge Erickson stated in *Animal Prot. Inst. v. Merriam, Civ. No. 06-3776 (MJD/RLE)*, 2006 U.S. Dist. LEXIS 95724, *7 (D. Minn., Nov. 16, 2006), to delay is only to "defer the inevitable." The approach suggested by now Justice Alito in *Neonatology Assocs., P.A. v. Comm'r of Internal Revenue*, 293 F.3d 128, 132-33 (3d Cir. 2002), to err on the side of granting the motion and accepting the brief for what it is worth, seems more practical.

[*6] II. DISCUSSION

Although there are rules governing the participation of *amicus curiae* on appeal, there is no provision in the Federal Rules of Civil Procedure "as to the conditions under which a trial court should permit *amicus* appearances and the restrictions, if any, that should attend its appearance." *Alliance of Auto. Mfrs. v. Gwadowsky*, 297 F. Supp. 2d 305, 306 (D. Me. 2003). Nevertheless,

"the district court retains 'the inherent authority' to appoint amicus curiae 'to assist it in a proceeding.'" *Id.* (quoting *Resort Timeshare Resales, Inc. v. Stuart*, 764 F. Supp. 1495, 1500-01 (D. Me. 1991)). An amicus is not a party and "does not represent the parties but participates only for the benefit of the court." *Resort Timeshare*, 764 F. Supp. at 1501 (quoting *News and Sun-Sentinel Co. v. Cox*, 700 F. Supp. 30, 31 (S.D. Fla. 1988)).

Granting amicus status remains "within the sound discretion of the court." *Strasser v. Doorley*, 432 F.2d 567, 569 (1st Cir. 1970). However, *Strasser* cautioned:

[W]e believe a district court lacking joint consent of the parties should [*7] go slow in accepting, and even slower in inviting, an amicus brief unless, as a party, although short of a right to intervene, the amicus has a special interest that justifies his having a say, or unless the court feels that existing counsel may need supplementing assistance.

Id. Here, Safari does not claim that the Attorney General's representation of the Commissioner will be inadequate. See *Daggett v. Webster*, 190 F.R.D. 12, 13 n.1 (D. Me. 1990) ("Maine's Attorney General's Office typically performs in the highest professional manner, equal to the skill and performance of private lawyers."). Instead, Safari asserts it will bring a new and necessary perspective to the law suit, offering the Court "an essential voice of the affected interest groups because the State Defendant does not represent the hunting, trapping, and recreational community or those whose recreational and commercial activities are threatened by the potential loss of wildlife management opportunities." *Safari Mot.* at 5.

Generally, amicus status is granted "only when there is an issue of general public interest, the amicus provides supplemental assistance to existing counsel, [*8] or the amicus insures a complete and plenary presentation of difficult issues so that the court may reach a proper decision." *Alliance*, 297 F. Supp. 2d at 307 (internal punctuation and citation omitted). Against amici participation is Judge Posner's admonition in *Voices for Choices v. Ill. Bell Tel. Co.*, 339 F.3d 542, 544 (7th Cir. 2003):

The reasons for the policy [of denying or

limiting amici status] are several: judges have heavy caseloads and therefore need to minimize extraneous reading; amicus briefs, often solicited by parties, may be used to make an end run around court-imposed limitations on the length of parties' briefs; the time and other resources required for the preparation and study of, and response to, amicus briefs drive up the cost of litigation; and the filing of an amicus brief is often an attempt to inject interest group politics into the federal appeals process.

Id. (citing *Nat'l Org. for Women v. Scheidler*, 223 F.3d 615, 616 (7th Cir. 2000)).

The tone of the API response and Safari's reply gives the Court unease about whether the inclusion of Safari as amici will increase only the [*9] heat, not the light. API charges that there is a "game afoot" among Safari and other organizations to maximize the hunter viewpoint during this litigation by seeking actual intervention or amicus status. *API Opp'n* at 2. Safari rises to the bait and accuses API of attempting to "bar the courtroom doors;" it denies these "unfounded allegations," urging the Court to reject "pure speculation, unfounded beliefs, and innuendo." *Safari Reply* at 1-2. This does not bode well. Hyperbole rarely convinces, but it inevitably invites an in kind response. If Safari's presence only sharpens the rhetoric, its usefulness as a friend of the court will be minimal and the Court may rue and revisit its order.

Nevertheless, API itself acknowledges that it and Safari are "at opposite ends of the spectrum of the 'interest group politics' that Judge Posner advises should not be injected into judicial [proceedings]." *API Opp'n* at 7. Since a self-acknowledged interest group has initiated this proceeding, it is only proper to counterbalance its advocacy with the advocacy of opposing interest groups. The Court concludes that Safari's participation may be "beneficial to the Court in this matter, [*10] given the likely difference in perspective" between pro-hunting/trapping organizations and the state Government. *Verizon New Eng., Inc. v. Me. PUC*, 229 F.R.D. 335, 338 (D. Me. 2005).

In *Neonatology Associates*, now Justice Alito set out an eminently practical approach to a motion for leave to participate as amicus curiae. 293 F.3d at 132-33. At the

time of the motion, the court can rarely assess the potential benefit of an *amicus* brief, since the brief has not yet been filed. If denied, the court may be deprived of the advantage of a good brief, but if granted, the court can readily decide for itself whether the brief is beneficial. If beneficial, the court will be edified; if not, the brief will be disregarded. Thus, it is "preferable to err on the side of granting leave." ⁴ *Id.* at 133.

4 Justice Alito's approach answers the difficulty of winnowing the chaff during the more controlled appellate deliberative process, but writing for an appellate court, Justice Alito does not address other factors that discourage a trial court from adopting such an expansive view of *amicus* status, including the potential burden on other litigating parties, the risk of loading one side of the case against the other, and the danger of infusing interest group politics and rhetoric into trial court motion practice.

[*11] The Court seeks to strike a balance between controlling "the abuses enumerated by Judge Posner in [

Voices for Choices], while not unduly delimiting the best purposes served by a legitimate *amicus*, as recognized by now Justice Alito in [*Neonatology Associates*]." *Animal Protection Institute, Civ. No. 06-3776 (MJD/RLE), 2006 U.S. Dist. LEXIS 95724, at *7 n.4 (D. Minn. Nov. 16, 2006)*. Here, the balance favors the motion. The Court allows Safari *amid curiae* status; Safari shall receive service of documents and notice of events, may file memoranda and briefs on motions before the Court, and may participate separately in oral argument on dispositive motions. Accordingly, the Court GRANTS Safari Club International and Safari Club International Foundation's Motion for Leave to Participate as *Amici Curiae* (Docket # 10).

SO ORDERED.

/s/ John A. Woodcock, Jr.

UNITED STATES DISTRICT JUDGE

Dated this 23rd day of February, 2007