

**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

**MOTION FOR LEAVE TO FILE BRIEF OF THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA AS AMICUS CURIAE SUPPORTING
PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS AND TO EXTEND DUE
DATE FOR DEFENDANTS' REPLY BRIEF**

The Chamber of Commerce of the United States of America (the Chamber) respectfully moves this Court for leave to file a brief as *amicus curiae* in support of the Plaintiff. The proposed brief accompanies this Motion.

Counsel for the Plaintiff has consented to the filing of an amicus brief. Counsel for the Defendants do not oppose the filing of an amicus brief, provided that Defendants are given an additional fourteen (14) days to file their reply brief. Under the current schedule, Defendants' reply brief is due on April 14, 2014. This Motion would extend the filing deadline until April 28, 2014. Counsel for the Plaintiff has consented to this extension.

The Chamber is the world's largest business federation, representing more than 300,000 direct members and indirectly representing the interests of more than three million U.S.

businesses and professional organizations of every size, in every industry, from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber thus regularly files *amicus curiae* briefs in cases raising issues of concern to the Nation's business community.

This litigation implicates the interests of the Chamber's members because the administrative proceeding brought by the U.S. Consumer Product Safety Commission is premised on the so-called "responsible corporate officer" doctrine, pursuant to which agencies seek to impose individual liability against a company's officer for the company's responsibilities simply by reason of serving as a corporate officer. Personal liability was traditionally reserved for extraordinary situations, but agencies have increasingly relied on the doctrine to impose onerous punishments absent proof of criminal conduct or intent. On behalf of its members, the Chamber has a strong interest in appropriately restricting the doctrine's use.

The Chamber offers a valuable perspective on the issues before the Court in this case. The proposed brief discusses how expansion of the doctrine would exceed its original statutory basis and raises constitutional and policy concerns. Further, the proposed brief explains why the Court's review is vital to establish better-founded support and guiding principles for agency use of the doctrine and to diminish potential agency overreach. As such, the accompanying brief "provide[s] helpful analysis of the law" and will "be useful in resolving the issues presented by the parties." *Bryant v. Better Bus. Bureau of Greater Md., Inc.*, 923 F. Supp. 720, 728 (D. Md. 1996) (citations omitted).

Thus, the Chamber respectfully requests that this motion for leave to file the accompanying brief as *amicus curiae* in support of Plaintiff's opposition to motion to dismiss and to extend the due date of Defendants' reply brief be granted.

April 8, 2014

Respectfully submitted.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 8, 2014, I caused a copy of the foregoing document to be served on all parties by this Court's electronic filing system.

April 8, 2014

/s/
HEATHER MOWELL