

No. 13-56306

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MARGALIT CORBER, et al.,
Plaintiffs—Appellees,

v.

XANODYNE PHARMACEUTICALS, INC.,
Defendant—Appellant.

APPEAL FOLLOWING GRANT OF PETITION FOR PERMISSION TO APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA
PHILIP S. GUTIERREZ, DISTRICT JUDGE • CASE No. 5:12-CV-02036-PSG-(Ex)

**MOTION OF CHAMBER OF COMMERCE OF THE UNITED STATES
OF AMERICA AND PhRMA FOR LEAVE TO FILE AMICI CURIAE
BRIEF IN SUPPORT OF PETITION FOR REHEARING EN BANC**

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**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF
IN SUPPORT OF PETITION FOR REHEARING EN BANC**

Amici Curiae the Chamber of Commerce of the United States of America and PhRMA respectfully move for leave to file the attached amici curiae brief in support of the petition for rehearing en banc. Amici obtained consent of the attorneys for Defendant-Appellant Teva Pharmaceuticals USA, Inc. to file its brief. Amici endeavored to obtain consent of Plaintiffs-Appellees Judith Romo, et al., for filing this amici brief, but plaintiffs' counsel informed amici that plaintiffs do not consent. *See* 9th Cir. R. 29-3.

The Chamber of Commerce of the United States of America is the world's largest federation of businesses and associations, which represents three hundred thousand direct members and indirectly represents an underlying membership of more than three million U.S. businesses and professional organizations of every size, in every economic sector, and from every geographic region of the country. One important Chamber function is to represent the interests of its members in matters before the courts, Congress, and the Executive Branch. To that end, the Chamber regularly files amicus curiae briefs in cases that raise issues of concern to the nation's businesses.

The Chamber was involved—on behalf of its members—in organizing support for the much-needed class action and mass action reforms embodied in the Class Action Fairness Act of 2005 (CAFA). As discussed in the proposed amici brief, CAFA expanded federal jurisdiction to ensure that class actions and mass actions of national importance would be heard in federal courts. The Chamber’s members are often defendants in such lawsuits and thus are the intended beneficiaries of the reforms Congress memorialized in CAFA. In light of this historical background, the Chamber has a strong interest in, and a wealth of experience relevant to, interpreting CAFA’s jurisdictional requirements. It is also uniquely suited to provide the Court with significant guidance in addressing the policy goals and intent of the legislation—issues not addressed in detail in the parties’ briefs that might otherwise escape the Court’s attention.

PhRMA is a voluntary, nonprofit association representing the nation’s leading research-based pharmaceutical and biotechnology companies. PhRMA’s member companies are dedicated to discovering medicines that enable patients to lead longer, healthier, and more productive lives. In 2012 alone, PhRMA’s members invested an estimated \$48.5 billion in efforts to discover and develop new medicines. PhRMA has

frequently filed amicus curiae briefs in cases raising matters of significance to its members. This is such a case; like the Chamber's members, PhRMA's members are often defendants in class actions and mass actions of national importance that—under CAFA—should be heard in a federal forum.

An amici brief in support of the petition for en banc rehearing is desirable because this Court's decision will be important not just to the parties in this case, but to all defendants who are precluded from obtaining their right to a federal forum as provided by CAFA. *See* Fed. R. App. P. 29(b)(2).

No party or party's counsel authored this brief in whole or in part. No party or party's counsel contributed money to fund the preparation or submission of this brief. No other person except amici, their members, or their counsel contributed money intended to fund the preparation or submission of this brief. *See* Fed. R. App. P. 29(c)(5).

Amici respectfully requests that this Court grant leave to file the brief submitted concurrently with this motion.

October 18, 2013

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By: /s/ Mark A. Kressel

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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Signature: s/ Mark A. Kressel