

No. 14-90022-E

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

LOCAL 703, I.B. OF T. GROCERY AND FOOD EMPLOYEES
WELFARE FUND, et al.,

Plaintiffs-Respondents,

vs.

REGIONS FINANCIAL CORPORATION, C. DOWD RITTER, IRENE M.
ESTEVEZ and ALTON E. YOTHER,

Defendants-Petitioners.

Appeal from the United States District Court
for the Northern District of Alabama
Civil Action No. 2:10-cv-02847-IPJ
The Honorable Inge Prytz Johnson

OPPOSITION TO CHAMBER OF COMMERCE'S MOTION FOR LEAVE TO
FILE AMICUS CURIAE BRIEF

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Eleventh Circuit Rule 26.1-1 states that the “certificate contained in a response or answer to a motion or petition . . . must include only persons and entities that were omitted from the certificate contained in the motion or petition.” I certify that I believe the certificate contained in the January 21, 2015, Petition for Panel Rehearing is complete.

s/ ERIC ALAN ISAACSON

ERIC ALAN ISAACSON
Counsel for Plaintiffs-Respondents

FEDERAL RULE OF APPELLATE PROCEDURE
26.1 CORPORATE DISCLOSURE STATEMENT

Court-appointed Lead Plaintiff the Employees' Retirement System of the Government of the Virgin Islands was created by the Third Legislature of the Virgin Islands on June 24, 1959, by Act 479, to provide a defined-benefit pension plan for officials and employees of the Government of the Virgin Islands, and to provide retirement and disability annuities, and other benefits for plan participants, their dependents, and beneficiaries. Originally part of the Virgin Islands Division of Personnel, the Retirement System has since 1987 operated as an independent quasi-governmental agency of the Government of the Virgin Islands. It issues no stock, and is controlled by no publicly held corporation.

Court-appointed Lead Plaintiff the District 9 International Association of Machinists and Aerospace Workers Pension Trust is a Taft-Hartley Multi-Employer Health and Welfare Fund that issues no stock and is controlled by no publicly held corporation.

Plaintiff Local 703, International Brotherhood of Teamsters Grocery and Food Employees Welfare Fund is a Taft-Hartley Multi-Employer Health and Welfare Fund that issues no stock and is controlled by no publicly held corporation.

**OPPOSITION TO CHAMBER OF COMMERCE’S MOTION FOR LEAVE
TO FILE AMICUS CURIAE BRIEF**

Plaintiffs-Respondents respectfully oppose the motion of the Chamber of Commerce of the United States to appear and file a brief as amicus curiae supporting Defendants-Petitioners’ Petition for Panel Rehearing.

Plaintiffs-Respondents’ counsel ordinarily consents to the filing of amicus briefs on the merits, as well as to the filing of amicus briefs supporting rehearing of a precedential published decision. Plaintiffs-Respondents’ counsel also would have consented to the Chamber of Commerce filing an amicus brief supporting Defendants-Petitioners’ Rule 23(f) petition. But the Chamber chose to wait until after this Court issued an unpublished and non-precedential order denying the Rule 23(f) petition, and only now seeks to file a proposed brief that adds nothing significant to what Defendants-Petitioners have already argued.

While amicus briefs can be worthwhile, the Chamber waited to submit this one until after the Court ruled on the Rule 23(f) petition. Under the circumstances, it comes too late to be helpful to the Court in ruling on that petition – particularly since the brief adds nothing substantial to arguments already advanced by Defendants-Petitioners in their Rule 23(f) petition, their reply supporting the petition, and Petition for Panel Rehearing, which the Chamber now seeks leave to support.

This is so even though the Chamber's proposed amicus brief exceeds the permitted page limit: "The proposed amicus brief must not exceed 15 pages, exclusive of items that do not count towards page limitations as described in 11th Cir. R. 32-4." 11th Cir. R. 40-6.

Circuit Rule 40-6 does not exclude an amicus curiae's Statement of Interest from the pages to be counted. And here the Statement of Interest, which the Chamber paginated with Roman numerals v through viii in order to avoid Rule 32-4's 15-page limit, actually includes argument in addition to stating the Chamber's interest. The Chamber's proposed amicus brief thus exceeds Rule 40-6's 15-page limit.

Under these circumstances, Plaintiffs-Respondents respectfully oppose the proposed amicus brief's filing.

DATED: February 11, 2015

Respectfully submitted,

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DECLARATION OF SERVICE

I HEREBY CERTIFY that, on February 11, 2015, I am causing a true and correct copy of the foregoing to be filed with the Clerk of the Court for the Eleventh Circuit Court of Appeals by using the appellate CM/ECF. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system:

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Executed February 11, 2015, at San Diego, California.

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