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9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 SALMA MERRITT, ET AL,  
13 Plaintiffs,  
14 v.  
15 KEVIN E. MCKENNEY, ET AL,  
16 Defendants.

Case No. \_ CV-13-01391-JSW

**MEMORANDUM OF LAW BY DR.  
KARIN HUFFER IN SUPPORT OF  
MOTION FOR LEAVE TO FILE  
AMICUS CURIAE**

DATE: August 30, 2013  
TIME: 9:00 a.m.  
Courtroom: 11, 19<sup>th</sup> Floor  
JUDGE: Jeffrey S. White

18 Doctor Karin Huffer, by and through undersigned counsel, respectfully submits this  
19 memorandum of law in support of her motion for leave to file brief *amicus curiae* in the above  
20 captioned matter.  
21

22 **Interests of Proposed Amicus**

23 Dr. Huffer submits that in this case of first impression, post-2008 enactment of ADAAA,  
24 that she believes that she may be able to help the Court to cut through the issues raised as regards  
25 to: 1) Plaintiff David Merritt standing to sue for his aiding/advocating for disabled persons in  
26 court; 2) whether state of California retain immunity when its agents processes or being involved  
27  
28

1 in the process of ADA requests for accommodations; and, 3) If this case's allegations and claims  
2 come under purview of judicial immunity or color of state law pursuant to Section 1983.

3 Dr Huffer is a significant expert in regards to ADA accommodations requests; ADAAA  
4 law and corresponding advocacy for persons with disabilities. See *Declaration of Dr. Karin Huffer*  
5 with corresponding *Curriculum Vitae*, filed currently.

6 In addition to being an Associate Professor, Dr Huffer regularly testifies and otherwise  
7 participates in various courts throughout the country assisting lawyers and courts in meeting the  
8 mandates of the ADAAA in order to improve the experiences of the disabled person yes, but  
9 equally to improve the interactions that the courts and lawyers experience with Persons With  
10 Disabilities. *Ibid.* Prior to learning about this case in June 2013, Dr Huffer did not know any of the  
11 parties in this case. Her interest in the matter derives from her role as an educator of lawyers,  
12 judges and advocates as well as her profound concern for the preservation and advancement of the  
13 ADAAA Act of 2008.

14  
15 She has testified in numerous courtrooms regarding persons with disabilities and has  
16 crafted methods for providing accommodations. Dr Huffer also has frequently taught on the  
17 subject of judicial immunity in relation to judges performing administrative versus judicial acts  
18 under the ADAAA and seeks to strike a balance where judges become stewards and enforcers of  
19 this Federal law and administer it as Congress intended. Her interests is not for either party, but  
20 solely resides in ADAAA Act itself.

### 21 22 **Argument**

23  
24 As this Court is aware, "Federal courts have discretion to permit participation of amici  
25 where such participation will not prejudice any party and may be of assistance to the court."  
26 *Strougo v. Scudder, Stevens & Clark, Inc.*, 1997 WL 473566 (S.D.N.Y. Aug.18, 1997) (citing

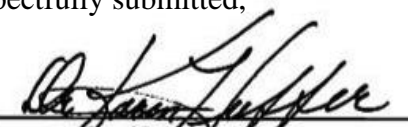
1 *Vulcan Society of New York City Fire Dep't, Inc. v. Civil Service Comm'n*, 490 F.2d 387, 391 (2d  
2 Cir. 1973).

3 There is a long established tradition of our Courts relying on *amicus* in determining real  
4 world application of laws and its impact. See *Woodford v. Ngo* (2006) 548 US 81, 96-123. A court  
5 should utilize an *amicus* as “an *impartial* friend of the court—not an *adversary party in interest in*  
6 *the litigation*. *United States v. Michigan*, 940 F.2d 143, 165 (6<sup>th</sup> Cir. 1991) (emphases in original).

7  
8 Because this is a case of first impression in this Circuit, since the passage of ADA of  
9 2008, and possibly one of the first across the country to enforce this new act in relation to non-  
10 disabled persons right to advocate for the disabled and state judges immunity, it is particularly  
11 appropriate for the Court to hear from educators and professionals who have studied and applied  
12 the law as well as understand its impact on their own teaching. With two law firms representing  
13 six defendants against two Persons With Disabilities and one disability aide, it is further clear that  
14 no party will be prejudiced by this submission.

15  
16 For the foregoing reasons, Dr Huffer respectfully submit that the Court should grant leave  
17 to file the proposed brief *amicus curiae*.

18  
19 Dated: July 31, 2013

Respectfully submitted,  
By:   
Dr. Karin Huffer