

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

THOMAS E. PEREZ, SECRETARY OF  
LABOR, and UNITED STATES  
DEPARTMENT OF LABOR,

Defendants.

Civil Action No. 3:16-cv-1476-M

Consolidated with:

3:16-cv-1530-C

3:16-cv-1537-N

Hon. Barbara M. G. Lynn

**MOTION OF PUBLIC INVESTORS ARBITRATION BAR ASSOCIATION FOR  
LEAVE TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANTS**

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The Public Investors Arbitration Bar Association (PIABA) respectfully moves under LCvR 7.2(b) for leave to file a brief as *amicus curiae* in support of Defendants' opposition to Plaintiffs' motions for Summary Judgment. Accepting a brief from *amicus curiae* lies "solely within the broad discretion of the district court." *Sierra Club v. Federal Emergency Management Agency*, 2007 WL 3472851, at \*1 (S.D. Tex. Nov. 14, 2007) (citing cases). In considering whether to accept an *amicus* brief, a "district court should consider whether the information offered through the amicus brief is 'timely and useful' or otherwise necessary." *Id.* at \*2 (citation and quotation omitted).

PIABA is an international bar association whose members represent investors in disputes with the securities industry. The mission of PIABA is to promote the interests of the public investor in securities and commodities arbitration by protecting public investors from abuses in the arbitration process; making securities and commodities arbitration as just and fair as systematically possible; and creating a level playing field for the public investor in securities and commodities arbitration. PIABA accomplishes this mission partly through active involvement in the administrative rule-making process. PIABA regularly issues comment letters regarding FINRA rule changes, provides testimony to government agencies and Congress, and files amicus briefs on a variety of issues pertaining to the protection of the investing public.

PIABA members represent investors who have received conflicted advice from investment advisers, securities brokers, and insurance brokers, oftentimes in connection with their retirement accounts. PIABA members have seen firsthand the harm that has resulted from the current regulatory system. PIABA gives a voice to those investors in the rule-making process and advocates for their protection.

PIABA's proposed *amicus curiae* brief provides useful information to the Court. It presents the history of the regulation of investment advice and provides useful context for interpreting this complex and interrelated area of law. The proposed *amicus curiae* brief also presents information

about how public consumers generally fail to appreciate the differences between different types of financial advisers—making it exceptionally difficult for the public to protect its own interests. In its brief, PIABA is able to speak to the impact on investors of the current system, if the Department’s Conflict of Interest Rule is not permitted to be fully enacted and the status quo is maintained. As no party has put this specific information before the Court, PIABA filed this brief on behalf of public investors.

The proposed *amicus* brief (including a certificate of corporate disclosure) is attached as an exhibit to this motion. A proposed order is attached as well.

Dated: August 26, 2016

Respectfully submitted,

BY: /s/ Richard A. Lewins  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that on August 19, 2016, I requested consent to the filing of this Motion and brief through e - mail. The plaintiffs associated with the Indexed Annuity Leadership Council (IALC) suit and the plaintiffs associated with the American Council of Life Insurers have consented to PIABA's filing an *amicus* brief. The plaintiffs associated with the U.S. Chamber of Commerce indicated that they take no position at this time as to whether it is appropriate for more than three *amicus* briefs to be filed in support of one side in this litigation in light of the Court's order; further indicating that they reserved their right to oppose PIABA's motion after having an opportunity to review it. Defendants consent to the filing of this proposed *amicus* brief.

/s/ Richard A. Lewins  
Richard A. Lewins

**CERTIFICATE OF SERVICE**

I hereby certify on that August 26, 2016, I electronically filed the foregoing Motion of the Public Investors Arbitration Bar Association for Leave to File an *Amicus Curiae* Brief in Support of Defendants with the Clerk of the Court for the United States District Court for the Northern District of Texas using the CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Richard A. Lewins  
Richard A. Lewins