

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

JOSE CASTAÑEDA JUAREZ; J [REDACTED] A [REDACTED] -
M [REDACTED]; WILFREDO FAVELA AVENDAÑO; and
NAEEM SOHAIL KHAN

Petitioners-Plaintiffs,

v.

NATHALIE ASHER, Director of the Seattle Field Office
of U.S. Immigration and Customs Enforcement;
MATTHEW T. ALBENCE, Deputy Director and Senior
Official Performing the Duties of the Director of the U.S.
Immigration and Customs Enforcement; U.S.
IMMIGRATION AND CUSTOMS ENFORCEMENT;
STEVEN LANGFORD, Warden, Tacoma Northwest
Detention Center,

Respondents-
Defendants.

Case No. 2:20-cv-00700-RSM-MLP

**MOTION FOR LEAVE TO FILE
BRIEF OF *AMICI CURIAE*
PUBLIC HEALTH OFFICIALS**

**NOTE FOR CONSIDERATION:
May 22, 2020**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

Table of Authorities ii

I. Introduction..... 1

II. Identity and Interest of the *Amici Curiae*..... 1

III. Reasons Why Motion Should Be Granted 1

IV. Conclusion 2

CERTIFICATE OF SERVICE 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Page(s)

CASES

Cobell v. Norton, 246 F. Supp. 2d 59, 62 (D.D.C. 2003)2

Hoptowit v. Ray, 682 F.2d 1237, 1260 (9th Cir. 1982).....1

Miller-Wohl Co. v. Comm’r of Labor & Indus., State of Mont.,
694 F.2d 203 (9th Cir. 1982)2

NGV Gaming, Ltd. v. Upstream Point Molate, LLC,
355 F. Supp. 2d 1061 (N.D. Cal. 2005)1

Skokomish Indian Tribe v. Goldmark,
2013 WL 5720053 (W.D. Wash. Oct. 21, 2013)1

1 **I. Introduction**

2 Correctional health experts Robert L. Cohen, M.D., Joe Goldenson, M.D., Michael
3 Puisis, D.O., and Brie Williams, M.D., hereby respectfully submit this Motion for Leave to File
4 an *Amicus Curiae* Brief. A copy of the proposed brief is attached as Exhibit A to this motion.

5 **II. Identity and Interest of the *Amici Curiae***

6 *Amici curiae* are experts in infectious diseases, healthcare policy, correctional
7 healthcare, human rights, and other related fields who have spent decades studying the provision
8 of healthcare in detention facilities. Based on their experience, and their review of the available
9 information about the COVID-19 pandemic, it is their view that the plaintiffs in this action, and
10 those similarly situated, are at high risk of serious, life-threatening COVID-19 infection, and that
11 their continued confinement in Tacoma Northwest Detention Center (“NWDC”) puts them at a
12 heightened risk of contracting and further spreading COVID-19.

13 *Amici* are committed to ensuring detention facilities provide quality healthcare to
14 detainees, and that detention facilities do not exacerbate the health risks of their detainees. They
15 understand the COVID-19 pandemic has placed enormous strains on society, and are committed
16 to doing their part to ensure that detention facilities take a prudent, science-based approach to
17 addressing the virus. They respectfully submit this brief to offer their view that the NWDC should
18 work with state and local health officials to release individuals to whom COVID-19 poses a high
19 risk of serious infection.

20 **III. Reasons Why Motion Should Be Granted**

21 District courts have “broad discretion” to appoint *amici curiae*. *Skokomish Indian*
22 *Tribe v. Goldmark*, 2013 WL 5720053, at *1 (W.D. Wash. Oct. 21, 2013) (quoting *Hoptowit v.*
23 *Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982)). “District courts frequently welcome amicus briefs
24 from non-parties concerning legal issues that have potential ramifications beyond the parties
25 directly involved or if the amicus has ‘unique information or perspective that can help the court
26 beyond the help that the lawyers for the parties are able to provide.’” *NGV Gaming, Ltd. v.*
27
28

1 *Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (quoting *Cobell v.*
2 *Norton*, 246 F. Supp. 2d 59, 62 (D.D.C. 2003)).

3 The Court should exercise its discretion to permit these correctional health experts
4 to file the attached amicus brief. As physicians and correctional health experts, the proposed *amici*
5 have a strong interest in ensuring that correctional facilities treat their inmates with dignity and
6 move proactively to mitigate the public health crisis sweeping the nation. The proposed *amici* will
7 draw upon their expertise to provide a unique correctional health perspective in this case, so as to
8 fulfill “the classic role of *amicus curiae* by assisting in a case of general public interest,
9 supplementing the efforts of counsel, and drawing the court’s attention to law that escaped
10 consideration.” *Miller-Wohl Co. v. Comm’r of Labor & Indus., State of Mont.*, 694 F.2d 203, 204
11 (9th Cir. 1982). Accordingly, they respectfully submit that their experience and perspective will
12 assist the Court in addressing the particular dangers that COVID-19 poses to certain individuals in
13 ICE detention.

14 **IV. Conclusion**

15 For these reasons, correctional health experts Robert L. Cohen, M.D., Joe
16 Goldenson, M.D., Michael Puisis, D.O., and Brie Williams, M.D., respectfully request that the
17 Court grant them leave to file the *amicus curiae* brief attached as Exhibit A.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2020, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such Filing to the attorneys of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

Dated: May 12, 2020

GIBBS HOUSTON PAUW

/s/

Robert Gibbs
Washington State Bar No. 5932
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
Telephone: (206) 682-1080
Facsimile: (206) 689-2270
rgibbs@ghp-law.net

Susanna M. Buerger (*pro hac vice
forthcoming*)
Darren W. Johnson (*pro hac vice
forthcoming*)
David C. Kimball-Stanley (*pro hac vice
forthcoming*)
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
sbuerger@paulweiss.com
djohnson@paulweiss.com
dkimball-stanley@paulweiss.com

Counsel for Amici Curiae