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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

XLEAR, INC., a corporation, and NATHAN  
JONES, individually and as an Officer of  
XLEAR, INC.

Defendants.

**MOTION FOR LEAVE TO FILE  
MEMORANDUM OF *AMICI CURIAE* IN  
SUPPORT OF DEFENDANTS’ MOTION FOR  
JUDGMENT ON THE PLEADINGS (FED. R.  
CIV. P. 12(C))**

Case No. 2:21-cv-00640-RJS-DBP

Judge Robert J. Shelby

Magistrate Judge Dustin B. Pead

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Under DUCivR 7-6, the National Health Federation and Citizens for Health request permission to file their Memorandum of *Amici Curiae* (the “Memorandum”) in support of the Defendants’ Motion for Judgment on the Pleadings (Fed. R. Civ. P. 12(c)) (the “Motion on the Pleadings”). A copy of the Memorandum is attached as Exhibit A to this motion. A proposed order granting permission to file the Memorandum is also attached as Exhibit B.

**1. Movants’ Interest in the Litigation**

The National Health Federation (the “NHF”) and Citizens for Health (“CFH,” and, collectively with NHF, the “Movants”) are consumer organizations whose members include practitioners, consumers, and members of the public whose interests differ from those of both Defendants and Plaintiff, as set forth in the attached Memorandum.

The NHF is a California non-profit 501(c)(4) corporation with members and educational operations around the world. Organized in January 1955, it will celebrate its 70th anniversary early next year. The NHF is the only non-profit consumer health-freedom organization with an accredited seat on the Codex Alimentarius Commission of the World Health Organization and Food and Agricultural Organization. The NHF's mission is to: (1) protect the health-related rights and freedom of individuals and healthcare practitioners; (2) educate about health and health freedom; and (3) represent its members in lawmaking, rulemaking, and policy decisions.

CFH is a Washington, D.C.-based non-profit bringing together consumers, practitioners and policy makers, who, as a collective, believe that sound health is the vital foundation of life, liberty and the pursuit of happiness, and is itself a fundamental human right. CFH aims to create a seat at the table in the national healthcare policy debate for advocates of natural health.

Movants' interest in this case stems from the chilling effect the FTC policy at issue in this case has on the dissemination of important information that health practitioners and consumers need to make good healthcare decisions. Consumers have a right to truthful, and not misleading information regarding safe and affordable products they may want to use, and those interests are not advanced either by: (1) imposing costly additional substantiation requirements; or (2) censoring information which may be based on different kinds of evidence. Rather than protecting consumers, this FTC policy favors dangerous and powerful drugs and inhibits the consideration or use of less dangerous and more affordable options. This misguided policy prevents American consumers from making informed decisions about their own health.

In short, this litigation's outcome will affect individual, professional, and business rights relative to the testing, marketing, and use of healthcare-related products and services.

**2. The Memorandum's Usefulness to the Case's Disposition**

Movants wish to inform the Court about consumer protection and public policy issues which are not fully presented and argued in Defendants' Motion on the Pleadings.

**3. Parties' Consent**

Counsel for Defendants Xlear, Inc., and Nathan Jones, as well as counsel for the United States have consented to this motion being filed.

Accordingly, Movants request permission to file the attached Memorandum.

DATED this 15<sup>th</sup> day of October 2024

/s/Brinton M. Wilkins  
Brinton M. Wilkins

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 15, 2024, the foregoing document was electronically filed using the Court's ECF system, which will automatically serve electronic copies on all counsel of record.

/s/Brinton M. Wilkins