

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 22-1395

ARKANSAS STATE CONFERENCE NAACP, *et al.*,

Plaintiffs-Appellants

v.

ARKANSAS BOARD OF APPORTIONMENT, *et al.*,

Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

MOTION FOR THE UNITED STATES AS AMICUS CURIAE TO
PARTICIPATE IN ORAL ARGUMENT

Pursuant to Rule 29(a)(8) of the Federal Rules of Appellate Procedure, the United States seeks permission to participate in oral argument of this appeal. In support of this motion, the United States provides as follows:

1. This Court has scheduled oral argument in this case for December 14, 2022, and has allotted 20 minutes per side.
2. On April 22, 2022, the United States filed its brief as amicus curiae in support of plaintiffs-appellants under Rule 29(a) of the Federal Rules of Appellate Procedure.

3. This case presents the important question whether private plaintiffs can enforce Section 2 of the Voting Rights Act (VRA), 52 U.S.C. 10301. The district court stands alone as the only court to hold that no private right of action exists to enforce Section 2 despite decades of public and private enforcement of the statute. Because the Department of Justice relies heavily on private plaintiffs' assistance in enforcing Section 2, the United States has a substantial interest in the proper resolution of this appeal.

4. Counsel for plaintiffs-appellants consents to the United States' request to participate in oral argument and has agreed to cede six minutes of plaintiffs-appellants' argument time to the United States. Therefore, the United States' participation in oral argument will not affect the overall time allotted for this case if this motion is granted.

5. Counsel for defendants-appellees does not object to the United States' participation.

WHEREFORE, the United States respectfully requests leave to participate in the oral argument of this appeal.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the attached MOTION FOR THE UNITED STATES AS AMICUS CURIAE TO PARTICIPATE IN ORAL ARGUMENT:

(1) complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A), because the motion, excluding the parts of the motion exempted by Federal Rule of Appellate Procedure 32(f), contains 249 words; and

(2) complies with the requirements of Federal Rule of Appellate Procedure 27(d)(1)(E) because it meets the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Word 2019, in 14-point Times New Roman font.

s/ Jonathan L. Backer
JONATHAN L. BACKER
Attorney

Date: November 16, 2022

CERTIFICATE OF SERVICE

I certify that on November 16, 2022, I electronically filed the foregoing MOTION FOR THE UNITED STATES AS AMICUS CURIAE TO PARTICIPATE IN ORAL ARGUMENT with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system.

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

s/ Jonathan L. Backer
JONATHAN L. BACKER
Attorney