

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ROBERT DRAPER, et al.,

Plaintiff,

v.

MARTHA COAKLEY, in her official
capacity as ATTORNEY GENERAL OF
MASSACHUSETTS,

Defendant.

Civil Action No. 1:14-cv-12471-NMG

**MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS ALL CLAIMS
BY BRADY CENTER TO PREVENT GUN VIOLENCE**

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*Attorneys for Amicus Curiae Brady
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The Brady Center to Prevent Gun Violence (“Brady Center”) respectfully requests permission to submit a brief as *amicus curiae* in support of the Motion to Dismiss All Claims filed by the Defendant Attorney General. A copy of the proposed *amicus* brief is being submitted to the Court with this Motion.

The Brady Center is a non-profit organization dedicated to reducing gun violence through education, research, and legal advocacy. Through its Legal Action Project, the Brady Center works to ensure that gun laws are properly interpreted by filing *amicus* briefs in cases concerning gun-violence prevention and firearms laws. The Brady Center therefore has a substantial interest in ensuring that the Second Amendment is not interpreted in a manner that would jeopardize the public’s interest in protecting families and communities from the effects of gun violence. Among other cases, the Brady Center has submitted *amicus* briefs in the Massachusetts Supreme Judicial Court’s gun storage case, *Jupin v. Kask*, and the U.S. Supreme Court’s Second Amendment cases, *District of Columbia v. Heller* and *McDonald v. City of Chicago*.

This Court has broad discretion to permit the Brady Center to participate as *amicus*. *In re GLG Life Tech Corp. Secs. Litig.*, 287 F.R.D. 262, 265 (S.D.N.Y. 2012). “Amicus participation is normally appropriate . . . when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Hard Drive Prods., Inc. v. Does 1-1,495*, 892 F. Supp. 2d 334, 337 (D. D.C. 2012); *see also NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005). The touchstone for granting leave to participate as *amicus curiae* is whether “participation is useful or otherwise desirable to the court.” *Animal Sci. Prods., Inc. v. China Nat’l Metals & Minerals Imp. & Exp. Corp.*, 596 F. Supp. 2d 842, 882 n.40 (D. N.J. 2008); *see also Dist. of Columbia v.*

Potomac Elec. Power Co., 826 F. Supp. 2d 227, 237 (D. D.C. 2011) (granting leave where “the Court finds that it may benefit from the[] input” of *amicus*).

Here, on account of its long history of advocating for gun safety, the Brady Center has a unique perspective on the purpose and effectiveness of the challenged load-indicator regulation. In its proposed brief, the Brady Center provides critical background on the history and function of load indicators, which will aid this Court in performing its constitutional analysis. As the brief explains in more detail, a load indicator is a common safety feature that has been proven to enhance safe gun use and storage. Moreover, the challenged load-indicator regulation does not prevent Massachusetts citizens from purchasing a handgun to protect themselves or their families. Both of these facts are crucial to the Second Amendment inquiry that the Court will embark upon.

Courts in this district routinely accept *amicus* briefs when doing so will aid in the determination of pending issues. *See, e.g., AT&T Mobility LLC v. Princi*, No. 11-11448, 2011 WL 6012945, at *1 (D. Mass. Dec. 2, 2011); *Celentano v. Commissioner*, No. 09-11112, 2010 WL 559121, at *2 (D. Mass. Feb. 2, 2010); *Sony BMG Music Entm’t v. Tenenbaum*, 672 F. Supp. 2d 217, 224 n.4 (D. Mass. 2009); *London-Sire Records, Inc. v. Doe*, 542 F. Supp. 2d 153, 161 n.6 (D. Mass. 2008). The Brady Center respectfully submits that its brief will aid the Court in performing the requisite Second Amendment analysis here.

For the foregoing reasons, the Brady Center requests that it be granted leave to participate in this case as *amicus curiae*.

Dated: October 3, 2014

Respectfully submitted,

/s/ Scott Harshbarger

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CERTIFICATE OF CONSULTATION PURSUANT TO LOCAL RULE 7.1

I hereby certify that I conferred with counsel to the parties to this litigation in an effort to narrow or resolve the issues regarding this Motion. Defendant assents to the Motion. Plaintiffs oppose the Motion and intend to file an opposition.

/s/ Scott Harshbarger

Scott Harshbarger

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2014 this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

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