

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

ASSOCIATION OF COMMUNITY,)	
ORGANIZATIONS FOR REFORM)	
NOW, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 08-4084-CV-C-NKL
)	
DEBORAH E. SCOTT, et al.,)	
)	
Defendants.)	

**MOTION OF SECRETARY CARNAHAN FOR LEAVE
TO FILE AS AMICUS CURIAE OR TO SPECIALLY APPEAR FOR THE
EXLUSIVE PURPOSE OF FILING SUGGESTIONS IN OPPOSITION TO
MOTION FOR INVOLUNTARY JOINDER OF THE SECRETARY OF STATE**

Secretary of State Robin Carnahan requests leave to file as amicus curiae, or to specially appear for the exclusive purpose of filing, the attached suggestions in opposition to Defendant St. Louis City Election Board’s (the “Board”) Motion to Compel Joinder of the Secretary of State as Additional Party Defendant.

Acceptance of amicus suggestions is within the broad discretion of the district court. *Waste Management of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995). One purpose of amicus suggestions is to provide supplementary assistance to existing counsel. *Alexander v. Hall*, 64 F.R.D. 152, 155 (D. S.C.1974).

Here, the attached suggestions (1) offer additional arguments and authorities to those filed by the parties in response to the Board’s motion and (2) seek to avoid the waste of scarce judicial and government resources and possible confusion among state and local

officials regarding the Secretary's authority over local election authorities that could result if she is joined as a defendant, given the absence of allegations of wrongdoing and requested relief against her in Plaintiffs' complaint, orders from the Court in other litigation, and the Board's reliance on speculation in support of its motion.

Alternatively, states have been allowed to make special appearances in analogous circumstances. *See Southwest Center for Biological Div. v. U.S. Bureau of Reclamation*, 143 F.3d 515, 519-520 (9th Cir. 1998) (group of states filed special appearance on joinder issue). Here, the Secretary, if allowed to make a special appearance, would offer the attached suggestions in opposition to her joinder as a party defendant.

WHEREFORE, the Secretary respectfully requests the Court to grant her leave to file as amicus curiae or to specially appear for the exclusive purpose of filing the attached suggestions in opposition to the Board's motion for involuntary joinder.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

/s/ James R. McAdams

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CERTIFICATE OF SERVICE

I hereby certify on this 4th day of November, 2008, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all parties.

/s/ James R. McAdams
Assistant Attorney General