

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Case No. 16-16808
LT No. 15-60185-CIV-ZLOCH

FORT LAUDERDALE FOOD NOT BOMBS, NATHAN PIM,
JILLIAN PIM, HAYLEE BECKER, and WILLIAM TOOLE,

Plaintiffs/Appellants,

v.

THE CITY OF FORT LAUDERDALE,

Defendant/Appellee.

**MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE
IN SUPPORT OF APPELLANTS' INITIAL BRIEF
AND IN SUPPORT OF REVERSAL**

Tracy Segal, Esquire
Florida Bar No. 520713
AKERMAN LLP
777 South Flagler Drive
Suite 1100 West Tower
West Palm Beach, Florida 33401
Telephone: (561) 671-3672
Facsimile: (561) 659-6313
Attorneys for Amicus Curiae
West Palm Beach Food Not Bombs

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE PURSUANT TO FRAP 26.1 AND 11TH CIR. R. 26.1-1**

1. Anderson, Kirsten (formerly Kirsten Clanton), Attorney for Plaintiffs/Appellants
2. Becker, Haylee, Plaintiffs/Appellants
3. Boileau, Alan, Attorney for Defendant/Appellee
4. Chappell, E. Hugh, Mediator
5. City of Fort Lauderdale, Defendant/Appellee
6. Costello, Andrea, Attorney for Plaintiffs/Appellants
7. Everett, Cynthia, Attorney for Defendant/Appellee
8. Fort Lauderdale Food Not Bombs, Plaintiff/Appellant
9. Hunt, Honorable Patrick M., Magistrate Judge, Southern District of Florida
10. Law Offices of Mara Shlackman, P.L., Attorneys for Plaintiffs/Appellants
11. Legal Advocacy Center of Central Florida, former Attorney for Plaintiffs/Appellants
12. Mediation Firm, Inc., Mediator
13. Pim, Jillian, Plaintiff/Appellant
14. Pim, Nathan, Plaintiff/Appellant

15. Segal, Tracy T., Attorney for *Amici Curiae*
16. Shlackman, Mara, Attorney for Plaintiffs/Appellants
17. Siegel, Jodi, Attorney for Plaintiffs/Appellants
18. Southern Legal Counsel, Inc., Attorney for Plaintiffs/Appellants
19. Toole, William, Plaintiff/Appellant
20. Zloch, Honorable William J., United States District Judge,
Southern District of Florida
21. West Palm Beach Food Not Bombs, *Amicus Curiae*
22. Sarasota (FL) Food Not Bombs, *Amicus Curiae*
23. Miami (FL) Food Not Bombs, *Amicus Curiae*
24. Lake Worth (FL) Food Not Bombs, *Amicus Curiae*
25. Tampa (FL) Food Not Bombs, *Amicus Curiae*
26. St. Petersburg (FL) Food Not Bombs, *Amicus Curiae*
27. Orlando (FL) Food Not Bombs, *Amicus Curiae*
28. Pensacola (FL) Food Not Bombs, *Amicus Curiae*
29. San Francisco (CA) Food Not Bombs, *Amicus Curiae*
30. San Diego (CA) Food Not Bombs, *Amicus Curiae*
31. South Minneapolis (MN) Food Not Bombs, *Amicus Curiae*
32. Warren-Wilson Asheville (NC) Food Not Bombs, *Amicus Curiae*
33. Asheville (NC) Food Not Bombs, *Amicus Curiae*

34. San Antonio (TX) Food Not Bombs, *Amicus Curiae*
35. Seattle (WA) Food Not Bombs, *Amicus Curiae*
36. Denver (CO) Food Not Bombs, *Amicus Curiae*
37. Bloomington (IN) Food Not Bombs, *Amicus Curiae*
38. Washington, D.C. Food Not Bombs, *Amicus Curiae*

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedures 26.1(a) and Eleventh Circuit Rules 26.1-1 through 26.1-3, *amici curiae* hereby certify that there are no parent corporations or publicly traded corporations that have an interest in the outcome of this case.

MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* IN SUPPORT OF APPELLANT'S INITIAL BRIEF AND IN SUPPORT OF REVERSAL

West Palm Beach Food Not Bombs, along with Sarasota (FL) Food Not Bombs; Miami (FL) Food Not Bombs; Lake Worth (FL) Food Not Bombs; Tampa (FL) Food Not Bombs; St. Petersburg (FL) Food Not Bombs; Orlando (FL) Food Not Bombs; Pensacola (FL) Food Not Bombs; San Francisco (CA) Food Not Bombs; San Diego (CA) Food Not Bombs; South Minneapolis (MN) Food Not Bombs; Warren-Wilson Asheville (NC) Food Not Bombs; Asheville (NC) Food Not Bombs; San Antonio (TX) Food Not Bombs; Seattle (WA) Food Not Bombs; Denver (CO) Food Not Bombs; Bloomington (IN) Food Not Bombs; and Washington, D.C. Food Not Bombs (the "*Amici*") file this Motion for Leave to File Brief of *Amici Curiae* pursuant to Rule 29(b), Federal Rules of Appellate Procedure, and state:

1. The *Amici* are eighteen autonomous chapters of the national group, Food Not Bombs ("FNB"). FNB is a political group with a mission to change the economic and political systems that cause hunger and poverty. It seeks to call attention to the large percentage of federal tax revenue spent to fund the military and to urge that the money instead be redirected to human needs. In order to accomplish this political goal, local FNB groups hold regular demonstrations where they share food to convey the message that food is a right, not a privilege

and that society should redirect its resources from the military and war to providing food for all.

2. The *Amici's amicus curiae* brief supports the position of the Appellants in the above styled case. It addresses the first issue raised by Appellants: Whether Plaintiffs are engaged in protected symbolic speech and expressive conduct under the First Amendment, but addresses this issue in the historical context of the constitutional protections afforded the rights of assembly, free speech, and political association throughout our country's history.

3. The *Amici's* members have a substantial interest in the treatment of their protest activities as symbolic speech and expressive conduct protected by the First Amendment. Eight of the *Amici* are within the Eleventh Circuit. Because no other court has directly addressed the issue of whether food sharing at a political demonstration is protected symbolic speech and expressive conduct, all the *Amici* believe their local demonstrations will be impacted by this Court's ruling in the present appeal. The decision of the district court – holding that FNB food sharing is not expressive conduct and validating the City of Fort Lauderdale's position that Fort Lauderdale FNB is engaged in a "social service" and can be regulated as such – is contrary to long-standing First Amendment precedent and, if allowed to stand, could undermine the mission, goals, and ability to engage in protected association and expression of every FNB group.

4. The *Amici* believe that their *amici curiae* brief will provide this Court with an historical and national perspective that will assist this Court in evaluating the issues in this proceeding. The *Amici's* perspective will be distinct from that of Appellants, and their proposed brief does not repeat Appellants' arguments.

5. Certificate of Consultation. The undersigned has consulted with counsel for both Appellants and Appellee. Appellant's counsel has authorized the undersigned to represent that Appellant consents to the relief sought in this motion. Appellee's counsel states that he does not consent to the relief sought in this motion.

WHEREFORE, the *Amici* respectfully request that this Court grant this motion for leave to file the attached *amici curiae* brief in this proceeding.

Respectfully submitted,

AKERMAN LLP
Attorneys for *Amicus Curiae*
West Palm Beach Food Not Bombs
777 South Flagler Drive
Suite 1100 West Tower
West Palm Beach, Florida 33401
Telephone: (561) 671-3672
Facsimile: (561) 659-6313

By: 

Tracy T. Segal, Esquire
Florida Bar Number 520713
tracy.segal@akerman.com
lynn.cox@akerman.com

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2017, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system. I further certify that a copy of the foregoing document was served this day on the following either by transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive Notices of Electronic Filing electronically:

Alain E. Boileau
E-Mail: aboileau@fortlauderdale.gov
Cynthia A. Everett, City Attorney
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

Mara Shlackman
E-Mail: mara@shlackmanlaw.com
Law Offices of Mara Shlackman, P.L.
757 Southeast 17th Street, PMP 309
Fort Lauderdale, Florida 33316

Kirsten Anderson
E-Mail: kirsten.anderson@southernlegal.org
Andrea Costello
E-Mail: andrea.costello@southernlegal.org
Jodi Siegel
E-Mail: jodi.siegel@southernlegal.org
Southern Legal Counsel, Inc.
1229 NW 12th Avenue
Gainesville, Florida 32601


Tracy T. Segal