

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PFIZER INC.,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	No. 17-cv-4180
	:	
JOHNSON & JOHNSON and JANSSEN	:	
BIOTECH, INC.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 8th day of August, 2018, upon consideration of The Biosimilars Council’s Motion for Leave to File *Amicus Curiae* Brief in Opposition to Defendants’ Motion to Dismiss (Doc. No. 45), it is hereby ORDERED the Motion is DENIED.¹

¹ In cases of general public interest, amici curiae may seek leave to submit briefs designed to “supplement the efforts of counsel, and draw the court’s attention to law that might otherwise escape consideration.” Sciotto ex rel. Sciotto v. Marple Newtown Sch. Dist., 70 F. Supp. 2d 553, 554-55 (E.D. Pa. 1999) (quoting Cnty. Ass’n. for Restoration of the Env’t. v. DeRuyter Bros. Dairy, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999)). It is within a district court’s discretion whether to permit the filing of an amicus brief. Id. at 554. Typically, leave to file an amicus brief will be granted only if the following conditions are present: (1) the moving amici have a “special interest” in the particular case; (2) its interest is not represented competently in the case; (3) the proffered information is timely and useful; and (4) the movant is not partial to a particular outcome in the case. Id. at 555.

The movant in this action, The Biosimilars Council, is a division of the Association for Accessible Medicines. The Association for Accessible Medicines is a non-profit trade association representing companies that develop and manufacture generic and biosimilar medications. Through its brief, the movant seeks to provide “important context showing the critical need for robust competition in biosimilars markets, the great potential of the biosimilars industry to achieve massive savings for the U.S. healthcare system, and the threat posed to that industry by the kinds of exclusionary conduct engaged in by Defendants in this case.”

It is clear to the Court that the movant’s interests in this action are more than adequately represented by Plaintiff Pfizer Inc., the maker of a biosimilar who claims that Defendants’ pricing policies have inhibited its ability to compete. Also, it appears that the movant’s primary contribution to this case would be an illumination of key policy arguments. This Court has recognized that, while the exploration of policy issues by amici may be helpful at the appellate level, policy arguments are “not the currency of a trial court,”

BY THE COURT:

S/J. CURTIS JOYNER
J. CURTIS JOYNER, J.

where issues of fact and law predominate. Sciotto, 70 F. Supp. 2d at 556; see also Goldberg v. City of Philadelphia, Civ. No. 91-7575, 1994 U.S. Dist. LEXIS 9392 at 2 (E.D. Pa. 1994). Without casting judgment on the merits of the proposed amici filing, this Court denies the instant motion because the movant has not demonstrated that its brief is "necessary" or "helpful" to this Court's determination of the pending motion to dismiss. See Abu-Jamal v. Horn, Civ. No. 99-5089, 2000 U.S. Dist. LEXIS 11013 at 18-19 (E.D. Pa. 2000); Goldberg, 1994 U.S. Dist. LEXIS 9392 at 2-3.