

No. 17-11589-HH

IN THE
**United States Court of Appeals
for the Eleventh Circuit**

CODE REVISION COMMISSION, ET AL.,
Plaintiffs/Appellees,

v.

PUBLIC.RESOURCE.ORG, INC.
Defendant/Appellant.

On Appeal from the U.S. District Court for Northern District of Georgia,

**MOTION FOR LEAVE TO FILE BRIEF OF NEXT-GENERATION
LEGAL RESEARCH PLATFORMS AS *AMICI CURIAE*
IN SUPPORT OF DEFENDANT/APPELLANT**

Phillip R. Malone
Jeffrey T. Pearlman
Erica Sollazzo*
Juelsgaard Intellectual Property and
Innovation Clinic
Mills Legal Clinic at Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305
Telephone: 650-725-6369
Fax: 650-723-4426
*LR 46-11 Eligible Law Student

Attorneys for Amici Curiae

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici* state that they have no parent corporation and that no publicly held corporation holds 10% or more of their stock.

The following list of interested persons is provided pursuant to 11th Circuit Rule 26.1-1.

1. Arredondo, Pablo (Vice President of Legal Research, Casetext)
2. Carver, Brian (Cofounder & Member, Board of Directors, Free Law Project)
3. Casetext
4. Free Law Project
5. Gurari, Itai (Cofounder & CEO, Judicata)
6. Hulce, Megan (Certified Law Student, Stanford Law School Juelsgaard Intellectual Property and Innovation Clinic)
7. Judicata
8. Kraft, Seamus (Executive Director, Cofounder & President of the Board, The OpenGov Foundation)
9. Lissner, Michael (Executive Director & CTO, Free Law Project)
10. Stanford Law School Juelsgaard Intellectual Property and Innovation Clinic

11. Malone, Phillip (Director of the Stanford Law School Juelsgaard Intellectual Property and Innovation Clinic and Counsel of Record for *Amici*)
12. The OpenGov Foundation
13. Pearlman, Jef (Clinical Supervising Attorney and Lecturer in Law in the Stanford Law School Juelsgaard Intellectual Property and Innovation Clinic and Counsel for *Amici*)
14. Ravel
15. Reed, Nik (Cofounder & COO, Ravel)
16. Safdie, Laura (COO & General Counsel, Casetext)
17. Sollazzo, Erica (Certified Law Student, Stanford Law School Juelsgaard Intellectual Property and Innovation Clinic)
18. Story, Richard (U.S. District Judge below)

MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE*

Casetext, Free Law Project, Judicata, The OpenGov Foundation, and Ravel move for leave to file a brief as *amici curiae* in support of Defendant/Appellant Public.Resource.Org, pursuant to Federal Rule of Appellate Procedure 29(a)(2) and Eleventh Circuit Rule 29-1. The proposed brief is tendered herewith. Appellant Public Resource consents to the filing of this brief; Appellee Code Revision Commission declined to consent.

The role of an *amicus* is to assist the court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation to difficult issues so that the court may reach a proper decision.” *Newark Branch, N.A.A.C.P. v. Town of Harrison*, 940 F.2d 792, 808 (3d Cir. 1991). Courts should accept briefs that meet this standard because, “if a good brief is rejected, the merits panel will be deprived of a resource that might have been of assistance.” *Neonatology Assocs., P.A. v. C.I.R.*, 293 F.3d 128, 133 (3d Cir. 2002) (Alito, J.) (finding that the amicus brief met the requirements of “(a) an adequate interest, (b) desirability, and (c) relevance”).

This case raises significant issues of whether the law can be copyrightable and whether, even if it can, appellant’s scanning and posting online of the law qualifies as a fair use. *Amici* have particular expertise that can assist the court in its

consideration of these issues and its decision in this case. *Amici* have created several innovative new services that aid judges, attorneys, and the public in legal research. The ability to access and use state statutes is of direct concern to *amici* because their potential to develop these innovative tools is limited by access to statutes at the state and federal levels.

As creators of transformative research and analytics platforms, *amici's* effectiveness depends on having access to comprehensive, authoritative, and up-to-date primary legal information—especially case law and statutes. Without such access, *amici* could not develop reliable, viable products and users could not depend on the results they find using *amici's* services. To launch their companies, some *amici* utilized the open access to the materials that Public Resource provides, although none of the materials used are at issue in this case.

Amici's experience with the creation of new analytics, machine-learning, and search technologies demonstrates that the availability, or lack thereof, of primary legal information has a direct and substantial impact on innovation in legal research. Uncertainty about the full and free availability of statutes because of potential assertions of copyright poses a barrier to organizations like *amici* in their development of innovative new tools that can help legal professionals and the general public.

This brief seeks to illuminate the implications of this case for access to the law and those seeking to improve the quality of legal access, research, and advocacy. The brief discusses the ways in which copyright in state statutes chills innovation and interferes with emerging competition in the legal research market. It highlights Public Resource's and *amici's* transformative uses, which require copying an entire work because any legal research platform must be complete to be effective.

Amici are particularly well-situated to provide these perspectives on the implications of the case, and they will assist the Court in deciding this case. *Amici* respectfully request that their motion for leave be granted.

Dated: May 24, 2017

Respectfully submitted,

/s/Phillip R. Malone/

Phillip R. Malone
Juelsgaard Intellectual Property and
Innovation Clinic
Mills Legal Clinic at Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305
Telephone: 650-725-6369
Fax: 650-723-4426

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2017, I caused the foregoing **Motion for Leave to File Brief of Next-Generation Legal Research Platforms as *Amici Curiae* in Support of Defendant-Appellant** to be electronically filed with the Clerk of the Court using CM/ECF, which will automatically send email notification of such filing to all counsel of record.

Dated: May 24, 2017

/s/Phillip R. Malone/
Phillip R. Malone
Counsel for *Amici Curiae*