

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

CITIZENS FOR RESPONSIBILITY AND ETHICS IN  
WASHINGTON, RESTAURANT OPPORTUNITIES  
CENTER (ROC) UNITED, INC., JILL PHANEUF, AND  
ERIC GOODE,

17 Civ. 458 (GBD)

Plaintiffs,

- v -

DONALD J. TRUMP,  
IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED  
STATES OF AMERICA,

Defendant.

***AMICUS CURIAE* SCHOLAR SETH BARRETT TILLMAN'S AND  
PROPOSED *AMICUS CURIAE* JUDICIAL EDUCATION PROJECT'S  
MOTION FOR LEAVE TO FILE RESPONSE TO  
*AMICI CURIAE* BY CERTAIN LEGAL HISTORIANS**

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## INTRODUCTION

On June 16, 2017, undersigned counsel for *Amicus Curiae* scholar Seth Barrett Tillman submitted a motion for leave to file an *amicus* brief on behalf of Tillman [ECF No. 37] in support of the Defendant, which the Court granted on June 28, 2017 [ECF No. 39]. On August 11, 2017, several Legal Historians filed a motion for leave to file an *amicus* brief in support of the Plaintiffs [ECF No. 70], which this Court granted on August 15, 2017 [ECF No. 73].<sup>1</sup>

## RELEVANT FACTS

The Legal Historians allege that Tillman’s “brief overlooks a key Hamilton manuscript that undercuts its thesis and belies its description of archival material” [ECF No. 70-1, p. 22 n.80]. Counsel for Plaintiffs has endorsed this allegation. Because the authenticity and provenance of this document bears directly on the question of whether the President holds an “Office . . . under the United States,” and on the meaning of the Foreign Emoluments Clause, Tillman and proposed *amicus* JEP respectfully request leave to respond to this allegation. The proposed response, along with supporting Exhibits A–R, which are attached hereto as **Exhibit 1**, demonstrate that the Legal Historians are plainly wrong. The so-called “key Hamilton manuscript” was not signed by Alexander Hamilton, but rather is a scrivener’s copy drafted a generation later.

## CONCLUSION

For the foregoing reasons, the Court should enter an order authorizing the Clerk of the Court to file in the record the response brief and supporting Exhibits A–R.

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<sup>1</sup> Tillman and proposed *amicus curiae* Judicial Education Project (JEP) are filing contemporaneously herewith a motion for leave for JEP to appear jointly with Tillman as *amici curiae*, and for JEP to join in the *amicus* brief previously filed on behalf of Tillman [ECF No. 37].

Dated: New York, New York  
September 19, 2017

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2017 I caused a true and correct copy of the foregoing to be served on all counsel of record through the Court's CM/ECF system.

/s/ Robert W. Ray  
Robert W. Ray, Esq.