

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PUBLIC CITIZEN, INC., *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official
capacity as President of the United States, *et
al.*,

Defendants.

Civil Action No. 1:17-cv-00253 RDM

**DEFENDANTS' NON-OPPOSITION TO PLAINTIFFS'
MOTION TO FILE A SECOND AMENDED COMPLAINT**

Defendants have elected not to oppose Plaintiffs' Motion to file a Second Amended Complaint (ECF 64-1). Defendants believe that Plaintiffs' proposed Second Amended Complaint and its ten supporting declarations do not demonstrate that Plaintiffs have standing to pursue their claims and consequently their proposed amendment could be denied by the Court as "futile." *Soto v. United States Dep't of State*, 244 F. Supp. 3d 207, 208 (D.D.C. 2017) (Moss, J.). However, given the important issues presented in this litigation, and in the interests of efficiency, Defendants submit that the issue of Plaintiffs' standing should be resolved through a Rule 12 motion to dismiss rather than under the standards for a Rule 15 motion to amend.

Counsel for Defendants have consulted with counsel for Plaintiffs and the parties have agreed on a briefing schedule that will be presented to the Court through a Joint Motion filed contemporaneously with this pleading.

DATED: April 20, 2018

Respectfully submitted,

CHAD A. READLER

Acting Assistant Attorney General
Civil Division

CHANNING D. PHILLIPS
United States Attorney

ERIC R. WOMACK
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/s/ Daniel Bensing
DANIEL BENSING (D.C. Bar No. 334268)
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Counsel for Defendants

Certificate of Service

I hereby certify that on the 20th day of April, 2018, I caused the forgoing Defendants' Non-Opposition to Plaintiffs' Motion to File a Second Amended Complaint to be served on counsel for Plaintiffs by filing with the Court's electronic case filing system.

/s/ Daniel Bensing

Daniel Bensing