

No. 02-749

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IN THE  
**Supreme Court of the United States**

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RAYTHEON COMPANY, *et al.*,  
*Petitioners,*

v.

JOEL HERNANDEZ,  
*Respondent.*

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**On Petition for a Writ of Certiorari to the  
United States Court of Appeals  
for the Ninth Circuit**

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**MOTION FOR LEAVE TO FILE BRIEF *AMICUS  
CURIAE* AND BRIEF *AMICUS CURIAE* OF THE  
EQUAL EMPLOYMENT ADVISORY COUNCIL  
IN SUPPORT OF PETITIONERS**

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ANN ELIZABETH REESMAN \*  
MCGUINNESS, NORRIS & WILLIAMS, LLP  
1015 Fifteenth St., NW  
Suite 1200  
Washington, DC 20005  
(202) 789-8600

\*Counsel of Record

December 13, 2002

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To the Honorable, the Chief Justice and the Associate Justices of the United States Supreme Court:

Pursuant to Rule 37.1 and .2 of the Rules of this Court, the Equal Employment Advisory Council respectfully moves this Court for leave to file the accompanying brief as *amicus curiae* in support of the position of Petitioners in this case. The written consent of Petitioners Raytheon Company, *et al.*, has been filed with the Clerk of the Court. Counsel for Respondent Joel Hernandez has not consented.

In support of its motion, EEAC by the following shows that this brief brings relevant matters to the attention of the Court that have not already been brought to its attention by the parties:

1. The Equal Employment Advisory Council (EEAC) is a nationwide association of employers organized in 1976 to promote sound approaches to the elimination of discriminatory employment practices. Its membership comprises a broad segment of the business community and includes over 340 of the nation's largest private sector corporations.
2. EEAC's directors and officers include many of industry's leading experts in the field of equal employment opportunity. Their combined experience gives EEAC an unmatched depth of knowledge of the practical, as well as legal, considerations relevant to the proper interpretation and application of equal employment policies and requirements. In addition, EEAC's members are firmly committed to the principles of nondiscrimination and equal employment opportunity.
3. All of EEAC's member companies are employers subject to Title I of the Americans with Disabilities Act, 42 U.S.C. §§ 12111-12117, and many are federal contractors subject to Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. § 793, as well as other workplace nondiscrimination laws.
4. As employers, and as potential defendants to employment discrimination claims asserted under these laws, EEAC's members have a substantial interest in the issue presented in this case—*i.e.*, whether the Americans with Disabilities Act confers preferential rehire rights on employees lawfully terminated for misconduct, such as illegal drug use.























































