

No. 05-1345

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In The  
**SUPREME COURT OF THE UNITED STATES**

UNITED HAULERS ASSOCIATION INC., TRANSFER SYSTEMS,  
INC., BLISS ENTERPRISES, INC., KEN WITTMAN SANITATION,  
BRISTOL TRASH REMOVAL, LEVITT'S COMMERCIAL  
CONTAINERS, INC., and INGERSOLL PICKUP INC.,

*Petitioners,*

v.

ONEIDA HERKIMER SOLID WASTE MANAGEMENT AUTHORITY,  
COUNTY OF ONEIDA, and COUNTY OF HERKIMER,

*Respondent.*

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*On Writ of Certiorari to the  
United States Court of Appeals  
for the Second Circuit*

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**BRIEF FOR AMICUS CURIAE  
FEDERATION OF NEW YORK SOLID  
WASTE ASSOCIATIONS  
IN SUPPORT OF RESPONDENTS**

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FEDERATION OF NEW YORK  
SOLID WASTE ASSOCIATIONS  
IN SUPPORT OF RESPONDENTS**

**STATEMENT OF INTEREST OF THE AMICUS CURIAE**

This *amicus curiae* brief is submitted on behalf of the Federation of New York Solid Waste Associations (hereinafter "Federation"). The Federation of New York Solid Waste Associations was formed ten years ago. The Federation's primary purpose is to conduct conferences, seminars, and training as well as to provide a united voice,

when possible, for legislative and policy issues that are consistent with the environmentally sound management of solid waste. The Federation's membership consists of three state-wide organizations and their members, including individuals from both the public and the private sector.

Many of the Federation's members are public employees involved with the management and regulation of their communities' solid waste, including long-term planning for environmentally sound, economical, and sensible management of municipal solid waste. They are thus responsible to the public they serve.

The Federation's individual members, as citizens, are members of the taxpaying, trash-generating public. They request the Court to consider and accept the "Golden Rule" as applied to solid waste management:

"the local community should accept responsibility for managing its own community's solid waste; if the private sector is needed, employ it on an even-handed and non-discriminatory basis; and if the local community needs to reach out to the interstate waste service providers, allow these to perform their services without unfair interference."

The *Amicus* believe that public-spirited citizens from all States will agree with this "do unto others" approach. Professionals such as the Federation's members seek the best solutions to solid waste problems. If Oneida-Herkimer's system becomes the model for successful waste reduction, recycling and disposal, the Nation will benefit.

Because this Court's decision could have a profound effect upon principles of democracy, federalism and the environment, the Federation urges affirmance.<sup>1</sup>

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<sup>1</sup> No portion of this brief was authored by counsel for a party, and no person or entity other than the *amicus curiae* or its members has made a monetary contribution to the preparation or submission of this brief. The Petitioner and Respondent have each consented to the filing of this brief

### RELEVANT FACTS

The people of Oneida and Herkimer counties, through the public respondents, have democratically chosen to monopolize the management and disposal of their own citizens' solid waste. The State of New York, through state legislation, has expressly authorized this monopoly system of public service, and the Respondent Authority is created for this public purpose. The Oneida-Herkimer system, boiled to its essence, is as follows:

1. All waste (unwanted material) placed curbside by the local public becomes the responsibility of the system, and the public system is entitled to control it. The waste is thus "bottled up" within the Respondents' public system of solid waste management (the "Oneida-Herkimer system"). See, "Bottled' Solid Waste and its Flow " diagram" at *Appendix "A"*.

2. The curbside solid waste is collected ("bottled") by private haulers who sell their waste collection services to the local citizenry individually. These haulers are required, however, to keep the waste they collect within the bottle—as the government controls its citizens' waste under its monopolistic waste management system.

- Essentially, the Oneida-Herkimer system gives the local haulers a non-exclusive franchise for the collection of local solid waste. The Respondents could have used direct municipal collection with DPW sanitation trucks, or competitively awarded an exclusive franchisee for such trash collection within the public system area, or provide for free disposal for citizens' wastes. As shown in the annexed diagram, regardless of the form used—regulatory flow control, municipal collection, contract, exclusive franchise or "economic flow control"—the net result is that the local waste is controlled within the system, and

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and their respective letters of consent have been filed with the Clerk of the Court.





















































