

2013 DEC -2 AM 10: 04

LEEANN FLYNN HALL
CLERK OF COURT

**United States
Foreign Intelligence Surveillance Court**

In Re: Motions to Disclose)
Aggregate Date regarding)
FISA Orders)
_____)

Case No. Misc 13-03;
13-04; 13-05; 13-06; 13-07

Motion for Leave to File an Amicus Brief

Now comes the Amicus, Michael C. Walsh, who moves this Honorable Court for leave to file an *amicus* brief in these consolidated cases.

Proceedings

Several litigants, including Google, Microsoft, Yahoo, Facebook, and others, have filed miscellaneous petitions seeking permission of the Court to publish data relating to orders of the Court. *Court's Order of September 18, 2013* (September 18 Order). The filings variously assert First Amendment arguments in support of the release of documents. The Court has consolidated the petitions because of the common legal claims. *September 18 Order*. The litigants have also asked the Court to grant oral argument on the petitions. The Court has also entertained briefs from several *amici* including the Reporters Committee for the First Amendment, the American Civil Liberties Union, Apple, and Dropbox Inc. At least one of the *Amici* has asked permission to participate in oral argument in front of the Court.

Contributing to the Court

The arguments contained within the brief will advance the dialogue of the Court and are "desirable." Fed. R. App. P. 29(b)(2). To the best of the *Amicus's* research, this submission

raises a completely unique separation of powers argument relating to the Judiciary¹. The *Amicus* posits an argument that this Court is an Article I court and cannot constitutionally exercise the “judicial power of the United States” without complying with Article III § 1. The argument is “relevant to the disposition of the case” because it relates to the basic jurisdiction of the Court and its ability to entertain any proceedings. Fed. R. App. P. 29(b)(2).

Interests of the *Amicus*

The *Amicus* is an attorney from Lynnfield, Massachusetts. He is currently studying for a Master of Legal Letters at a Boston law school.² He has no interest in the outcome of the litigation, and has not coordinated the writing of the brief with any of the parties or any of the other *Amici*. The parties have not consented to the filing of this brief. The *Amicus* is a member in good standing of the bar of Massachusetts (BBO 681001), the bar of the Federal District of Massachusetts, the bar of the Court of Appeals for the First Circuit, and the bar of the Court of Appeals for the Armed Forces. The *Amicus* does not possess a security clearance.

Respectfully Submitted,



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Certificate of Service

I, Michael C. Walsh, certify that I have served a copy of this motion and the proposed *amicus* brief by first class mail, postage prepaid, and by electronic mail as follows:

¹ Prior separation of powers challenges to the Foreign Intelligence Surveillance Act of 1978 have focused on the alleged infringement of the Executive’s inherent power to wiretap.

² The opinions herein are solely the opinions of the author and do not represent the opinions of Suffolk University Law School nor its faculty.

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I, Michael C. Walsh, further certify that I have served a copy of this motion and the proposed *amicus* brief upon the Parties, both by first class mail, postage prepaid, and by electronic mail as follows:

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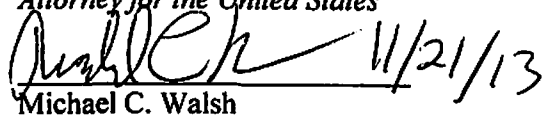
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