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Filed
United States Foreign Intelligence
Surveillance Court of Review

UNITED STATES

MAR 10 2016

FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW
and Flynn Hall, Clerk of Court
3:46pm

WASHINGTON, D.C.

IN RE CERTIFIED QUESTION OF LAW.

Docket No: FISCR 16-01

UNOPPOSED MOTION FOR EXTENSION OF TIME

I, Marc J. Zwilling, respectfully move under Foreign Intelligence Surveillance Court of Review Rule of Procedure 13 for an extension of time to file an amicus brief from March 22, 2016 to March 29, 2016 at 5:00 p.m. eastern time. My colleague, Jacob Sommer, has conferred with attorneys for the United States, who have stated they do not object to this request.

b6 Per FBI
b7C

On February 17, 2016, this Court entered an order appointing me as *amicus curiae* to assist the Court in considering the issue certified on February 12, 2016, by Thomas B. Hogan, presiding judge of the United States Foreign Intelligence Surveillance Court, pursuant to 50 U.S.C. § 1803(j). The same day, the United States filed a motion in the Central District of California against my client [redacted] seeking to compel [redacted] to assist the government in

b6 Per FBI
b7C

[redacted]
[redacted]
the Central District of California scheduled a hearing on the United States' motion for March 22, 2016. As a result, [redacted]

[redacted] This will materially impact my ability to complete the amicus brief by the March 22, 2016 due date.

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Therefore, I respectfully request that this Court grant a short extension of time to file an amicus brief from March 22, 2016 to March 29, 2016 by 5:00 p.m. eastern time.

FISCR Rule 9(e) Statement

I have a Top Secret level clearance, which was issued by the FBI to review process and appear in this Court on behalf of my clients. I have previously appeared before this Court and am a member of the bar of the District of Columbia (Bar No.) and the State of Illinois, and have been admitted to practice before various federal district and circuit courts, as well as the United States Supreme Court.

b6 Per FBI
b7C

Jacob A. Sommer holds a Top Secret level clearance, which the FBI issued to allow Mr. Sommer to review process and appear in this Court on behalf of his clients. Mr. Sommer has previously appeared before this Court and is a member of the bar in the District of Columbia (Bar No.) and the State of South Carolina, and is admitted to practice in various federal district and circuit courts.

b6 Per FBI
b7C

March 10, 2016

By: 

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United States Foreign Intelligence
Surveillance Court of Review

MAR 28 2016 12:29 b6 Per FBI
b7c

LeeAnn Flynn Hall, Clerk of Court

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW
WASHINGTON, D.C.

IN RE CERTIFIED QUESTION OF
LAW.

Docket No: FISCR 16-01

MOTION TO FILE OVERSIZED BRIEF

I, Marc J. Zwillinger, as *Amicus Curiae* in this matter, respectfully move under Foreign Intelligence Surveillance Court of Review Proposed Rule of Procedure 13 to allow the filing of the oversized brief simultaneously herewith. On February 17, 2016, this Court entered an order appointing me as *Amicus Curiae* to assist the Court in considering the issue certified on February 12, 2016, by Thomas B. Hogan, presiding judge of the United States Foreign Intelligence Surveillance Court, pursuant to 50 U.S.C. § 1803(j). On March 11, 2016, this Court entered an order extending the date on which *Amicus Curiae*'s brief is due until March 28, 2016.

Under the Proposed Rules of the Foreign Intelligence Surveillance Court of Review, which are not yet in effect, an *amicus curiae* brief must conform to the Format and Length requirements of Federal Rules of Appellate Procedure ("FRAP") 29(d) and 32(a). Those rules indicate that an *amicus curiae* brief may

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be no more than one-half the maximum length authorized by the FRAP for a party's principal brief. A principal brief under the FRAP rule must contain not more than 14,000 words, suggesting that the brief of *Amicus Curiae* in this matter should be 7,000 words or less.

However, the FRAP rules expect that an *amicus* brief is submitted in a contested matter, in which both an appellant and appellee file briefs. In this matter, the *Amicus Curiae*'s brief is serving the role of an principal brief. Accordingly, *Amicus Curiae* believes that there exists good cause to permit a brief of a length greater than 7,000 words. Furthermore, under FISCR Proposed Rule 21, as the FISCR Rules are not in effect, the Court "may determine the extent to which the rules apply to the proceedings pending prior to their effective date."

For these reasons, *Amicus Curiae* moves that the court accept for filing the simultaneously lodged brief of *Amicus Curiae*, which contains fewer than 11,000 words.

March 28, 2016

By: 

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UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW
WASHINGTON, D.C.

IN RE CERTIFIED QUESTION OF
LAW...

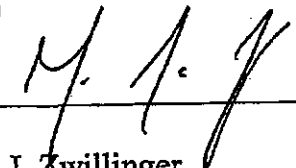
Docket No: FISCR 16-01

CERTIFICATE OF SERVICE

Pursuant to FISCR Rule of Procedure 8(a) on March 28, 2016, I provided five true and correct copies of *Amicus's Curiae's* Motion to File an Oversized Brief to [b6, b7C] Legal Advisor to the Foreign Intelligence Surveillance Court, who has informed me she will deliver an original and three copies to the Court for filing, and a copy to:

[b6, b7C]
Chief, Counterintelligence Unit
Office of Intelligence
National Security Division
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

March 28, 2016

By: 

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