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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

14 **IN THE MATTER OF THE SEARCH
OF AN APPLE IPHONE SEIZED
DURING THE EXECUTION OF A
15 SEARCH WARRANT ON A BLACK
LEXUS IS300, CALIFORNIA
16 LICENSE PLATE 35KGD203**

Case No. 5:16-CM-00010 (SP)

**APPLICATION OF GREG
CLAYBORN, JAMES GODOY,
HAL HOUSER, TINA MEINS,
MARK SANDEFUR, AND
ROBERT VELASCO TO FILE AN
AMICUS CURIAE BRIEF**

Assigned to: The Hon. Sheri Pym

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1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that non-parties Greg Clayborn, James Godoy,
3 Hal Houser, Tina Meins, Mark Sandefur, and Robert Velasco will and hereby do
4 move for leave to file a brief as *amici curiae* in the above-captioned case. A copy
5 of the proposed *amicus* brief is appended as Exhibit A to this motion.

6 District courts have broad discretion to permit third parties to participate in
7 an action as *amicus curiae*. See *Ctr. for Biological Diversity v. U.S. Bureau of*
8 *Land Mgmt.*, No. 09-CV-8011-PCT-PGR, 2010 WL 1452863, at *2 (D. Ariz. Apr.
9 12, 2010) (“A district court has broad discretion to permit individuals or entities in
10 a case as *amici curiae*.”) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir.
11 1982)). The role of *amicus curiae* is to “provide assistance in a case of general
12 interest, supplement the efforts of counsel in the case, and draw the court’s
13 attention to legal arguments that have escaped consideration.” *Id. Amicus curiae*
14 briefs are particularly appropriate when the legal issues in a case “have potential
15 ramifications beyond the parties directly involved.” *Sonoma Falls Devs., LLC v.*
16 *Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003). This Court
17 has invited parties to seek leave to submit *amicus* briefs in this action. (Dkt. No.
18 10.) Likewise, 18 U.S.C.A. § 3771(a) provides crime victims with the right to
19 “reasonable, accurate, and timely notice of any public court proceeding . . .
20 involving the crime” and “not to be excluded from any such public court
21 proceeding.” See also *Does v. United States*, 817 F. Supp. 2d 1337, 1342 (S. D.
22 Fla. 2011) (holding that rights granted by the federal Crime Victims Rights Act
23 attach even “before a complaint or indictment formally charges the defendant with
24 a crime”).

25 These *amici*, though non-parties in this action, have a unique perspective on
26 the Court’s decision in this matter. They are loved ones of victims of the tragic
27 mass shooting in San Bernardino, California on December 2, 2015.

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- 1 • Gregory Clayborn lost his daughter, Sierra Clayborn.
- 2 • James Godoy lost his wife, Aurora Godoy.
- 3 • Tina Meins lost her father, Damian Meins.
- 4 • Mark Sandefur lost his son, Larry Daniel Eugene Kaufman.
- 5 • Robert Velasco lost his daughter, Yvette Velasco.
- 6 • Hal Houser’s wife, Beth Houser, attended the party and personally
- 7 witnessed the horrors of the December 2 tragedy but, thankfully,
- 8 survived.

9 As family members of the victims of this act of terrorism, *amici* are afforded
10 the rights enumerated in the Crime Victims’ Rights Act. *See* 18 U.S.C.A. §
11 3771(e)(2)(B) (“In the case of a crime victim who is under 18 years of age,
12 incompetent, incapacitated, or deceased, the legal guardians of the crime victim or
13 the representatives of the crime victim's estate, family members, or any other
14 persons appointed as suitable by the court, may assume the crime victim's rights
15 under this chapter[.]”)

16 *Amici*’s perspectives are at the crossroads of those offered by the United
17 States and Apple. They are individuals who own and use smartphones and other
18 mobile technology on a daily basis. They are also victims of this terrible tragedy
19 and have a unique interest in the United States’ investigation of the iPhone in its
20 custody. As such, *amici* have a unique perspective on the law and policy
21 implications of this Court’s decision. Whereas much of the public and legal debate
22 has focused on the potentially global ramifications of the Court’s order, *amici*
23 respectfully seek to remind all parties of the terrible crime—an act of terrorism—
24 the United States must investigate to its fullest. Ultimately, this is a situation
25 where no stone can be left unturned.

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1 For the foregoing reasons, *amici* respectfully seek leave to file the attached
2 *amicus* brief with the Court.

3 Dated: March 3, 2016

LARSON O'BRIEN LLP

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5 By: 

6 Stephen G. Larson
7 Attorneys for *Amicus Curiae*
8 Greg Clayborn, James Godoy, Hal
9 Houser, Tina Meins, Mark Sandefur,
10 and Robert Velasco

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