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BY [Signature]
V. Binnall (proposed)

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Attorney for *Amici Curiae*
Lavabit LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

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

Case No.: 5:16-cm-00010-SP-1
MOTION FOR LEAVE TO FILE
BRIEF OF AMICUS CURIAE LAVABIT,
LLC IN SUPPORT OF APPLIE INC.'S
MOTION TO VACATE

Date: March 22, 2016
Time: 1:00 p.m.
Place: Courtroom 3 or 4, 3rd Floor
Judge: Honorable Sheri Pym

1 Lavabit, LLC hereby requests leave to participate in this action
2 as *amicus curiae* by filing a brief in support of Apple Inc.'s Motion to
3 Vacate Order Compelling Apple Inc. to Assist Agents in Search and
4 Opposition to the Government's Motion to Compel Assistance (filed
5 Feb. 25, 2016) [ECF Docket Entry 16]. *Amicus* requests leave to
6 explain that the Government's request for extraordinary assistance
7 is unwarranted by statute, unconstitutional, and jeopardizes
8 American businesses and the security of American consumers.
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13 Lavabit LLC is a former provider of secured e-mail services. In
14 2013, the Government sought extraordinary assistance from
15 Lavabit in the form of access to encrypted e-mails stored on
16 Lavabit's servers. The FBI requested access to the private
17 encryption key that Lavabit used to maintain the security of the
18 data sent between the server and the user's e-mail client, or web
19 browser. With this encryption key, the FBI would be able to
20 intercept, decrypt, inspect, and even modify all e-mails sent
21 through the servers. After a lengthy legal battle, and a potential
22 contempt charge, Lavabit surrendered the private encryption key.
23 Lavabit then chose to cease operation of the e-mail service.
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1 Similarly, in this case, the Government is seeking
2 extraordinary assistance from Apple in the form of a new product to
3 access the data stored on an individual's iPhone. Lavabit's
4 proposed brief, which is attached, argues that the Government is
5 seeking extraordinary assistance that far exceeds the scope of the
6 All Writs Act and violates the rights guaranteed to Apple under the
7 First and Thirteenth Amendments to the United States
8 Constitution. The brief discusses important points that Lavabit
9 believes have not otherwise been briefed in this matter.
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14 Third party Apple does not oppose the filing of this brief. The
15 United States did not respond to Lavabit's request for their position
16 on the filing of the brief.
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1 Dated: March 3, 2016

Lavabit LLC

2
3 By Counsel

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5  #b2

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