

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD LEE RYNEARSON, III,

Plaintiff,

v.

ROBERT FERGUSON, Attorney General
of the State of Washington, and

TINA R. ROBINSON, Prosecuting
Attorney for Kitsap County,

Defendants.

Case No. 3:17-cv-05531-RBL

**MOTION FOR LEAVE TO FILE BRIEF
OF AMICI CURIAE ELECTRONIC
FRONTIER FOUNDATION AND
AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Noted on Motion Calendar w/Oral Argument:
September 22, 2017 at 10 a.m., Courtroom B

Amici curiae Electronic Frontier Foundation and American Civil Liberties Union of Washington submit this request for leave to file the attached *amicus* brief pursuant to this Court's order on August 7, 2017 [Dkt. 17] in support of Plaintiff Richard Lee Rynearson II's Motion for Preliminary Injunction [Dkt. 3].¹

I. STATEMENT OF INTEREST

The **Electronic Frontier Foundation** ("EFF") is a San Francisco-based, non-profit, member-supported digital rights organization. Focusing on the intersection of civil liberties and

¹ Plaintiff consents to the filing of this *amicus* brief. Defendants Robert Ferguson and Tina R. Robinson do not object to the filing of it. *Amici* certify that no party or party's counsel has authored this brief in whole or in part, or contributed money that was intended to fund preparing or submitting the brief.

1 technology, EFF actively encourages industry, government, and the courts to support free
2 expression, privacy, and openness in the information society. Founded in 1990, EFF has over
3 38,000 dues-paying members nationwide. EFF publishes a comprehensive archive of digital civil
4 liberties information at www.eff.org. EFF serves as counsel or *amicus curiae* in many cases
5 addressing free speech online. *See e.g., City of Vancouver v. Edwards*, No. 18998V (Clark County
6 Superior Court 2012); *Backpage.com v. McKenna*, 2:12-cv-00954-RSM (W.D. Wa. 2012); *United*
7 *States v. Cassidy*, 814 F. Supp. 2d 574, 585-86 (D. Md. 2011); *Savage v. Council of American-*
8 *Islamic Relations, Inc.*, No. 07-cv-06076-SI (N.D. Cal. 2007).

9 **American Civil Liberties Union of Washington** (“ACLU-WA”) is a statewide,
10 nonpartisan, nonprofit organization, with over 75,000 members and supporters, that is dedicated
11 to the preservation of civil liberties including the right to free speech. The ACLU-WA strongly
12 opposes laws and government action that infringe on the free exchange of ideas or that
13 unconstitutionally restrict protected expression. It has advocated for free speech and the First
14 Amendment directly, and as *amicus curiae*, at all levels of the state and federal court systems.
15 *See, e.g., Berger v. City of Seattle*, 569 F.3d 1029, 1034 (9th Cir. 2009).

16 **II. AMICI’S BRIEF OFFERS UNIQUE AND HELPFUL INFORMATION**

17 *Amici’s* brief would provide the Court with unique and helpful information regarding the
18 sound and principled application of the First Amendment to online speech. As technology advances,
19 more people rely on the Internet to communicate not only with one another, but also to express ideas
20 and opinions about public figures and current events to society at large. *Amici* submit this brief to
21 help the Court apply First Amendment principles in a manner that protects the constitutional rights of
22 those who use technology to communicate.

23 **III. CONCLUSION**

24 For these reasons, *amici* respectfully request that the Court grant leave to file the attached
25 *amicus* brief in support of Plaintiff Rynearson’s Motion for Preliminary Injunction.

1 Dated this 21st day of August, 2017.

2 Respectfully Submitted,

3 GARVEY SCHUBERT BARER

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14 *Electronic Frontier Foundation and*

15 *American Civil Liberties Union of Washington*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date I electronically filed the foregoing with the Clerk of the
3 Court using the CM/ECF system, which will automatically send notification of such filing to
4 those attorneys of record registered on the CM/ECF system.

5 DATED this 21st day of August, 2017, at Seattle, Washington.

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7 s/Adina Davis
8 Adina Davis