

HONORABLE RONALD B. LEIGHTON

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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**
NOTE ON MOTION CALENDAR:
October 12, 2018

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 October 8, 2018 [Dkt. 47] in support of Plaintiff Richard Lee Rynearson, II’s Motion for Preliminary Injunction [Dkt. 44].¹

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.

I. STATEMENT OF INTEREST

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2 The **Electronic Frontier Foundation** (“EFF”) is a San Francisco-based, non-profit,
3 member-supported digital rights organization. Focusing on the intersection of civil liberties and
4 technology, EFF actively encourages industry, government, and the courts to support free
5 expression, privacy, and openness in the information society. Founded in 1990, EFF has over
6 37,000 dues-paying members nationwide. EFF publishes a comprehensive archive of digital civil
7 liberties information at www.eff.org. EFF serves as counsel or *amicus curiae* in many cases
8 addressing free speech online. *See e.g., City of Vancouver v. Edwards*, No. 18998V (Wash. Dist. Ct.
9 for Clark County 2012); *Backpage.com v. McKenna*, 2:12-cv-00954-RSM (W.D. Wa. 2012); *United*
10 *States v. Cassidy*, 814 F. Supp. 2d 574, 585-86 (D. Md. 2011); *Savage v. Council of American-*
11 *Islamic Relations, Inc.*, No. 07-cv-06076-SI (N.D. Cal. 2007).

13 **American Civil Liberties Union of Washington** (“ACLU-WA”) is a statewide,
14 nonpartisan, nonprofit organization, with over 80,000 members and supporters, that is dedicated
15 to the preservation of civil liberties including the right to free speech. The ACLU-WA strongly
16 opposes laws and government action that infringe on the free exchange of ideas or that
17 unconstitutionally restrict protected expression. It has advocated for free speech and the First
18 Amendment directly, and as *amicus curiae*, at all levels of the state and federal court systems.
19 *See, e.g., Berger v. City of Seattle*, 569 F.3d 1029, 1034 (9th Cir. 2009).

II. AMICI’S BRIEF OFFERS UNIQUE AND HELPFUL INFORMATION

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22 *Amici’s* brief would provide the Court with unique and helpful information regarding the
23 sound and principled application of the First Amendment to online speech. As technology advances,
24 more people rely on the Internet to communicate not only with one another, but also to express ideas
25 and opinions about public figures and current events to society at large. *Amici* submit this brief to
26

1 help the Court apply First Amendment principles in a manner that protects the constitutional rights of
2 those who use technology to communicate.

3 **III. CONCLUSION**

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

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7 Dated this 12th day of October, 2018.

Respectfully Submitted,

8 By: *s/Nancy L. Talner*

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16 *Electronic Frontier Foundation and American*
17 *Civil Liberties Union of Washington*

CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2018, I electronically filed the foregoing and the attached *Brief of Amici* and *Proposed Order* with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to the following attorneys of record registered on the CM/ECF system:

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DATED this 12th day of October, 2018 at Seattle, Washington.

s/ Nancy L. Talner
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