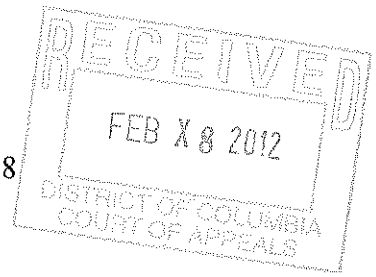
DISTRICT OF COLUMBIA COURT OF APPEALS

STEVEN J. ROSEN	:	
	:	
Appellant	:	
	:	
v.	:	Case No.: 11-CV-0368
	:	
AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE, INC., *et. al.*	:	
	:	
Appellees	:	



APPELLEES' OPPOSITION TO GRANT SMITH'S FOURTH MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*

Appellees, the American Israel Public Affairs Committee, Inc., through counsel, Carr Maloney P.C., submit this Opposition brief in response to Grant Smith's FOURTH Motion for Leave to File a Brief as Amicus Curiae. Appellees respectfully request that the Court deny Grant Smith's Fourth Motion, and in support of their Opposition, state as follows:

1. On January 10, 2011, Grant Smith filed a Motion for Leave to File a Brief as Amicus Curiae with the Superior Court of the District of Columbia, seeking to intervene in this simple defamation action. On January 19, 2011, Appellees filed their Opposition to Grant Smith's Motion.

2. On January 28, 2011, Grant Smith filed a Second Motion for Leave to File a Brief as Amicus Curiae with the Superior Court of the District of Columbia. Appellees filed their Opposition to the Second Motion on February 7, 2011.

3. On February 11, 2011, Judge Erik Christian entered an Order denying both the First and the Second Motions for Leave to file a Brief as Amicus Curiae. A copy of that Order is attached hereto as Exhibit A.

4. Appellant filed his brief with this Honorable Court on June 20, 2011. Appellees' Brief was filed with this Honorable Court on July 25, 2011, and Appellant's Reply Brief was filed on August 16, 2011.

5. Oral argument on this appeal is scheduled for February 14, 2012.

6. On January 13, 2012, Grant Smith filed a Third Motion for Leave to file a Brief as Amicus Curiae. On January 17, 2012, Counsel for Appellees received a return notice from the Court, indicating that the Motion was not accepted for filing because Grant Smith had failed to comply with Rule 27.

7. Neither the Appellees nor the Appellant consent to the filing of Grant Smith's Motion for Leave to file a Brief as Amicus Curiae.

8. On February 6, 2012, almost one (1) week prior to oral argument, Appellants received a copy of yet another Motion for Leave to File a Brief as Amicus Curiae filed by Grant Smith that was filed on or about February 3, 2012.

9. District of Columbia Court of Appeals Rule 29 requires that an amicus curiae must file its brief and motion no later than seven (7) days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than seven (7) days after the appellant's principal brief is filed.

10. Grant Smith's Motion is untimely and should be denied for that reason alone.

11. Furthermore, Mr. Smith's filings are made only to use the authority of this Court to further his personal gain and desire for increased notoriety. After filing each of his motions, Mr. Smith writes his own press release and article about what he has alleged in his most recent motion. He did so after his first, second and third filings, and has now done so after his fourth. (*See* Exhibit B, http://original.antiwar.com/smith-grant/2012/02/05/aipac-obtained-missile-

secrets). Based on his press releases, it is apparent that he is only using the Court and these filings in an attempt to cast the illusion of legitimacy on unsuspecting readers, when, in fact, his filings are based entirely on unsupported allegations of events unrelated to the case at hand.

12. Appellees respectfully refer the Court to their Oppositions to Mr. Smith's first and second Motions (attached hereto as Exhibits C and D respectively) and incorporate all arguments therein. As with his first and second Motions, Mr. Smith's most recent Motion further illustrates that allowing his Amicus Brief would be inappropriate, and does nothing but seek to inject allegations into this matter that have absolutely no bearing on this claim of defamation.

13. This a simple case of defamation involving one statement of opinion made about a public figure. Appellees have established that the statement was one of opinion, was made without any malice, was in fact true based upon all information that Appellees were aware of at the time that the statement was made and that Appellant did not suffer any damages as the result of the statement's publication.

14. As was noted by Judge Erik Christian in his Order granting Summary Judgment, the statement at issue does not relate or refer in any way to the handling of classified information. Although AIPAC has consistently maintained that it does not condone the handling or dissemination of classified information, issues pertaining to the handling of classified information are entirely irrelevant to this case.

15. AIPAC never accused Appellant of handling classified information - the United States Government made that claim, and AIPAC defended Appellant against that claim. However, based upon the information that the United States Government allowed AIPAC's counsel to "experience," AIPAC's counsel advised AIPAC that the behavior that was observed - the brazen manner in which Appellant conducted himself - was unacceptable. Additional

evidence of non-conformance with the standards that AIPAC expected was also discovered prior to the utterance of the statement at issue.

16. Mr. Smith's proposed Amicus Brief adds nothing to this case or the issues before the Court, and is but another improper use of the judicial process to cast unfounded aspersions against AIPAC that are not only irrelevant to the case at hand, but which are in fact completely inaccurate portrayals of events that occurred decades ago. By making these accusations under the guise of litigation, Grant Smith seeks to cloak himself in the privilege extended to statements made in court proceedings, weakly attempting to insulate himself against claims of slander. The Court should not condone this persistent improper use of the judicial system.

For the forgoing reasons, as well as the arguments stated in Appellees' prior Oppositions, Appellees' request that the Court deny Mr. Smith's current Motion for Leave to File a Brief as Amicus Curiae and award costs and fees to the Appellees. A proposed Order is attached.

Respectfully submitted,

CARR MALONEY P.C.

By:_____

Thomas L. McCally, #391937
William J. Carter, #329637
2000 L Street, NW, Suite 450
Washington, DC 20036
(202) 310-5500/(202) 310-5555
tlm@carrmaloney.com/wjc@carrmaloney.com
Attorneys for Appellee's

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of February, 2012, a copy of the foregoing Opposition was sent via email to David H. Shapiro, attorney for Appellant, at dhshapiro@swickandshapiro.com and to author Grant Smith at Grant_f_smith@yahoo.com.

Thomas L. McCally

DISTRICT OF COLUMBIA COURT OF APPEALS

STEVEN J. ROSEN	:	
	:	
Appellant	:	
	:	
v.	:	Case No.: 11-CV-0368
	:	
AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE, INC., *et. al.*	:	
	:	
Appellees	:	

ORDER

UPON CONSIDERATION of the Fourth Motion for Author Grant F. Smith for Leave to File a Brief as Amicus Curiae and Appellees' Opposition thereto, it is, this ____ day of February 2012;

ORDERED, that the Fourth Motion for Leave to File a Brief as Amicus Curiae is DENIED.

SO ORDERED.

_____

cc: David H. Shapiro
1225 Eye Street, NW, Suite 1290
Washington, DC 20005

Thomas L. McCally
William C. Carter
2000 L Street, NW, Suite 450
Washington, DC 20036

Grant Smith
Washington, DC 2007

EXHIBIT A

District of Columbia Court of Appeals
430 E St. N. W.
Washington, D.C. 20001

RETURN NOTICE

TO ~~RE~~ GRANT SMITH NO. 11CV368

THE MOTION FOR LEAVE TO FILE AS AMICUS W/BRIEF received/filed on 1/13/12, cannot be accepted for filing and is returned herewith for the following reason(s):

- Not timely filed. Leave of Court required for filing.
- Question (s) number _____ not completed.
- Pleading not signed as required by Court rule.
- Locational information of attorney/party not reflected.
- No certificate of service/mailing.
- Check # _____ for payment of _____ was made out incorrectly.
- Fee (check) not included for: _____
- Unified bar number not included as required by Court rule.
- No signature on certificate of service.
- Paper size/format not in compliance with Court rule (s).
- Did not comply with Rule 27. DOES THE PARTY OPPOSE OR CONSENT MUST BE WRITTEN
- Other _____

NOTICE: New certificate of service is required when submitting a returned pleading. The Court also required an original plus three copies of all pleadings.

Returned To: GRANT SMITH
Date: 1/17/12 Returned By: PMCMILLAN
CC: _____

cc. THOMAS MCCALLY

EXHIBIT B

AIPAC Obtained Missile Secrets

Posted By Grant Smith On February 5, 2012 @ 11:00 pm In Uncategorized | 8 Comments

Author Norman F. Dacey made powerful enemies. He turned the cozy estate-planning industry upside-down after publishing *How to Avoid Probate* in 1965. The book sold 2 million copies as Dacey barnstormed [.pdf] the country advising Americans how to structure their estates to avoid the costs, delays, and publicity of probate by setting up trusts. Dacey engaged in fierce battles with various bar associations who tried to shut down publication of the book by claiming he was practicing law without a license. The tenacious Dacey returned fire, filing scores of libel and First Amendment lawsuits.

Newly declassified U.S. State Department documents reveal a lesser-known but equally intense battle fought by Dacey. The chairman of the American Palestine Committee and close confidant of "Rabbi Outcast" Elmer Berger nearly succeeded in having American Israel Public Affairs (AIPAC) Director Morris Amitay prosecuted for trafficking classified national defense information in the mid-1970s.

In 1975, the Ford administration attempted to sell improved Hawk anti-aircraft missiles to Jordan and duly sent notification containing classified Department of Defense data to the Senate Foreign Relations Committee and House Foreign Affairs Committee. AIPAC Director Morris Amitay reviewed the classified document after being informed of its existence "secretly by aides of Senator Clifford P. Case, Republican of New Jersey, and Representative Jonathan B. Bingham, Democrat of New York" according to the *New York Times*. Amitay and AIPAC quickly mounted a massive campaign in opposition to the missile sale, telling constituent public pressure groups that the weapons were capable of "providing cover for offensive operations against Israel." After delays, Jordan considered acquiring a similar system from the Soviet Union.

Dacey was outraged. He dashed off a March 30, 1976, letter to Deputy Assistant Secretary for Near Eastern and South Asian Affairs Adolph Dubs inquiring, "Did you initiate action to discover the identity of the individual(s) responsible for the violation and to institute appropriate action to punish the violator?" On April 29, the State Department forwarded Dacey's letter to the Criminal Division of the U.S. Department of Justice, but attempted to downplay the affair by claiming that "A notice of sale is normally not considered by the Department of Defense to require classification and protection.... I would appreciate any comments you could offer on the issues presented by the letter...." On May 19, the State Department seemed to try to extricate itself from the scandal, telling Dacey "we consulted with the Justice Department informally after receipt of your first letter and, at their request, transmitted it to them for further consideration. The matter is still under review in the Justice Department, which expects to provide you with a direct response in the near future."

On June 16, Dacey again pressed the State Department. "We have had no response.... There has been a flagrant violation of the U.S. Criminal Code." On June 22, 1976, the litigious Dacey upped the ante. "While we are certain that you have not intended to give the appearance of exhibiting disdain for public inquiries courteously submitted, the lack of any satisfactory response leaves us with no alternative to that conclusion. We do not wish to proceed publicly under sections 2383 and 2384 but you appear to leave us with no other course." On June 25, 1976, the State Department testily warded off Dacey: "We are not aware that any Department of State official has failed to meet his obligations under applicable law and regulation regarding this document."

The Criminal Division of the U.S. Department of Justice initially appeared to think otherwise and asked the State Department for more details on July 21, 1976. On Nov. 4, the Department of State finally admitted to DOJ that the disclosure to AIPAC was "unauthorized" and had included both the dollar amounts and quantitative configurations of the missile system. The State Department revealed that "specific details of Jordan's military equipment needs are information provided us in confidence by that government. The classification of the documents in question was, in our view, substantively proper." Worse still, according to State, "Had Jordan actually entered into such a major arms-supply relationship with the Soviets, this would have had a significant adverse impact on U.S. national defense interests and on U.S.-Jordanian relations."

The U.S. State Department then responded to the DOJ's other questions probing the feasibility of criminally prosecuting Amitay: "With the public disclosure of the information having already occurred, the authorization of its release for the purpose of prosecution would not be expected to cause damage with our relations with Jordan." However, Amitay was never charged and continued to serve as AIPAC's director until

he resigned 1980 to establish a pro-Israel political action committee in Washington. The Department of Defense letter obtained by AIPAC has never been declassified.

Details of Dacey's effort to have U.S. criminal statutes enforced are timely and relevant. On Feb. 14, 2012, former AIPAC employee Steven J. Rosen will present oral arguments in the D.C. Court of Appeals claiming that seeking, obtaining, and leveraging such classified data has long been standard practice at AIPAC. Rosen sued AIPAC for $20 million in damages after it fired him in 2005 and publicly claimed Rosen's classified information gathering activities "did not comport with standards that AIPAC expects of its employees." If AIPAC settles before the hearing, it will be seen as an attempt to pay off Rosen — as previously agreed — in order to keep his silence. If AIPAC loses in appeals court, Rosen will be able to air even more dirty laundry to a jury, which could divert attention and resources from AIPAC's intense drive to force the Obama administration to attack Iran.

While the Department of Justice may now have earned a reputation as the place where warranted prosecutions of AIPAC go to die, there is little evidence Israel's lobby has similarly captured the pool of D.C. Appeals Court judges. The ghost of Norman Dacey — bane of American bar associations nationwide — may yet prevail.

Read more by Grant Smith

- AIPAC Tries to Bamboozle DC Appeals Court - January 10th, 2012
- AIPAC Economic Warfare Also Targets US - December 9th, 2011
- Americans Pay Dearly to Maintain Israel's Nuclear Secrets - October 19th, 2011
- Does AIPAC Have Only Two Major Donors? - August 9th, 2011
- AIPAC Pushes Hard for War With Iran - June 15th, 2011

EXHIBIT C

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

STEVEN J. ROSEN	:	
	:	
Plaintiff	:	
	:	
v.	:	Case No.: 2009 CA 001256 B
	:	Judge Erik Christian
AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE, INC., *et. al.*	:	Next Event: Pre-trial Conference
	:	Due: April 19, 2011
	:	
Defendants	:	
	:	

DEFENDANTS' OPPOSITION TO GRANT SMITH'S MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*

Defendants, the American Israel Public Affairs Committee, Inc. and Patrick Dorton, through counsel, Carr Maloney P.C., submit this Opposition brief in response to the Grant Smith's Motion. Defendants respectfully request that the Court deny Grant Smith's Motion Leave to File a Brief as Amicus Curiae because he has not stated any cognizable interest in Mr. Rosen's defamation claim, and because his proposed brief does not offer any unique relevant information to assist the Court. In support of their Opposition, Defendants state as follows:

I. STANDARD OF LAW

Although there is little in the way of reported cases in the Superior Court regarding the legal standard for filing *amicus curiae* briefs, the United States District Court for the District of Columbia has had occasion to opine on the discretion of a trial court to entertain an *amicus* brief. "An amicus curiae, defined as 'friend of the court,' Black's Law Dictionary 7th ed.1999 at 83, does not represent the parties but participates only for the benefit of the Court." *U.S. v. Microsoft Corp.*, 2002 WL 319366, at *2 (D.D.C. 2002). In *Jin v. Ministry of State Security*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008), the court stated, "District courts have inherent authority to

appoint or deny *amici* which is derived from Rule 29 of the Federal Rules of Appellate Procedure."[1] (*citing Smith v. Chrysler Fin. Co., L.L.C.*, 2003 WL 328719, at *8 (D.N.J. Jan.15, 2003); and *Sierra Club v. Fed. Emergency Mgmt. Agency,* 2007 WL 3472851, at *3 (S.D. Tex. Nov.14, 2007)(finding no statute, rule or controlling case defines a federal district court's power to grant or deny leave to file amicus brief)).

The *Jin* court noted, "[i]t is solely within the court's discretion to determine the fact, extent, and manner of the participation." 557 F. Supp. 2d at 136 (quoting *Cobell v. Norton,* 246 F.Supp.2d 59, 62 (D.D.C. 2003))(internal citations omitted). Setting forth basic criteria for determining when such a brief is appropriate, the District Court looked to the Seventh Circuit opinion in *Ryan v. Commodity Futures Trading Comm'n,* 125 F.3d 1062, 1064 (7th Cir. 1997).[2]

> An *amicus* brief should normally be allowed when a party is not represented competently or is not represented at all, when the *amicus* has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the *amicus* to intervene and become a party in the present case), or when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide. Otherwise, leave to file an *amicus curiae* brief should be denied.

II. ARGUMENT

As is plain from the Mr. Smith's motion and his proposed amicus brief, his request meets none of these criteria. To begin, Mr. Rosen is represented by counsel and the Defendants' are

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[1] See *Boumediene v. Bush*, 476 F.3d 934, 935 (D.C. Cir. 2006), "Federal Rule of Appellate Procedure 29(a) provides that [a]ny [non-governmental] amicus curiae may file a brief only by leave of court *or if the brief states that all parties have consented to its filing.* (emphasis added) ... Federal Rule 29(b) further provides that [t]he motion must be accompanied by the proposed brief and state: (1) the movant's interest; and (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case." (internal citations omitted).

[2] See also, *Voices for Choices v. Illinois Bell Telephone Co.*, 339 F.3d 542, 545 (7th Cir. 2003), "No matter who a would-be amicus curiae is, therefore, the criterion for deciding whether to permit the filing of an amicus brief should be the same: whether the brief will assist the judges by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties' briefs. The criterion is more likely to be satisfied in a case in which a party is inadequately represented; or in which the would-be amicus has a direct interest in another case that may be materially affected by a decision in this case; or in which the amicus has a unique perspective or specific information that can assist the court beyond what the parties can provide."

not aware of any claims of incompetence asserted by Mr. Rosen. Second, Mr. Smith has not indicated how he has an interest in this case because he has not articulated any case that is pending that may be affected by a decision in this case. To the contrary, he only references purely speculative assertions of "future civil actions."[3] Third, there is nothing unique or informative in Mr. Smith's "interpretation" of public documents from decades past, which have no probative value, let alone any relevance in this defamation case.

Mr. Smith seeks to use the imprimatur of this Court as a forum to further his personal agenda and unsubstantiated theories about the "Israel Lobby" and AIPAC. His previous research and biased opinions regarding AIPAC's history do not confer upon him any special standing or perspective of matters relevant to this case. Mr. Smith does not present any special understanding of information that is either beyond those of the lawyers involved in this case, or beyond that of the Federal Investigative authorities that cleared AIPAC of any wrongdoing with respect to the very matters raised by Mr. Smith in his proposed brief.

Mr. Smith does not proffer any information that has any relevance or bearing on whether the statement issued in 2008 was true, and his proposed amicus brief does not address the vast majority of the undisputed facts, which establish that the statement of opinion at issue was accurate and was made in good faith, without malice, in 2008. Simply put, Mr. Smith does not present the Court with any information that would be even remotely useful to the Court in resolving this defamation action.

Mr. Smith has no tangible interest in this case, he presents no reason why his amicus brief is desirable, and states no cognizable reason as to why the amicus brief has any relevance to the disposition of Mr. Rosen's defamation claim. *Jin*, 557 F. Supp. 2d at 137 (*citing Neonatology Assocs. P.A. v. Comm'r*, 293 F.3d 128, 130-31 (3rd Cir. 2002)).

[3] Mtn. for Leave to File Amicus Brief at 2.

For the forgoing reasons Defendants respectfully request that this Honorable Court deny Mr. Grant Smith's motion for leave to file an amicus brief. A proposed Order is attached.

Respectfully submitted,

CARR MALONEY P.C.

By: /s/

Allie M. Wright, #499323
Thomas L. McCally, #391937
2000 L Street, NW, Suite 450
Washington, DC 20036
(202) 310-5500/(202) 310-5555
tlm@carrmaloney.com
amw@carrmaloney.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of January, 2011, I will electronically file the foregoing with the Clerk of the Court using the CaseFile Express system, which will then send a notification of such filing to David H. Shapiro, attorney for Plaintiff. I will then send a copy, via email and US Mail, first class, postage prepaid to:

Grant Smith
[redacted]
Washington, DC 2007
202.342.5439
Grant_f_smith@yahoo.com

/s/
Allie M. Wright

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

STEVEN J. ROSEN	:	
	:	
Plaintiff	:	
	:	
v.	:	Case No.: 2009 CA 001256 B
	:	Judge Erik Christian
AMERICAN ISRAEL PUBLIC	:	Next Event: Pre-trial Conference
AFFAIRS COMMITTEE, INC., *et. al.*	:	Due: April 19, 2011
	:	
Defendants	:	
	:	

ORDER

Upon consideration of the Motion for Author Grant F. Smith for Leave to File a Brief as Amicus Curiae and Defendants' Opposition thereto, it is, this _____ day of January 2011;

ORDERED, that the Motion for Leave to File a Brief as Amicus Curiae is DENIED.

SO ORDERED.

_____
Judge Erik Christian

cc: David H. Shapiro
1225 Eye Street, NW, Suite 1290
Washington, DC 20005

Thomas L. McCally
Allie M. Wright
2000 L Street, NW, Suite 450
Washington, DC 20036

Grant Smith
_____
Washington, DC 2007

EXHIBIT D

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

STEVEN J. ROSEN Plaintiff, v. AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE, INC., *et. al.* Defendants.	:	Case No.: 2009 CA 001256 B Judge Erik Christian Next Event: Pre-trial Conference Due: April 19, 2011

DEFENDANTS' OPPOSITION TO GRANT SMITH'S SECOND MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*

Defendants, the American Israel Public Affairs Committee, Inc. and Patrick Dorton, through counsel, Carr Maloney P.C., submit this Opposition brief in response to the Grant Smith's *Second Motion for Leave to File a Brief as Amicus Curiae*. Defendants respectfully request that the Court deny Grant Smith's Second Motion, and in support of their Opposition, state as follows:

1. On January 10, 2011, Grant Smith filed a Motion for Leave to File a Brief as Amicus Curiae with the Court, in which he sought to intervene in Plaintiff's defamation claim. On January 19, 2011, Defendants filed their Opposition to Grant Smith's Motion. The Court has not yet ruled on that Motion.

2. On January 28, 2011, Grant Smith filed a Second Motion for Leave to File a Brief as Amicus Curiae despite the fact his previous motion and Defendants' opposition are still pending before the Court. Nothing in the Superior Court Rules permits one to file multiple motions requesting the exact same relief, before the Court has made a ruling on the initial motion.

3. Mr. Smith's submissions constitute a blatant attempt to use the auspices of this Court to further advance his biased and personal theories about an international Zionist conspiracy. The Court need only look to the last paragraph of the Second Motion to see how Mr. Smith's assertions lack even a scintilla of foundation, let alone reference any matter that is remotely relevant to Mr. Rosen's claim of defamation. Baseless accusations that AIPAC is bilking US taxpayers by making a legitimate claim on its insurance policy and by having a representative from its insurer present at a mediation required by the Court are not only patently false, they have absolutely no bearing on the issues in this matter. Moreover, Mr. Smith has failed to establish – and cannot establish -- that he has any standing to inject himself into this matter. Matters regarding insurance coverage (none of which exist) are solely between AIPAC and its insurers.

4. Mr. Smith's filings are made only to use the authority of this Court to further his personal gain and desire for increased notoriety. After filing each of his motions, Mr. Smith writes his own press release and article about what he has alleged in his most recent motion. Based on his latest press release, it is more apparent that he is only using the Court and these filings in an attempt to cast the illusion of legitimacy on unsuspecting readers, when, in fact, his filings are based entirely on unsupported allegations of events unrelated to the case at hand.[1]

5. Defendants respectfully refer the Court to their Opposition to Mr. Smith's first motion and incorporate all arguments therein. Mr. Smith's Second Motion should also not be granted because it does not address any of the substantive legal arguments made in Defendants' Opposition to his first motion. Moreover, Mr. Smith's Second Motion further illustrates that allowing his Amicus brief would be inappropriate, and does nothing but seek to inject legal

[1] See Ex. A, Feb. 3, 2011 IRmep Press Release. This press release does not correctly state the procedural history of the case and contains Mr. Smith's unverified opinions.

issues into this matter that have absolutely no bearing on a claim of defamation. It should be denied.

6. This a simple case of defamation asserted by a public figure who, after months of discovery, proved he not only suffered no damages, but further demonstrated that the Defendant, without any malice, made a truthful statement more than year before the Defendant filed suit. Mr. Smith's proposed amicus brief adds nothing to this case or the issues before the Court.

For the forgoing reasons, as well as the arguments stated in Defendants' Opposition filed on January 19, 2011, Defendants' request that the Court deny Mr. Smith's Second Motion for Leave to File a Brief as Amicus Curiae. A proposed Order is attached.

Respectfully submitted,

CARR MALONEY P.C.

By: /s/

Thomas L. McCally, #391937
Allie M. Wright, #499323
2000 L Street, NW, Suite 450
Washington, DC 20036
(202) 310-5500/(202) 310-5555
tlm@carrmaloney.com
amw@carrmaloney.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of February, 2011, I will electronically file the foregoing with the Clerk of the Court using the CaseFileExpress system, which will then send a notification of such filing to David H. Shapiro, attorney for Plaintiff. I will then send a copy, via email and US Mail, first class, postage prepaid to:

Grant Smith
[redacted]
Washington, DC 2007
202.342.5439
Grant_f_smith@yahoo.com

/s/
Allie M. Wright