



DISTRICT OF COLUMBIA
COURT OF APPEALS

STEVEN J. ROSEN,)	
)	
Plaintiff-Appellant)	
v.)	
)	Appeal No. 11-cv-368
AMERICAN ISRAEL PUBLIC AFFAIRS)	
COMMITTEE, INC., et. al.,)	
)	
Defendants-Appellees)	

MOTION FOR GRANT F. SMITH FOR LEAVE TO FILE

A BRIEF AS AMICUS CURIAE

Grant F. Smith respectfully moves this Court for leave to file the attached brief as *amicus curiae* under Rule 29 *Brief of an Amicus Curiae*. Under Rule 27 *Motions* both the Appellant and Appellee have indicated in writing their opposition to this motion and brief. Furthermore, the counsel for Appellee (American Israel Public Affairs Committee) objects that under Rule 29 "the time for filing an amicus brief has long since passed." However some information herein presented which has direct applicability on this case and the public interest was only fully released on January 20, 2012 by the United States Department of State and United States Justice Department after lengthy declassification reviews initiated by the Amicus Curiae. We note that Rule 29 allows the court to "grant leave for later filing, specifying the time within which an opposing party may answer." Also, we file this brief in support of the Plaintiff-Appellant in order to have important public interest issues fairly adjudicated.

The amicus curiae is a publicly recognized expert on activities of some US nonprofits working to fortify the US-Israel "special relationship." Jeff Stein of the *Washington Post* calls Smith "a

Washington D.C. author who has made a career out of writing critical books on Israeli spying and lobbying.”¹ James Petras, Bartle Professor (Emeritus) of Sociology at Binghamton University, New York claims "Grant F. Smith is without peer as an archival scholar." Author and journalist Philip Weiss claims that “the best investigative work is being done by Grant Smith...”² Nathan Guttman of *The Jewish Daily Forward* recognizes Smith as leading a public effort to “call attention of the authorities to AIPAC’s activity and demands public scrutiny of the group’s legal status.”³ Smith has written a half-dozen books about Israel lobbying and espionage in the United States, as well as AIPAC’s history. John J. Mearsheimer, the R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago claims “Grant Smith's new book⁴ is a major step forward in correcting that problem. He provides a fascinating--and disturbing--account of how I.L. Kenen laid the groundwork for AIPAC, the most powerful organization in the lobby.” Michael Scheuer, former senior analyst in charge of the CIA's Bin Laden unit claims the amicus "Grant F. Smith writes books that are essential for our country."

As a public interest advocate, the amicus curiae is an interested party in questions about the Appellee's documented history of soliciting, obtaining and utilizing US government classified information. Within 15 years of incorporating, AIPAC was obtaining classified Department of Defense information from Congress in ways that undermined advice and consent governance. The negative effects of AIPAC's acquisition and use of confidential US business information contained in still-classified sections of the report *Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel* are also non-trivial and ongoing. The amicus curiae has led two separate efforts

¹ Stein, Jeff "Israeli intelligence, our constant companion" *The Washington Post*, March 24, 2010

² Weiss, Philip "Why there is no mainstream investigative journalism about the Israel Lobby" MondoWeiss, March 30, 2010

³ Guttman, Nathan "Rosen Remains Determined to Prove Trafficking in Secrets is Normal at AIPAC" December 2, 2010

⁴ *America's Defense Line*, ISBN 978-0976443728

filed under Section 301 of the Trade Act of 1974 seeking \$6.64 billion in compensation for the US exporters that suffered the loss and misuse of their confidential business data at the hands of AIPAC and the Israeli Ministry of Economics. The amicus curiae is currently readying a third and more extensive filing for submission to the Section 301 Committee of the Office of the US Trade Ambassador presenting new information about ongoing losses and damage to US trade relations caused by AIPAC's use of confidential business data even as private parties consider preparing their own civil actions.

AIPAC's possession and use of the classified and business confidential information contained in *Probable Economic Effect of Providing Duty-Free Treatment for Imports from Israel* in tight coordination with the Israeli government is also a key component of a growing body of evidence submitted in an effort led by the amicus curiae to compel the US Department of Justice to register AIPAC as a foreign agent of the Israeli Ministry of Foreign Affairs under the 1938 Foreign Agents Registration Act. The amicus curiae is currently in negotiations with the Department of Justice to brief Attorney General Eric Holder about a large and growing body of evidence first presented to Foreign Agents Registration Act Section Chief Heather Hunt in November of 2009. The amicus curiae's last interaction with the IRS on this matter took place January of 2012.

Finally, the amicus curia is engaged in ongoing communications with the Tax Exempt Division of the Internal Revenue Service of the US Treasury Department raising questions about how classified information trafficking affects AIPAC's privileged tax-exempt status. The evidence submitted in this effort supporting revocation includes documentation of AIPAC's ongoing circulation of classified US government information which is incompatible with its claimed charitable purpose. The amicus curiae's last interaction with the IRS on this matter took place December of 2011. The amicus curiae continues

to provide updates about the ongoing of damage caused by AIPAC's theft and use of classified information and confidential business information in 1984.

The Defendant-Appellee misrepresents in its court filings some of the important primary research documents and findings first made publicly available through the amicus curiae's public interest research. The Defendant-Appellee omits evidence that was until recently classified by the US government. If the Appeals Court issues a decision based on misrepresentations of this evidence, the Court could legitimate the Defendant-Appellee's false representations, negatively impacting the amicus curiae's ongoing efforts to improve rule of law and governance in the United States through the warranted oversight and proper regulation of AIPAC. A judgment issued on the basis of misrepresentation may also negatively impact future civil actions and criminal prosecutions in an area of increasing national concern: the private acquisition, circulation and illicit use of classified US government and confidential business information submitted to the US government. For the foregoing reasons, the amicus curiae respectfully requests that this Court GRANT this Motion and accept the attached amicus curiae brief instanter.

Respectfully submitted
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion will be served on counsel for the Plaintiff-Appellant and Defendants-Appellees at the addresses set forth below by regular United States mail, this 3rd day of February, 2012.

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Does not consent under
Rule 27 1/23/2012

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