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LAWYERS FOR CIVIL JUSTICE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FEDERAL TRADE COMMISSION, et al.

Plaintiffs,

v.

QUALCOMM INCORPORATED, et al.,

Defendants.

In re Qualcomm Antitrust Litigation

Case No.: 5:17-cv-00220-LHK

Case No.: 5:17-md-02773-LHK

ADMINISTRATIVE MOTION OF LAWYERS FOR CIVIL JUSTICE TO FILE BRIEF AS *AMICUS CURIAE* (LOCAL RULE 7-11)

Hearing Date: February 15, 2018
Hearing Time: 1:30 PM
Courtroom: 8, 4th Floor

THE HONORABLE LUCY H. KOH

I. INTRODUCTION

Lawyers for Civil Justice ("LCJ") respectfully moves for leave to file an *amicus curiae* brief in support of Non-Party Apple Inc.'s Motion for Relief from Magistrate Judge's Nondispositive Pretrial Order Imposing Sanctions. A copy of the proposed brief is attached as Exhibit A to this motion. Apple consents to the filing of this motion and the accompanying amicus brief. Qualcomm does not consent to filing.

II. IDENTITY AND INTEREST OF AMICUS CURIAE

LCJ is a national coalition of corporations, defense bar organizations, and law firms that promotes excellence and fairness in the civil justice system to secure the just, speedy, and inexpensive determination of civil cases. For over 25 years, LCJ has been closely engaged in reforming federal civil rules to: (1) promote balance in the civil justice system; (2) reduce costs and burdens associated with litigation; and (3) advance predictability and efficiency in litigation. LCJ has a unique perspective on the rules amendments, having been directly involved in the entire process related to the adoption of the 2015 rules amendments, including participating in the 2010 Duke Conference, submitting empirical evidence in support of changes to the discovery rules and other materials such as White Papers, and participating in all the hearings and Rules Advisory Committee meetings.

III. REASONS WHY THE MOTION SHOULD BE GRANTED

The District Courts have "broad discretion" to accept an amicus curiae submission. *Hoptowit v. Ray*, 682 F. 2d 1237, 1260 (9th Cir. 1982). "District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if 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.'" *NGV Gaming, Ltd. V. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (quoting *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C.2003)). If permitted to file, LCJ will fulfill "the classic role of amicus curiae by assisting in a case of general public interest[] [and]

supplementing the efforts of counsel[.]" *Miller-Wohl Co. v. Comm'r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982).

LCJ seeks to provide the Court with a broader context to consider the issue of potential sanctions for missing document production deadlines in light of the 2015 amendments to the Federal Rules of Civil procedure and pertinent case law regarding sanctions. LCJ also seeks to provide the Court with a different perspective than those of the parties to the matter regarding the importance of clarity regarding the process and standards for imposing sanctions in civil litigation, especially as they relate to non-parties who are responding to subpoenas *duces tecum*. LCJ and its members have significant familiarity with the Federal Rules, the burdens and costs imposed in civil litigation, and discussions in the past decade regarding the role and propriety of sanctions and other remedies in the context of civil litigation.

IV. CONCLUSION

For the foregoing reasons, LCJ respectfully requests that the Court grant it leave to file the *amicus curiae* brief attached as Exhibit A.

DATED: January 31, 2018

Respectfully submitted,

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