

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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CHRISTOPHER HEDGES,

Plaintiffs,

Case No. 12-CV-331 (KBF)

-against-

BARACK OBAMA, individually, BARACK
OBAMA, as a representative of the United
States of America, LEON PANETTA, individually,
and LEON PANETTA, in his capacity as the
executive and representative of the Department
of Defense,

Defendants.

**NOTICE OF MOTION FOR
LEAVE TO FILE AMICUS
CURIAE BRIEF**

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PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law dated the 16th day of April, 2012, the declaration of Steven J. Harfenist, Esq. dated April 16, 2012, together with the exhibits annexed thereto, and all the papers and pleadings heretofore had herein, movants, *amici curiae*, Virginia State Delegate Bob Marshall, Virginia State Senator Dick Black, Downsize DC Foundation, DownsizeDC.org, Inc., U.S. Justice Foundation, Institute on the Constitution, Gun Owners Foundation, Gun Owners of America, Inc., The Lincoln Institute for Research and Education, the Western Center for Journalism, Conservative Legal Defense and Education Fund, U.S. Border Control, Restoring Liberty Action Committee, Tenth Amendment Center, Center for Media and Democracy, Bill of Rights Defense Committee, Pastor Chuck Baldwin, Professor Jerome Aumente, and the Constitution Party National Committee shall move this Court before the Honorable Katherine B. Forrest, at the United States District Court, Southern District of New York, located at 500 Pearl Street, New York, New York, for an order

granting movants leave to file an *amici curiae* brief in the above matter and for such other relief as the Court deems just, proper and equitable.

Dated: Lake Success, New York
April 16, 2012

Respectfully submitted,
FRIEDMAN HARFENIST KRAUT & PERLSTEIN, LLP

By: /s/ Steven J. Harfenist
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Case No. 12-CV-331 (KBF)

**DECLARATION OF STEVEN J.
HARFENIST IN SUPPORT OF
OF MOTION FOR LEAVE TO
FILE AMICUS CURIAE BRIEF**

Steven J. Harfenist, an attorney admitted to practice law in the Southern District of New York, declares the following, under the penalties of perjury:

1. I am a partner of Friedman Harfenist Kraut & Perlstein LLP, attorneys for the movants, *amici curiae*, Virginia State Delegate Bob Marshall, Virginia State Senator Dick Black, Downsize DC Foundation, DownsizeDC.org, Inc., U.S. Justice Foundation, Institute on the Constitution, Gun Owners Foundation, Gun Owners of America, Inc., The Lincoln Institute for Research and Education, the Western Center for Journalism, Conservative Legal Defense and Education Fund, U.S. Border Control, Restoring Liberty Action Committee, Tenth Amendment Center, Center for Media and Democracy, Bill of Rights Defense Committee, Pastor Chuck Baldwin, Professor Jerome Aumente, and the Constitution Party National Committee (collectively referred to herein after as the “Movants”) and submit this declaration in support of

Movants' application for leave to file an *amici curiae* brief. A copy of the proposed brief is annexed hereto as ***Exhibit A***.

2. Virginia Delegate Bob Marshall (<http://delegatebob.com/>) (R-13) is a senior member of the Virginia House of Delegates, and is Chief Patron of Virginia House Bill 1160 (<http://lis.virginia.gov/cgi-bin/legp604.exe?121+sum+HB1160>) which was passed by the Virginia House of Delegates and Virginia Senate, and is awaiting passage with certain amendments by the Governor of Virginia. HB 1160 would prohibit Virginia government officials from assisting federal authorities with enforcement of the detention provisions in Section 1021 of the National Defense Authorization Act of 2012. Virginia Senator Dick Black (R-13) (http://apps.lis.virginia.gov/sfb1/Senate/senatorweb_profile.aspx?id=246) is currently a member of the Virginia State Senate, and served as a member of the Virginia House of Delegates from 1998 to 2006. He retired as a Colonel and a Division Chief in the office of the U.S. Army Judge Advocate General in the Pentagon. He worked to support passage of HB 1160 in the Virginia State Senate. Both members of the Virginia General Assembly have worked against federal usurpation of powers.

3. Downsize DC Foundation (www.downsizedcfoundation.org/), DownsizeDC.org, Inc. (<http://www.downsizedc.org/>), U.S. Justice Foundation (<http://usjf.net/>), Gun Owners Foundation (<http://gunowners.com/>), Gun Owners of America, Inc. (<http://gunowners.org/>), The Lincoln Institute for Research and Education (www.lincolnreview.com), the Western Center for Journalism (<http://www.westernjournalism.com/>), Conservative Legal Defense and Education Fund (www.cldef.org), U.S. Border Control (<http://www.usbc.org/>), Tenth Amendment Center (<http://tenthamendmentcenter.com/>), Center for Media and Democracy

(<http://www.prwatch.org/>), and Bill of Rights Defense Committee (<http://www.bordc.org/>) are nonprofit organizations having mutual interests in public education, proper construction of the Constitution and laws of the United States, and limited government. Likewise, they have a common interest in the matters raised in this litigation, and are mutually concerned about the unbridled power of the United States government to act against its citizens, at its unfettered discretion, with little to no judicial oversight. Institute on the Constitution (www.iotconline.com) and Restoring Liberty Action Committee are educational organizations focused on the proper interpretation of the U.S. Constitution.

4. Pastor Chuck Baldwin (<http://chuckbaldwinlive.com/home/>) retired as founding pastor of a Baptist Church in Florida, and now serves as pastor of Liberty Fellowship in Montana. He is also an author and syndicated columnist dedicated to preserving the historic principles upon which America was founded. He was the Constitution Party candidate for President of the United States in 2008.

5. Professor Jerome Aumente is Distinguished Professor Emeritus and Special Counselor to the Dean at the School of Communication and Information at Rutgers, the State University of New Jersey. He has extensive experience in the international training of journalists, and he has published four books, with the most recent winning the Society of Professional Journalists national award for journalism research in 2008.

6. The Constitution Party National Committee (www.constitutionparty.com) is a national political party registered with the Federal Election Commission.

7. Together, Movants share Plaintiffs' concerns that, as members of the press or organizations which exercise First Amendment freedom of press rights, they could be targeted

due to the nature of the work that they do and opinions they express. These movants believe that the *Amicus Curiae* Brief they have prepared, which supports the Plaintiffs' position in this litigation, will be of assistance to this Court in fully appreciating the scope of the issues and the Constitutional principles involved.

WHEREFORE, the movants, *amici curiae* herein, pray that their motion be granted and that they be given leave to file their *Amicus Curiae* Brief in Support of Plaintiffs in this matter.

Dated: Lake Success, New York
April 16, 2012

Respectfully submitted,
FRIEDMAN HARFENIST KRAUT & PERLSTEIN, LLP

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