

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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|                                  |  | ) |
| UNITED STATES OF AMERICA         |  | ) |
|                                  |  | ) |
| Plaintiff,                       |  | ) |
|                                  |  | ) |
| v.                               |  | ) |
|                                  |  | ) |
| APPLE, INC.,                     |  | ) |
| HACHETTE BOOK GROUP, INC.,       |  | ) |
| HARPERCOLLINS PUBLISHERS, L.L.C. |  | ) |
| VERLAGSGRUPPE GEORG VON          |  | ) |
| HOLTZBRINK PUBLISHERS, LLC       |  | ) |
| d/b/a MACMILLAN,                 |  | ) |
| THE PENGUIN GROUP,               |  | ) |
| A DIVISION OF PEARSON PLC,       |  | ) |
| PENGUIN GROUP (USA), INC. and    |  | ) |
| SIMON & SCHUSTER, INC.,          |  | ) |
|                                  |  | ) |
| Defendants.                      |  | ) |
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Civil Action No.12-CV-2826 (DLC)

**MOTION OF *AMICUS CURIAE* BOB KOHN  
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF  
REGARDING THE GOVERNMENT’S PROPOSED SCHEDULE  
FOR PENGUIN TUNNEY ACT REVIEW**

Amicus Curiae Bob Kohn, through his *pro bono* counsel, pursuant to 15 U.S.C. Sec. 16(f)(3), hereby moves for leave to file an *amicus curiae* brief for the sole purpose of commenting on the Department of Justice’s Proposed Schedule for Penguin Tunney Act Review (“Proposed Schedule”), which was filed on January 3, 2013 in compliance with the Court’s order dated December 19, 2013.

The grounds for this motion, as more fully set forth in the accompanying Memorandum of Points and Authorities, are that Kohn's comments would be helpful to the Court in evaluating the Proposed Schedule.

Kohn has approached defendants Macmillan, Penguin, and Apple and none have of them have taken a position on the filing of this motion. Kohn has left a message with the Department of Justice regarding his intention to file this motion. Last year, in connection with Kohn's motion for leave to participate as *amicus curiae*, the DOJ stated to Kohn, "Our position is that we are not going to consent to the filing of any *amicus* briefs." Given the importance of this matter, Kohn is hopeful that the DOJ will not wish to object to Kohn's desire for a ruling on the matter that is the subject of his proposed *amicus* brief.

WHEREFORE, this motion should be granted and Kohn should be authorized to file, pursuant to 15 U.S.C. 16(f)(3), the proposed brief *amicus curiae* accompanying this motion.

Dated: January 7, 2012

Respectfully submitted,



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/s/ Steven Brower

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*Pro Bono Counsel* to Bob Kohn