



1900 M Street, NW, Ste. 250, Washington, D.C. 20036  
[marc@zwillgen.com](mailto:marc@zwillgen.com)

Marc J. Zwillinger  
(202) 706-5202 (phone)  
(202) 706-5298 (fax)

March 11, 2016

VIA ELECTRONIC FILING

The Honorable Margo K. Brodie  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *In re Order Requiring Apple Inc. to Assist in the Execution of a Search Warrant Issued by the Court, No. 14 Cr. 387 (MKB); No. 15 MC 1902 (JO)*

Dear Judge Brodie:

We represent Apple Inc. in the above-referenced matter. We are in receipt of the Court's March 10, 2016 scheduling order and intend to respond to the government's application for an All Writs Act order (the "Application"). (See 3/7/2016 Order, No. 15 MC 1902, ECF No. 31.) We write to respectfully request that the Court extend the briefing schedule and permit Apple to submit a brief exceeding twenty-five pages, commensurate with the length of the brief filed by the Government and on consent.

The Government's previous *ex parte* application was filed on October 8, 2015. (No. 15 MC 1902, ECF No. 1.) Magistrate Judge Orenstein denied the application on February 29, 2016. (No. 15 MC 1902, ECF No. 29.) On March 7, 2016, the Government filed the present Application with this Court, and contemporaneously before Magistrate Judge Orenstein where it was styled as an "Appeal of Magistrate Judge Decision." (See No. 15 MC 1902, ECF No. 30.) Yesterday, the Court's scheduling order gave Apple two weeks, until March 24, to file a response.

We respectfully request an additional week to brief these important issues in light of the ongoing litigation in the Central District of California and the fact that there is no special urgency in this matter. The Government's application has been pending since October of last year, and, as the Court is aware, the criminal defendant whose phone the Application relates to has already pled guilty. Apple and the Department of Justice are presently litigating overlapping issues in the Central District of California. (*In the Matter of the Search of an Apple iPhone Seized During the Execution of a Search Warrant on a Black Lexus IS300, California License Plate 35KGD203*, No. ED 15-0451M.) Apple's reply brief in that matter is due on March 15, 2016 and oral argument is

scheduled for March 22. In light of the public importance of these issues, the benefit from the full airing of the related issues in the Central District of California, and the lack of urgency in this matter, Apple respectfully requests that the Court adjourn the schedule entered on March 10 by one week, so that Apple's response would be due March 31 and the Government's reply, if any, would be due April 7.

Apple additionally requests permission to file a response brief not to exceed forty-five pages, which would be commensurate with the length of the Government's Application and is warranted given the important public issues involved. On March 9, 2016, we met and conferred by telephone with counsel for the Government regarding the length of the briefs and the Government agreed that if Apple were permitted to respond, it would agree to Apple's request for forty-five pages for its response.

Finally, the protocols for the Court's CM/ECF system require that Apple first obtain the Court's approval to be added as an interested party before any filings on behalf of Apple will be accepted on the docket for *United States v. Yang*, 14 Cr. 387 (MKB). Apple respectfully requests that the Court instruct the Docket Clerk to add Apple as an interested party, so that counsel for Apple may enter appearances and file motions for admission *pro hac vice*, as well as make any subsequent filings as permitted by the Court.

We thank the Court for its consideration and can be available at the Court's convenience to address any questions or concerns.

Respectfully submitted,

/s/ Marc J. Zwillinger

Marc J. Zwillinger (admitted *pro hac vice*<sup>1</sup>)  
ZWILLGEN PLLC  
1900 M Street, NW, Ste. 250  
Washington, D.C. 20036  
Telephone: (202) 706-5202

Theodore J. Boutrous, Jr. (*pro hac vice* forthcoming)  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071-3197  
Telephone: (213) 229-7000

Alexander H. Southwell  
Mylan L. Denerstein  
GIBSON, DUNN & CRUTCHER LLP

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<sup>1</sup> Jeffrey Landis and Marc Zwillinger were admitted *pro hac vice* in the prior proceeding before Judge Orenstein. Because the current proceeding is styled both as an Appeal and a new Application, we respectfully request that the Court accept our prior *pro hac vice* admission as applying in the *Yang* matter as well.

200 Park Avenue, 48th Floor  
New York, New York 10166-0193  
Telephone: (212) 351-4000

*Attorneys for Interested Party Apple, Inc.*

cc: All Counsel of Record (via ECF)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE ORDER REQUIRING APPLE, INC. TO  
ASSIST IN THE EXECUTION OF A SEARCH  
WARRANT ISSUED BY THE COURT

15 MC 1902 (JO)  
14 CR 387 (MKB)

**NOTICE OF APPEARANCE**

The undersigned, MYLAN L. DENERSTEIN, respectfully enters her appearance as counsel for Interested Party Apple Inc. (“Apple”), and has been designated to accept service of all pleadings, notices, filings, correspondence, and other papers relating to this litigation on behalf of Apple. The undersigned is admitted to practice before this Court.

Dated: New York, New York  
March 11, 2016

GIBSON, DUNN & CRUTCHER LLP

By: s/ Mylan L. Denerstein  
Mylan L. Denerstein

200 Park Avenue  
New York, NY 10166  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035  
mdenerstein@gibsondunn.com

*Attorneys for Interested Party Apple Inc.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE ORDER REQUIRING APPLE, INC. TO  
ASSIST IN THE EXECUTION OF A SEARCH  
WARRANT ISSUED BY THE COURT

15 MC 1902 (JO)  
14 CR 387 (MKB)

**NOTICE OF APPEARANCE**

The undersigned, ALEXANDER H. SOUTHWELL, respectfully enters his appearance as counsel for Interested Party Apple Inc. (“Apple”), and has been designated to accept service of all pleadings, notices, filings, correspondence, and other papers relating to this litigation on behalf of Apple. The undersigned is admitted to practice before this Court.

Dated: New York, New York  
March 11, 2016

GIBSON, DUNN & CRUTCHER LLP

By: s/ Alexander H. Southwell  
Alexander H. Southwell

200 Park Avenue  
New York, NY 10166  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035  
asouthwell@gibsondunn.com

*Attorneys for Interested Party Apple Inc.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE ORDER REQUIRING APPLE, INC. TO  
ASSIST IN THE EXECUTION OF A SEARCH  
WARRANT ISSUED BY THE COURT

15 MC 1902 (JO)  
14 CR 387 (MKB)

NOTICE OF MOTION FOR  
ADMISSION *PRO HAC VICE*

TO: Lauren Howard Elbert  
Assistant United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
Tel: (718) 254-7577  
lauren.elbert@usdoj.gov

PLEASE TAKE NOTICE that Mr. Theodore J. Boutrous hereby moves this Court pursuant to Rule 1.3(c) of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York for an Order allowing the admission of movant, a partner with the law firm of Gibson, Dunn & Crutcher LLP and a member in good standing of the Bars of California and the District of Columbia, as attorney *pro hac vice* to argue or try this case in whole or in part as counsel for Interested Party Apple, Inc. There are no pending disciplinary proceedings against Mr. Boutrous in any state or federal court. Attached hereto are a declaration of Mr. Boutrous in support of this motion and the Certificates of Good Standing for Mr. Boutrous from the bars of the District of Columbia and California. A proposed Order is also attached hereto.

Dated: March 11, 2016

GIBSON, DUNN & CRUTCHER LLP

By: s/ Theodore J. Boutrous, Jr.  
Theodore J. Boutrous, Jr.

333 South Grand Avenue  
Los Angeles, California 90071  
Telephone: 213-229-7000  
Facsimile: 213-229-7520  
tboutrous@gibsondunn.com

*Attorney for Interested Party Apple Inc.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE ORDER REQUIRING APPLE, INC. TO  
ASSIST IN THE EXECUTION OF A SEARCH  
WARRANT ISSUED BY THE COURT

15 MC 1902 (JO)  
14 CR 387 (MKB)

DECLARATION OF THEODORE J.  
BOUTROUS, JR. IN SUPPORT OF  
MOTION TO ADMIT COUNSEL  
PRO HAC VICE

I, THEODORE J. BOUTROUS, JR., hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge:

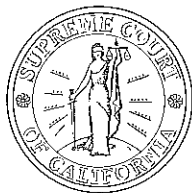
1. I am a partner with the law firm of Gibson, Dunn & Crutcher LLP.
2. I submit this declaration in support of my motion for admission to practice *pro hac vice* in the above captioned matter.
3. I am a member in good standing of the Bars of the State of California and the District of Columbia.
4. There are no pending disciplinary proceedings against me in any State or Federal Court.
5. Wherefore I respectfully submit that I be permitted to appear as counsel and advocate *pro hac vice* in this one case for Interested Party Apple, Inc.

Dated: March 11, 2016

GIBSON, DUNN & CRUTCHER LLP

By: /s Theodore J. Boutrous, Jr.

Theodore J. Boutrous, Jr.  
333 South Grand Avenue  
Los Angeles, California 90071  
Telephone: 213-229-7000  
Facsimile: 213-229-7520  
tboutrous@gibsondunn.com



# Supreme Court of California

FRANK A. McGUIRE

*Court Administrator and Clerk of the Supreme Court*

## CERTIFICATE OF THE CLERK OF THE SUPREME COURT

OF THE

STATE OF CALIFORNIA

**THEODORE JOSEPH BOUTROUS JR.**

*I, FRANK A. McGUIRE, Clerk of the Supreme Court of the State of California, do hereby certify that Theodore Joseph Boutrous, Jr., 132099, was on the 15th day of December, 1987, duly admitted to practice as an attorney and counselor at law in all the courts of this state, and is now listed on the Roll of Attorneys as a member of the bar of this state in good standing.*

*Witness my hand and the seal of the court  
on the 10th day of March 2016.*

FRANK A. McGUIRE

*Clerk of the Supreme Court*

By: \_\_\_\_\_

*J. Chapa*  
*J. Chapa, Deputy Clerk*





District of Columbia Court of Appeals  
Committee on Admissions  
430 F Street, N.W. — Room 123  
Washington, D. C. 20001  
202 / 879-2710

*I, JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals, do hereby certify that*

***THEODORE J. BOUTROUS JR.***

*was on OCTOBER 4, 1989 duly qualified and admitted as an attorney and counselor entitled to practice before this Court and is, on the date indicated below, an active member in good standing of this Bar.*

*In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on March 10, 2016.*

JULIO A. CASTILLO  
Clerk of the Court

By:

*Monette Lane*  
Deputy Clerk

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN RE ORDER REQUIRING APPLE, INC. TO  
ASSIST IN THE EXECUTION OF A SEARCH  
WARRANT ISSUED BY THE COURT

15 MC 1902 (JO)  
14 CR 387 (MKB)

[PROPOSED] ORDER GRANTING  
MOTION FOR ADMISSION  
PRO HAC VICE

The motion of Theodore J. Boutrous, Jr., for admission to practice *pro hac vice* in the above-captioned action is granted.

Applicant has declared that he is a member in good standing of the bars of the District of Columbia and Columbia and that his contact information is as follows:

Theodore J. Boutrous, Jr.  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, California 90071  
Telephone: 213-229-7000  
Facsimile: 213-229-7520  
tboutrous@gibsondunn.com

Applicant having requested admission *pro hac vice* to appear for all purposes as counsel for Interested Party Apple Inc. in the above-captioned action;

IT IS HEREBY ORDERED that Applicant is admitted to practice *pro hac vice* in the above-captioned action in the United States District Court for the Eastern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys.

Dated: March \_\_\_\_, 2016  
New York, New York

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UNITED STATES DISTRICT JUDGE