

# UNIVERSITY OF MINNESOTA

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Jane E. Kirtley  
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August 6, 2003

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U.S. Department of Justice  
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Washington, DC 20530-0001

James Hamilton  
Swidler Berlin Shereff Friedman, LLP  
Suite 300  
3000 K Street, NW  
Washington, DC 20007

Allan J. Favish  
22406 Holly Court  
Santa Clarita, CA 91390-4202

VIA FACSIMILE

RE: *Office of Independent Counsel v. Favish*, Supreme Court Docket No. 02-954

Gentlemen:

Pursuant to Supreme Court Rule 37, I am writing to request your consent to the filing of an *amicus curiae* brief by the Silha Center for the Study of Media Ethics and Law in support of Respondent Allan J. Favish.

The Silha Center is a research center located within the School of Journalism and Mass Communication at the University of Minnesota. Its primary mission is to conduct research on, and to promote understanding of, legal and ethical issues affecting the mass media. The Center also sponsors an annual lecture series; hosts forums, conferences, and symposia; produces the *Silha Bulletin*, a quarterly newsletter, and other publications; and provides information about media ethics and law to the public.

The Silha Center is extremely interested in the issue of public and press access to government information, and regularly undertakes scholarly research in this area. During the past year, it has filed comments on the Department of Homeland Security's proposed regulations on implementing the Freedom of Information Act, as well as on the proposed rules governing disclosure of Critical Infrastructure Information.

August 6, 2003

Page 2

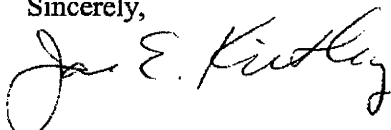
The instant case is of particular interest to the Silha Center because it presents an issue of first impression before the Supreme Court of the United States – whether Exemption 7(C) should be construed to include the right of “survivor privacy” in the absence of express Congressional intent. The Silha Center’s brief will focus on the legislative history of the relevant sections of the Freedom of Information Act, and will argue that, based on that history, and on the rules of statutory interpretation, the statute’s exemptions should be narrowly construed. Our brief will also discuss policy considerations that weigh against an interpretation of the exemption, as it currently reads, to include survivor privacy. We hope that our scholarly perspective may be helpful to the Court.

Our brief will, of course, comply with all Supreme Court rules and will be timely filed.

I am hopeful that you will consent to the filing of this *amicus* brief. I would be grateful if you would advise me of your decision as soon as possible. If you do consent, I would appreciate it if you could forward your letter of consent to me at your earliest possible convenience so that we may submit it with our brief. (As I understand it from the clerk’s office, we may initially submit a letter that has been faxed to us, but we will eventually have to submit an original letter.) As I am sure you know, your letter must explicitly state that you are consenting to a brief filed by the Silha Center for the Study of Media Ethics and Law.

Thank you very much for your consideration of this request. I look forward to hearing from you.

Sincerely,



Jane E. Kirtley, J.D.

Silha Professor of Media Ethics and Law

Director, Silha Center for the Study of Media Ethics and Law