

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ELECTRONIC PRIVACY INFORMATION CENTER)	
Appellant,)	
v.)	No. 13-5113
DEPARTMENT OF HOMELAND SECURITY)	
Appellee.)	
)	

**STATEMENT OF ISSUES TO BE RAISED AND CERTIFICATE
AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to the Court’s April 19, 2013 Order, F.R.A.P. 26.1, and D.C. Cir.

Rules 27(a)(4) and 28(a)(1)(A), EPIC certifies as follows:

I. Statement of Issues to be Raised

Whether the District Court erred in failing to apply this Circuit's "inextricably intertwined" test before determining that records containing non-deliberative, factual materials may properly be withheld in their entirety under Exemption 5 of the Freedom of Information Act ("FOIA").

II. Certificate as to Parties, Rulings, and Related Cases

a. Parties:

Appellant is the Electronic Privacy Information Center ("EPIC"). EPIC is a 501(c)(3) non-profit corporation. EPIC has no parent, subsidiary, nor affiliate. EPIC has never issued shares or debt securities to the public. EPIC is a public interest research center in Washington, D.C., which was established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and other Constitutional values.

Appellee is the Department of Homeland Security ("DHS"). The DHS is a federal agency subject to the FOIA.

b. Rulings Under Review:

Appellant seeks review of *EPIC v. DHS*, No. 10-1992 (D.D.C. Mar. 7, 2013).

c. Related Cases:

Also before this Court is *EPIC v. TSA*, No. 11-290 (D.D.C. Mar. 7, 2013), *appeal docketed*, No. 13-5114 (D.C. Cir. filed Apr. 16, 2013). EPIC will file a motion to consolidate the two appeals.

Respectfully submitted,

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