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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF SASCHA
MEINRATH FOR ACORN ACTIVE
MEDIA IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, SASCHA MEINRATH, hereby declare:

2 1. I am the Co-founder and President of the Acorn Active Media Foundation. The facts
3 contained in the following affidavit are known to me of my own personal knowledge and if called
4 upon to testify, I could and would competently do so.

5 2. Our organization engages in software, website, and technical development in support
6 of the global justice movement.

7 3. The Acorn Active Media Foundation is an outlet for technically skilled members to
8 build technical resources for groups, non-profits, and individuals who otherwise do not have the
9 capacity or would not be able to afford these services. Since Acorn's inception in January 2004, it
10 has engaged in website design, web application development, general technical consulting and
11 hardware support, and organizational database development for a diverse array of groups,
12 individuals, and organizations from around the globe. Acorn members have supported democracy
13 advocates and independent media outlets worldwide, often working directly with communities
14 laboring under hostile and oppressive regimes.

15 4. In addition, members of the Acorn Active Media Foundation work directly on several
16 U.S. Government-funded initiatives to help bring free, safe communications to people living under
17 some of the most repressive regimes on the planet. The security of the communications with these
18 individuals and communities often is a matter of life and death for our local partners and the active
19 surveillance of these communications certainly raises profound risks for our local partners. Thus, it
20 would be an unfortunate reality that one arm of the US Government is actively undermining the
21 work of the US State Department, USAID, and the Broadcasting Board of Governors by surveilling
22 our work.

23 5. The collection of our phone records by the government has resulted in (1) harassment,
24 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
25 objectively suggest an impact on, or 'chilling' of, the members' associational rights. I say this
26 because of the following facts:

27 6. The Acorn Active Media Foundation was previously involved with a similar case

1 whereby an entire server that Acorn helped maintain and that hosted the websites and other materials
2 of multiple organizations was improperly seized by the government based on an investigation into
3 one of the organizations. The result was substantial harm to the news-gathering activities of
4 organizations Acorn supported. The ensuing technical recovery and lawsuit required substantial
5 time from Acorn members and lead to active concerns about ongoing surveillance of our work.

6 7. When the news of the government's collection of phone records and other
7 communications-related information became public, numerous members of the Acorn Active Media
8 Foundation became increasingly concerned that our initiatives are once again being swept up into
9 surveillance, including surveillance that is targeted at others. In particular, this is because Acorn's
10 members work daily with human rights workers and democracy advocates around the globe on
11 highly sensitive initiatives. This is true even though some of those initiatives are directly funded by
12 other portions of the U.S. Government.

13 8. This fear of collection in general, and of the possible targeting of our associates, has
14 had a chilling effect on communications. Our work is predicated upon the trust of the individuals
15 and communities we interact with, and as more information is gleaned about the nature of the NSA's
16 surveillance, local partners around the globe have been increasingly hesitant about communicating
17 with our team.

18 9. The Associational Tracking Program activities have harmed us because we have
19 experienced a decrease in communications from associates, especially human rights workers and
20 democracy advocates in the U.S. and around the world. While we have worked diligently to ensure
21 PGP encryption of critical communications, concerns have already been raised by human rights
22 advocates in Syria, Turkey, and Cuba about the security of their communications with Acorn
23 members.

24 10. Prior to the disclosure of the Associational Tracking Program, we tried to assure our
25 partners about the security and confidentiality of their communications with Acorn members, but it
26 seems that those assurances were not well founded. Since the disclosure of the program, we can no
27 longer provide those assurances.

1 11. Moreover, the ongoing revelations, the government's unclear and changing responses
2 and public misdirection have left us unable to reassure our members and associates that additional
3 forms of surveillance, as yet unconfirmed or actively denied by the government are not also
4 occurring, leaving us scrambling to implement alternative forms of confidential communication --
5 many of which require technological acumen that our local partners simply do not have.

6 I declare under penalty of perjury under the laws of the United States of America that
7 the foregoing is true and correct. Executed on November 1, 2013 at San Francisco, California.

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SASCHA MEINRATH

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF SHAHID
BUTTAR ON BEHALF OF THE BILL
OF RIGHTS DEFENSE
COMMITTEE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, SHADID BUTTAR, hereby declare:

2 1. I am the Executive Director of The Bill Of Rights Defense Committee. The facts
3 contained in the following affidavit are the products of my own personal knowledge and if called
4 upon to testify, I can and will competently do so.

5 2. Our organization builds grassroots coalitions at the local, statewide and national
6 levels for the purpose of advancing the civil liberties guaranteed under the Bill of Rights.

7 3. Until 2013, we were a telecommunications customer of Verizon.

8 4. The collection of our phone records by the government has resulted in (1) harassment,
9 withdrawal of constituent partners, and/or the suppression of engagement by new constituent
10 partners out of fear that their association with an organization like the Bill of Rights Defense
11 Committee that advocates for individual civil liberties will expose them to governmental scrutiny,
12 and (2) other consequences which include, but are not limited to, an objective impact on, or
13 ‘chilling’ of, the members’ associational rights, the narrowing of speech by members in civil
14 discourse, the suppression of member’s civic participation in demonstrations protected by the First
15 Amendment, the cancelation of receipt of informational literature such as email listservs and
16 physical mailings and the muting and/or suppression of the scope and quality of political speech to
17 such an extent that it occurs in the capacity that the member remains connected with the
18 organization.

19 4. The Associational Tracking Program activities have harmed us because they have
20 diminished our member engagement. Prior to the disclosures, our supporters were generally eager to
21 engage in activism promoting individual civil liberties. Following the disclosures, many individuals
22 have expressed to us a declining willingness to engage grassroots organizing out of concern that it
23 will make them a target of government harassment. This has caused them to become less involved in
24 our work where they otherwise would have maintained their involvement. Our organization’s
25 programs and funding have both suffered as a result.

26 5. Since the disclosure of the Associational Tracking Program, we have lost the ability
27 to assure our members and constituents, as well as all others who seek to communicate with us, that
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1 the fact of their communications to and with us will be kept confidential.

2 6. Since the disclosure, it has become clear that our previous assurances of confidentiality
3 to our supporters were in fact not true.

4 7. As a result, we can no longer promise our supporters that we will treat their
5 communications as confidential. Because the NSA's secret activities have been revealed only in part,
6 and because the government has not fully described the extent of the surveillance, we cannot be sure
7 that alternative modes of communication will be confidential.

8 8. Specifically, we have experienced the following:

9 (a) A supporter of the Bill Of Rights Defense Committee who currently lives in
10 Washington, D.C. and works as an artist has confirmed that NSA data collection chilled his personal
11 willingness to engage in political speech and activism. This person's fears are based on prior
12 incidents, rather than conjecture: he has previously endured police violence and misconduct in the
13 context of prior restraints on First Amendment activity, for which he has been awarded a favorable
14 court judgment.

15 (b) Across our network are thousands of grassroots activists who have proactively
16 challenged government spying in a variety of capacities, including by organizing marches, rallies,
17 protests, and other grassroots coalition activities. Each of these supporters has reasons to be
18 particularly concerned about NSA spying, and several have indicated feeling personally intimidated
19 by the prospect of government agencies monitoring their correspondence and telecommunications.

20 I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct. Executed on October __, 2013 at Washington, DC.

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24 _____
SHADID BUTTAR

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3 to our supporters were in fact not true.

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7 that alternative modes of communication will be confidential.

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10 Washington, D.C. and works as an artist has confirmed that NSA data collection chilled his personal
11 willingness to engage in political speech and activism. This person's fears are based on prior
12 incidents, rather than conjecture: he has previously endured police violence and misconduct in the
13 context of prior restraints on First Amendment activity, for which he has been awarded a favorable
14 court judgment.

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16 challenged government spying in a variety of capacities, including by organizing marches, rallies,
17 protests, and other grassroots coalition activities. Each of these supporters has reasons to be
18 particularly concerned about NSA spying, and several have indicated feeling personally intimidated
19 by the prospect of government agencies monitoring their correspondence and telecommunications.

20 I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct. Executed on October 30, 2013 in Washington, DC.

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24 SHAHID BUTTAR

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF BRANDON
COMBS FOR CALIFORNIA
ASSOCIATION OF FEDERAL
FIREARMS LICENSEES
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, BRANDON COMBS, hereby declare:

2 1. I am the President of California Association of Federal Firearms Licensees (CAL-
3 FFL). The facts contained in the following affidavit are known to me of my own personal
4 knowledge and if called upon to testify, I could and would competently do so.

5 2. Our organization advocates for the interests of its members and the general public
6 through strategic litigation, legislative efforts, and education. CAL-FFL expends financial and
7 other resources in both litigation and non-litigation projects to protect the interests of its
8 members and the public at large.

9 3. The collection of our phone records by the government has resulted in
10 (1) harassment, membership withdrawal, and/or discouragement of new members, and (2) other
11 consequences which objectively suggest an impact on, or 'chilling' of, the members'
12 associational rights. I say this because of the following facts:

13 4. Some people, including both current and prospective CAL-FFL members, do not
14 wish to have the calls to the Association tracked, monitored, or otherwise recorded by the
15 government due to the often sensitive nature of the communications.

16 5. The Associational Tracking Program activities have harmed us because we have
17 experienced a decrease in communications from members and constituents who had desired the
18 fact of their communication to Plaintiff to remain secret.

19 6. We have experienced an increase in people, both members and non-members,
20 expressing concern about the confidentiality of their communications.

21 7. Since the disclosure of the Associational Tracking Program, we have lost the
22 ability to assure our members and constituents, as well as all others who seek to communicate
23 with use, that the fact of their communications to and with us will be kept confidential.

24 8. We made assurances of confidentiality prior to the disclosures, but now we are
25 concerned that were based not based in fact.

26 9. Moreover, we remain unable to assure confidentiality to our members because we
27 are unable to have confidence that the governmental surveillance is limited to just what is now
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1 publicly available. We fear that other forms of surveillance may reach communications that our
2 members make with us through means other than the telephone, leaving us with no reasonable
3 suggestion for our members who wish to communicate with us confidentially.

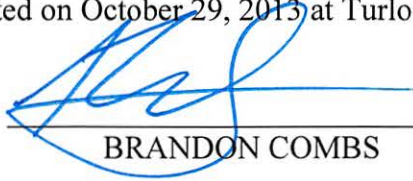
4 I declare under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on October 29, 2013 at Turlock, California.

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BRANDON COMBS

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2 members make with us through means other than the telephone, leaving us with no reasonable
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4 I declare under penalty of perjury under the laws of the United States of America that the
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BRANDON COMBS

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF ZAHRA
BILLOO FOR THE COUNCIL ON
AMERICAN-ISLAMIC RELATIONS
CALIFORNIA IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, Zahra Billoo, hereby declare:

2 1. I am the Executive Director of the San Francisco Bay Area office of the Council on
3 American-Islamic Relations, California chapter. The facts contained in the following affidavit are
4 known to me of my own personal knowledge and if called upon to testify, I could and would
5 competently do so.

6 2. CAIR-CA is a chapter of CAIR, America's largest Muslim civil liberties and
7 advocacy organization. Its mission is to enhance the understanding of Islam, encourage dialogue,
8 protect civil liberties, empower American Muslims, and build coalitions that promote justice and
9 mutual understanding. Each year we provide direct and free legal services to hundreds of California
10 Muslims complaining of discrimination and targeting based on their religious beliefs. We reach
11 thousands more through our "know your rights" workshops at campuses, community centers, and
12 mosques across the state.

13 3. The compelled disclosure of our phone records to the government has resulted in an
14 inability to assure our constituency that the fact of their communication with us is, indeed,
15 confidential, leading to an increased reticence on the part of the California Muslim community to
16 seek our organization's assistance. This reticence, in turn, undermines our ability to effectively
17 advance and advocate CAIR's mission: enhancing the understanding of Islam and protecting the
18 civil liberties of our constituents.

19 4. I say this based on the following facts:

20 5. CAIR provides legal services and advice to individuals unjustly targeted by
21 government surveillance and investigations. Of the hundreds of individuals we represent and serve,
22 many call with complaints of FBI visits and other law enforcement harassment. These individuals
23 are overwhelmingly innocent Americans who are being contacted by federal law enforcement to be
24 "voluntarily" questioned about their religious beliefs and political activities.

25 6. For example: in *Islamic Shura Council v. FBI*, 11 plaintiffs including CAIR-CA and
26 CAIR-CA's Greater Los Angeles Area Executive Director Hussam Ayloush, learned that the FBI
27 had been monitoring them for an extended period of time, had kept extensive records of this
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1 surveillance and had then misrepresented having any documents about it in response to a FOIA
2 request filed by plaintiffs

3 7. To provide another example, between 2011 and 2012, CAIR-CA's attorneys have
4 assisted over 170 Californians complaining of FBI visits and harassment. In the overwhelming
5 majority of these cases, the complainants were never charged with any crime. In instances where the
6 complainants did not assert their right to counsel immediately and did agree to speak with law
7 enforcement, they were then surprised to be questioned about their religious beliefs and practices.

8 8. Many members of the Muslim community are afraid of upsetting law enforcement by
9 asserting their rights. They often believe the promises and threats made by FBI agents to
10 "complicate" or escalate things, talk to their neighbors and employers, or even assist with or harm
11 immigration applications. Further, many members of the community are even unaware of their rights
12 and so cooperate from a broader place of fear and a general sense of unawareness of the
13 unconstitutional nature of the interaction. Because of these concerns, our clients and constituents
14 often ask for the utmost confidentiality when seeking our help.

15 6. Further, many members of the California Muslim community fear their
16 communications are being surveilled by law enforcement. These fears are not speculative.

17 7. For example, CAIR-CA represents Yasir Afifi. In 2010, Afifi discovered what he later
18 learned was a GPS tracking device under his car during a routine oil change. He took pictures of the
19 device, placed them on the internet to attempt to learn what it was, and just a couple of days later was
20 visited by FBI agents outside his apartment. The agents identified themselves and in no uncertain
21 terms asked for the device to be returned. They threatened him, if he didn't return the device. When
22 he did, the agents questioned him about his family and community members. FOIA documents
23 obtained on his behalf, as well as conversations with one of the FBI agents and the mechanic who
24 performed the oil change confirmed Afifi's account of what happened.

25 8. Similarly, the ACLU and Advancing Justice-Asian Law Caucus obtained thousands of
26 pages of documents revealing the FBI's "outreach" efforts in Northern California mosques. The
27 documents showed that for several years agents had visited dozens of Bay Area Muslim houses of
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1 worship under the guise of conducting outreach but instead had been gathering information, which
2 would be filed as intelligence. While many community leaders had for so long been receptive to law
3 enforcement attempts to build relationships, learning later that outreach was never the primary
4 objective confirmed the fears of many.

5 9. CAIR was able to make assurances of confidentiality prior to the disclosure of the
6 Associational Tracking Program and attempt to continue to do so. However, since the disclosure, we
7 cannot assure our clients and constituents, as well as all others who seek to communicate with us, that
8 the fact of their communications to and with us are confidential.

9 10. Further, we can no longer assure our constituents that their communications with us
10 will not, in the eyes of the federal government, implicate them or otherwise create a relationship with
11 another individual who has also contacted CAIR to seek assistance.

12 11. To illustrate, CAIR-CA's four offices manage intake lines that allow the general
13 public, and, more specifically, members of the American Muslim community, to call to seek help if
14 they are contacted by law enforcement or if they have concerns about law enforcement, surveillance,
15 or travel abroad. Some callers explain that they are afraid to speak over the phone for fear of
16 monitoring, and will either withhold all identifying information in conversations or will insist on
17 meeting in person.

18 12. The overwhelming majority of people who contact us are never indicted or otherwise
19 formally accused of any crime.

20 13. Nevertheless, CAIR-CA's work does involve cases (some high profile) involving
21 individuals who have been charged with aiding terrorism or who have been monitored by the FBI and
22 Joint Terrorism Task Forces for their religious and political activism.

23 14. It is my understanding that the government uses the Associational Tracking Program
24 to investigate the contacts and relationships between those suspected of terrorism-related activities
25 and crimes.

26 15. It is also my understanding that, when using the Associational Tracking Program, the
27 government often examines multiple "degrees" of relationships between individuals, or "hops" of
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1 associations. This means the government can examine the contact patterns and relationships between
2 an individual and their contacts; their contacts' contacts; and the contacts of their contacts' contacts. I
3 understand that these webs of associations can expand to include many thousands, if not millions, of
4 people.

5 16. By virtue of this "guilt by association" form of analysis, large swaths of the California
6 Muslim community may be subject to government scrutiny, simply by virtue of having contacted
7 CAIR and because of CAIR's advocacy efforts on behalf of those wrongly accused. That is, if a
8 CAIR client accused of a terrorism-related crime contacts us, all those who contact CAIR may
9 subsequently be put at risk of government scrutiny, solely through their shared "association" with
10 CAIR.

11 17. Since the disclosure of the Associational Tracking Program, we have lost the ability to
12 confidently assure American Muslim community members, as well as all others who seek to
13 communicate with us, that the fact of their communications to and with us will be kept confidential.

14 18. When the very act of communicating by phone with those we aim to serve puts our
15 constituents at risk for further government scrutiny, our organizational mission is essentially
16 undermined. The Associational Tracking Program undermines CAIR's ability to effectively
17 accomplish its mission of defending the civil liberties of American Muslims.

18 I declare under penalty of perjury under the laws of the United States of America that
19 the foregoing is true and correct. Executed on _____, 2013 at _____, California.

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22 _____
ZAHRA BILLOO

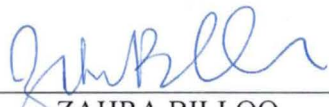
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3 understand that these webs of associations can expand to include many thousands, if not millions, of
4 people.

5 16. By virtue of this "guilt by association" form of analysis, large swaths of the California
6 Muslim community may be subject to government scrutiny, simply by virtue of having contacted
7 CAIR and because of CAIR's advocacy efforts on behalf of those wrongly accused. That is, if a
8 CAIR client accused of a terrorism-related crime contacts us, all those who contact CAIR may
9 subsequently be put at risk of government scrutiny, solely through their shared "association" with
10 CAIR.

11 17. Since the disclosure of the Associational Tracking Program, we have lost the ability to
12 confidently assure American Muslim community members, as well as all others who seek to
13 communicate with us, that the fact of their communications to and with us will be kept confidential.

14 18. When the very act of communicating by phone with those we aim to serve puts our
15 constituents at risk for further government scrutiny, our organizational mission is essentially
16 undermined. The Associational Tracking Program undermines CAIR's ability to effectively
17 accomplish its mission of defending the civil liberties of American Muslims.

18 I declare under penalty of perjury under the laws of the United States of America that
19 the foregoing is true and correct. Executed on November 1, 2013 at Santa Clara California.

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22 ZAHRA BILLOO
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF GADEIR ABBAS
ON BEHALF FOR THE COUNCIL
ON AMERICAN-ISLAMIC
RELATIONS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, Gadeir Abbas, hereby declare:

2 1. I am the Staff Attorney with CAIR Foundation. The facts contained in the following
3 affidavit are known to me of my own personal knowledge and if called upon to testify, I could and
4 would competently do so.

5 2. Our organization seeks to enhance the understanding of Islam, encourage dialogue,
6 and empower American Muslims. Additionally, CAIR Foundation provides legal services to
7 persons who are injured by private or governmental actors subjecting them to discriminatory
8 treatment. Many of the individuals who CAIR Foundation represents are on government watch lists
9 that prevent or inhibit their travel, some of whom are located outside the United States. Others are
10 the target of coercive FBI requests to submit to interrogation.

11 3. The collection of our phone records by the government has and continues to (1)
12 inhibit CAIR Foundation's ability to communicate with its clients in furtherance of its legal services
13 and (2) have other consequences which objectively suggest an impact on, or a 'chilling' of, our
14 organization's associational rights.

15 4. I say this because of the following facts:

16 a. On numerous occasions, prospective clients and current clients have been
17 unwilling to communicate frankly over the phone or via email due to concerns of
18 government surveillance. This has hindered my ability to provide legal services
19 and has also interfered with my ability to assess whether or not to retain
20 particular clients.

21 b. Additionally, believing that the United States would possess records pertaining to
22 any communication I make, I have been forced to counsel clients in person rather
23 than over the phone to avoid surveillance. In some instances, we have removed
24 the batteries from our phones when particularly sensitive discussions arose to
25 prevent the collection of data.

26 c. In a few instances, I have had to utilize specialized encryption computer software
27 to communicate with persons overseas. Such communications cannot and do not
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1 qualitatively replace the utility of communicating over the phone.

2 d. And as a general matter, because many of the persons CAIR Foundation
3 represents are subject to tangible manifestations of federal government scrutiny,
4 discretion and confidentiality in their communications and associations with us is
5 of paramount importance to such persons. Knowing that the government is
6 certainly logging communications such persons may have with CAIR Foundation
7 will deter these persons from seeking our assistance.

8 e. The Associational Tracking Program has also interfered with my ability to
9 communicate with co-counsel about issues that pertain to our legal representation
10 of clients.

11 5. Thus, the Associational Tracking Program activities have harmed us because we have
12 assumed extra burdens and have otherwise been inhibited in providing our legal services with clients
13 who had desired the fact of their communication to us to remain secret.

14 6. Further, we can no longer assure prospective clients, current clients, constituents, and
15 CAIR affiliates that their communications with us will not, in the eyes of the federal government,
16 implicate them or otherwise create a relationship with another individual who has also contacted
17 CAIR to seek assistance.

18 7. To illustrate, CAIR Foundation serves as the national headquarters for all local and
19 regional CAIR offices. Although each local affiliate is an independent legal entity, CAIR Foundation
20 frequently communicates by phone with those offices.

21 8. CAIR Foundation, and most CAIR affiliates, provide legal advice and support for
22 Muslims who are being threatened with or who have experienced law enforcement harrassment of
23 some nature. The overwhelming majority of people who contact us are never indicted, however, or
24 are never otherwise formally accused of any crime.

25 9. Nevertheless, CAIR Foundation's work does involve cases (some high profile)
26 involving individuals who have been charged with aiding terrorism or who have otherwise come
27 under formal government indictment or scrutiny, such as those on watch lists maintained by the
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1 federal government which are comprised of individuals the government considers “known or
2 appropriately suspected terrorists.”

3 10. It is my understanding that the government uses the Associational Tracking Program
4 to investigate the contacts and relationships of those suspected of terrorism-related activities and
5 crimes.

6 11. It is also my understanding that, when using the Associational Tracking Program, the
7 government often examines multiple “degrees” of relationships between individuals, or “hops” of
8 associations. This means the government can examine the contact patterns and relationships between
9 an individual and their contacts; their contacts’ contacts; and the contacts of their contacts’ contacts. I
10 understand that these webs of associations can expand to include many thousands, if not millions, of
11 people.

12 12. By virtue of this “guilt by association” form of analysis, large swaths of the American
13 Muslim community may be subject to government scrutiny, simply by virtue of having contacted
14 CAIR and because of CAIR’s advocacy efforts on behalf of those who have sought CAIR’s help.
15 That is, if a CAIR client accused or suspected of a terrorism-related crime contacts us, all those who
16 contact CAIR — including our constituents, prospective clients, other CAIR affiliates, and even
17 CAIR affiliate’s prospective clients — are accordingly put at risk of government scrutiny, solely
18 through their shared “association” with CAIR.

19 13. Since the disclosure of the Associational Tracking Program, we have lost the ability to
20 confidently assure American Muslim community members, as well as all others who seek to
21 communicate with us, that the fact of their communications to and with us will be kept confidential.

22 14. When communications to which we are a party trigger additional government scrutiny,
23 our organizational mission is undermined. The Associational Tracking Program makes it more
24 difficult for CAIR to effectively accomplish its mission of defending the civil liberties of American
25 Muslims.

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1 I declare under penalty of perjury under the laws of the United States of America that
2 the foregoing is true and correct. Executed on November 1, 2013 at Washington DC.

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GADEIR BBAA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF JENNIFER
NIMER FOR THE COUNCIL ON
AMERICAN-ISLAMIC RELATIONS
OHIO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, Jennifer Nimer, hereby declare:

2 1. I am the Legal Director for the Council on American Islamic Relations – Ohio
3 (“CAIR-OHIO”). The facts contained in the following affidavit are known to me of my own
4 personal knowledge and if called upon to testify, I could and would competently do so.

5 2. CAIR-Ohio is the largest Muslim civil rights organization in Ohio. We have three
6 active chapters in Cleveland, Columbus, and Cincinnati. We handle thousands of telephone calls per
7 year from our community. We serve approximately 200,000 Muslims across the state of Ohio.

8 3. CAIR-OHIO provides legal services to persons who are injured due to discriminatory
9 treatment by private or governmental actors.

10 4. In addition to working on cases involving discrimination, we also handle thousands of
11 referrals and inquiries from the Muslim and interfaith communities across the state. The referrals
12 could be seeking anything from a speaker for an interfaith panel to requests for help with a domestic
13 violence situation, immigration issues, requests for marital or psychiatric counseling, requests for
14 charitable assistance, drug abuse issues, juvenile legal cases, etc.

15 5. In short, CAIR-Ohio is a clearing house for all things related to the Muslim
16 community, as we are the main contact center for Muslims in Ohio. We frequently handle some of
17 the most sensitive and personal issues in the community, issues that require a high degree of trust,
18 confidentiality and privacy between us and our constituents.

19 6. The collection of our phone records by the government has and continues to (1)
20 inhibit CAIR-Ohio’s ability to communicate with individuals seeking our help and (2) has other
21 consequences which objectively suggest an impact on, or ‘chilling’ of, our organization’s
22 associational rights.

23 7. I say this because of the following facts:

24 8. On numerous occasions, prospective clients and current-clients have been unwilling to
25 communicate frankly over the phone or email due to concerns of government surveillance. This has
26 hindered my organization’s ability to provide legal services and has also interfered with my
27 organization’s ability to assess whether or not to help or retain particular clients.

1 9. Additionally, believing that the United States would possess records pertaining to any
2 communication my organization makes, we have been forced to counsel clients in person rather than
3 over the phone to avoid surveillance.

4 10. And as a general matter, because many of the persons CAIR-OHIO represents are
5 subject to tangible manifestations of federal government scrutiny - discretion and confidentiality in
6 their communications and associations with us is of paramount importance to such persons.
7 Knowing that the government is certainly logging communications such persons may have with
8 CAIR-OHIO deters these persons from seeking our assistance.

9 11. Thus, the Associational Tracking Program activities have harmed us because we have
10 assumed extra burdens and have otherwise been inhibited in providing our legal services to clients
11 who had desired the fact of their communication to us to remain secret.

12 12. CAIR-OHIO's work does involve cases (some high profile) involving individuals
13 who have been charged with aiding terrorism or have otherwise come under formal government
14 indictment or scrutiny.

15 10. It is my understanding that the government uses the Associational Tracking Program
16 to investigate the contacts and relationships between those suspected of terrorism-related activities
17 and crimes.

18 11. It is also my understanding that, when using the Associational Tracking Program, the
19 government often examines multiple "degrees" of relationships between individuals, or "hops" of
20 associations. This means the government can examine the contact patterns and relationships between
21 an individual and their contacts; their contacts' contacts; and the contacts of their contacts' contacts.
22 I understand that these webs of associations can expand to include many thousands, if not millions,
23 of people.

24 12. By virtue of this "guilt by association" form of analysis, large swaths of the Ohio
25 Muslim community may be subject to government scrutiny, simply by virtue of having contacted
26 CAIR-OHIO and because of CAIR-OHIO's advocacy efforts on behalf of those wrongly accused.
27 That is, if a CAIR-OHIO client accused or suspected by government of wrongdoing contacts us, all
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1 those who contact CAIR-OHIO — including our constituents and prospective clients — are
2 accordingly put at risk of government scrutiny, solely through their shared “association” with CAIR-
3 OHIO.

4 13. Since the disclosure of the Associational Tracking Program, we have lost the ability to
5 confidently assure Ohio Muslim community members, as well as all others who seek to communicate
6 with us, that the fact of their communications to and with us will be kept confidential.

7 14. When the very act of communicating by phone with those we aim to serve puts our
8 constituents at risk for further government scrutiny, our organizational mission is essentially
9 undermined. The Associational Tracking Program makes it more difficult for CAIR-OHIO to
10 effectively accomplish its mission of defending the civil liberties of Muslims in Ohio.

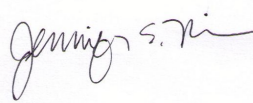
11 15. Our organization also sometimes works on international causes that are not necessarily
12 popular causes. For example, we have helped arrange rallies for issues related to the Palestinian cause
13 as well as actions supporting the cessation of violence in Syria. Our Cleveland Chapter organized
14 dozens of local groups to host an event in Cleveland to break the Israeli Siege of Gaza. Our Cleveland
15 Chapter also organized hundreds of protestors to rally against Israel’s war against Lebanon and
16 organized hundreds of people to protest against the purchase of Israel Bonds by local officials in
17 Cuyahoga County. These actions in support of unpopular causes often go against current US foreign
18 policy and involve “countries of interest” to the US government. These actions are frequently
19 organized via telephone banking to community members. Due to the Associational Tracking
20 Program, CAIR-Ohio is now forced to reconsider whether it can subject community members to
21 government scrutiny during such telethon campaigns. As such, when the very act of communicating
22 by telephone increases the chances of scrutiny upon the communities we serve, we are forced to make
23 difficult choices about the types of activities we engage in with respect to our constituents, thus
24 forcing us to forgo certain first amendment activities.

25 16. Additionally, if the government has an interest in the telephone toll records and
26 metadata of particular “communities of interest” in order to drill down into calling patterns of
27 particular “persons of interest” within certain “communities of interest”, it is highly likely that
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1 government would have an interest in the myriad associations of CAIR-OHIO, the main organization
2 that handles legal and social issues for the Ohio Muslim community. Because of the nature and
3 volume of calls we receive and make to the Ohio Muslim community, it is reasonable to believe that
4 our organization would be subjected to additional scrutiny through our telephone toll records.

5 I declare under penalty of perjury under the laws of the United States of America that
6 the foregoing is true and correct. Executed on October 28, 2013 at Columbus, Ohio.

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JENNIFER NIMER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF GENE
HOFFMAN, JR. FOR CALGUNS
FOUNDATION, INC. IN SUPPORT
OF PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, GENE HOFFMAN, JR., hereby declare:

2 1. I am the Chairman of The Calguns Foundation (“CGF”). The facts contained in the
3 following affidavit are known to me of my own personal knowledge and if called upon to testify, I
4 could and would competently do so.

5 2. Our organization is a non-profit member-based organization based in San Carlos,
6 California. CGF defends Californians who are unjustly accused of violating California’s byzantine
7 firearms laws while also working to vindicate the civil rights of California gun owners by
8 challenging unconstitutional California laws. Additionally, we educate the public and government
9 about California gun laws and the civil rights of California gun owners.

10 3. The collection of our phone records by the government has resulted in (1) harassment,
11 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
12 objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.

13 4. I say this because of the following facts: As part of our service of defending those
14 unjustly charged with violating California gun law, we run an emergency hotline that also serves as a
15 general information resource. Gun owners in California are justifiably concerned about whether any
16 of the firearms they own are illegal in California as California makes the possession of ordinary
17 firearms (in the other 49 states) a crime. Further, California gun laws prohibit certain combinations
18 of cosmetic features on rifles or pistols. Much of CGF’s work is performed on message boards or via
19 email, or social media. However, gun owners who are worried that they are in possession of a
20 banned firearm do not wish to create an electronic trail of their inquiry and have traditionally turned
21 to the phone to make that inquiry. Being known to have called the CGF hotline would leave a trail of
22 evidence detrimental to any criminal action, and furthermore, the fear that such a call will give the
23 government proof of the state of mind that the otherwise law abiding gun owner knew she was
24 committing a crime.

25 5. Calguns has members who would be very worried about having their calls taped and
26 stored by NSA/FBI when they’re enquiring about whether firearms and parts they possess are
27 felonious in California. It has a phone number specifically so people or their loved ones can call

2 6. The Associational Tracking Program activities have harmed us because we have
3 experienced a decrease in communications from members and constituents who had desired the fact
4 of their communication to Plaintiff to remain secret. Many gun owners are distrustful of government
5 or of having any record of their status as gun owners. At least one of our members is only known to
6 us by his online alias and he would only directly contact us via telephone from a blocked number. He
7 has not phoned since the disclosures that lead to this action.

8 7. Many of our constituents have expressed concern about the confidentiality of the fact
9 of their telephone communications with us. Those who do call now leave fewer details in their
10 voicemails of the concern or issue they are calling about, forcing staff and volunteers to make
11 additional contacts to the caller, or more quickly refer the caller to one of our outside attorneys. This
12 creates more expense than if a non-attorney volunteer could have answered a question.

13 8. Since the disclosure of the Associational Tracking Program, we have lost the ability
14 to assure our members and constituents, as well as all others who seek to communicate with us, that
15 the fact of their communications to and with us will be kept confidential.

16 9. We are also concerned because it seems that the promises of confidentiality from the
17 government that we made prior to the disclosures were untrue.

18 10. Moreover, the ongoing secrecy of the government's surveillance activities, and the
19 various incomplete or misleading government statements about it, have left us unable to reassure our
20 members and associates that additional forms of surveillance, as yet unconfirmed or currently denied
21 by the government are not also occurring, leaving us with no alternative forms of communication
22 that we can use and still assure those who contact us will remain confidential.

23 11. The telephone provider for the Calguns is Toktumi d.b.a. Line2.

25 I declare under penalty of perjury under the laws of the United States of America that
26 the foregoing is true and correct. Executed on October, ³⁰ 2013 at Redwood City, California.


GENE HOFFMAN, JR.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF KAY GUINANE
FOR CHARITY & SECURITY
NETWORK IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGEMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, KAY GUINANE, hereby declare:

2 1. I am the Director of the Charity & Security Network. The facts contained in the
3 following affidavit are known to me of my own personal knowledge and if called upon to testify, I
4 could and would competently do so.

5 2. Our organization works to protect civil society's ability to carry out effective
6 peacebuilding projects, humanitarian aid, development and other public benefit work in a manner
7 consistent with human rights principles and democratic values. To accomplish this, the Charity &
8 Security Network focuses on convening stakeholders and sponsoring dialog; raising awareness,
9 dispelling myths and promoting a framework based on protecting the positive contribution civil
10 society makes to human security; and coordinating advocacy by engaging the nonprofit sector with
11 to support needed changes in national security rules.

12 3. The collection of our phone records by the government has resulted in other
13 consequences which objectively suggest an impact on, or 'chilling' of, the members' associational
14 rights.

15 4. I say this because: 1.) the issues we address are sensitive, involving the nexus of
16 national security, human rights and humanitarian law. To do our work effectively we must be able to
17 share information among members and between staff and membership. The Associational Tracking
18 Program has inhibited our ability to share information as needed. 2.) One of our core functions is to
19 facilitate dialog between civil society and government to address the problems humanitarian,
20 peacebuilding, human rights defenders and others have in carrying out their missions due to overly
21 broad national security rules. Our ability to plan, facilitate and develop strategy for such dialog has
22 been inhibited by the knowledge that our communications information is collected and retained by
23 the government.

24 5. We have experienced an increase in members expressing concern about the
25 confidentiality of the fact of their communications, among each other and with staff. Because our
26 members are located in many different places, it is necessary to use conference calls and email
27 listservs for ongoing communications. This includes conducting meetings of our Advisory

1 Board as well as topical working groups that collect and assess information and develop strategies.
2 Some members have declined to discuss certain issues over the phone, making it necessary to plan
3 in-person meetings that will incur extra time and travel costs. Other members have declined to hold
4 some discussions by email.

5 6. Since the disclosure of the Associational Tracking Program, we have lost the ability
6 to assure our members and constituents, as well as all others who seek to communicate with us, that
7 the fact of their communications to and with us will be kept confidential. We have had to develop
8 factual materials to share to explain the scope of the program and its impact on our operations.

9 7. We assumed that, we had confidentiality in our communications with us prior to the
10 current revelations, but we've since learned that we did not actually have confidentiality.

11 8. Our concerns about lack of confidentiality have become more acute because of the
12 government's ongoing refusal to give a clear answer about the extent to which organizations like
13 ours are subject to surveillance.

14 9. We have been forced to expend time and resources on exploring new technologies
15 that may protect the privacy of our communications, although we cannot be sure they will actual
16 ensure confidentiality. Some activities are delayed until in-person meetings can be arranged. On an
17 ongoing basis, the surveillance program inhibits the ability of staff and membership to communicate
18 about sensitive factual and strategic issues. This hampers our ability to effectively carry out our
19 work.

20 I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct. Executed on October __, 2013 at _____, _____.
22 [City] [State]

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24 _____
KAY GUINANE

1 Board as well as topical working groups that collect and assess information and develop strategies.
 2 Some members have declined to discuss certain issues over the phone, making it necessary to plan
 3 in-person meetings that will incur extra time and travel costs. Other members have declined to hold
 4 some discussions by email.

5 6. Since the disclosure of the Associational Tracking Program, we have lost the ability
 6 to assure our members and constituents, as well as all others who seek to communicate with us, that
 7 the fact of their communications to and with us will be kept confidential. We have had to develop
 8 factual materials to share to explain the scope of the program and its impact on our operations.

9 7. We assumed that, we had confidentiality in our communications with us prior to the
 10 current revelations, but we've since learned that we did not actually have confidentiality.

11 8. Our concerns about lack of confidentiality have become more acute because of the
 12 government's ongoing refusal to give a clear answer about the extent to which organizations like
 13 ours are subject to surveillance.

14 9. We have been forced to expend time and resources on exploring new technologies
 15 that may protect the privacy of our communications, although we cannot be sure they will actual
 16 ensure confidentiality. Some activities are delayed until in-person meetings can be arranged. On an
 17 ongoing basis, the surveillance program inhibits the ability of staff and membership to communicate
 18 about sensitive factual and strategic issues. This hampers our ability to effectively carry out our
 19 work.

20 I declare under penalty of perjury under the laws of the United States of America that
 21 the foregoing is true and correct. Executed on October 29, 2013 at Washington, D.
 22 [City] [State]

23 
 24 KAY GUINANE

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF JAY
JACOBSON FOR THE FRANKLIN
ARMORY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, JAY JACOBSON, hereby declare:

2 1. I am the President of Franklin Armory. The facts contained in the following affidavit
3 are known to me of my own personal knowledge, and if called upon to testify, I could and would
4 competently do so.

5 2. Our organization designs, manufactures, and distributes firearms for resale through
6 our dealer network in the commercial marketplace.

7 3. The collection of our phone records by the government is an unreasonable harassment
8 and an interference of our legal business enterprise. Furthermore, our customers are now less likely
9 to contact Franklin Armory for warranty repairs, customer service information, and/or price quotes
10 because the simple act of contacting us will identify the caller as a likely gun owner. Undoubtedly
11 this scenario has had a chilling effect on all of our customers and has led to an unnecessary
12 constriction of information exchange between us (the manufacturer) and our end-user customers.

13 4. We know that we have been harmed by the NSA's activities because we have had
14 customers articulate that they will be more careful about who they call and when so that they may
15 avoid being targeted and identified as a gun owner. Undoubtedly, the government's actions have
16 had a chilling effect. Concurrently, we have noticed that phone calls to our facility have decreased
17 by over 70%. Even considering market conditions and a traditional summertime lull, the decrease in
18 call volume is notable.

19 5. We have also had customers on Facebook take a public stand against the actions of
20 the NSA. The customer responses have invariably been grounded in Constitutional arguments.
21 Undoubtedly, these patriotic customers realize that they have overtly posted dissenting comments on
22 a public forum, but in doing so, they have brought up important points. One customer noted that he
23 has already lost the ability to remain an unidentified gun owner. Another pointed out that the NSA is
24 operating in derogation of the Firearm Owners Protection Act as well as the Constitution. No one
25 has voiced support for the NSA's actions.

26 6. Our telephone service provider is Verizon Business.
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on October __, 2013 at Minden, Nevada.

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JAY JACOBSON
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on October 29, 2013 at Minden, Nevada.

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5 JAY JACOBSON
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF MATTHEW F.
WOOD FOR FREE PRESS IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, MATTHEW F. WOOD, hereby declare:

2 1. I am the Policy Director of Free Press. The facts contained in the following affidavit
3 are known to me of my own personal knowledge and if called upon to testify, I could and would
4 competently do so.

5 2. Free Press is a non-profit, advocacy organization building a nationwide movement to
6 change media and technology policies. We work with our 625,000 activists throughout the United
7 States and around the world to ensure that technological tools empower people and strengthen
8 democracy rather than undermining it. We call for universal and affordable access to an open
9 Internet, freedom of the press, and other policies that promote free communication, access to
10 information, and individual privacy. Our advocacy depends on organizing our members and
11 amplifying their voices in policy debates, either by gathering written petitions from them, or by
12 facilitating their direct interaction via phone and in person with their elected representatives and
13 other decision makers.

14 3. The collection of our phone records by the government has resulted in (1) harassment,
15 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
16 objectively suggest an impact on, or “chilling” of, the members’ associational rights.

17 4. I say this because our members who wish to speak about the Associational Tracking
18 Program and other such government programs have conveyed to me, and to other members of our
19 staff, their reservations and increased concern about discussing such topics in the knowledge that the
20 same government is tracking their communications – and in the belief that speaking out against these
21 programs could, perversely, result in additional scrutiny and monitoring of such members’
22 communications with our organization, government officials, and our members’ friends and family
23 members.

24 5. The Associational Tracking Program activities have thus harmed Free Press because
25 we have experienced a decrease in telephone communications from members and constituents who
26 had desired the fact of their communication to our organization and to their elected representatives
27 either to remain secret or to remain free from such tracking and monitoring.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October __, 2013 at Washington, D.C.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 31, 2013 at Washington, D.C.

DECLARATION OF MATTHEW F. WOOD FOR FREE PRESS ISO
PLAINTIFFS' MSJ
CASE NO. 13-cv-3287 JSW

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF JOHN
SULLIVAN FOR FREE SOFTWARE
FOUNDATION IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, JOHN SULLIVAN, hereby declare:

2 1. I am the Executive Director of the Free Software Foundation. The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify,
4 I could and would competently do so.

5 2. Our organization helped pioneer a worldwide free software movement and provides
6 an umbrella of legal and technical infrastructure for collaborative software development
7 internationally. We advocate for the freedom, privacy, and autonomy of computer users, primarily
8 by making sure that the software running on their computers is fully under their control. Free “as in
9 freedom” software users choose their software on ethical grounds according to these concerns, the
10 same way many vegetarians reject meat or labor activists reject sweatshop clothing. Because free
11 software is developed collaboratively and often by grassroots communities, it is a force for social
12 change. Its developers are very aware of what corporate and government interests are being
13 challenged with their software.

14 3. The collection of our phone records by the government has resulted in (1) harassment,
15 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
16 objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.

17 4. I say this because of the following facts:

18 a. Many of our supporters are software developers working on an operating
19 system to be used instead of Microsoft or Apple, called GNU/Linux. Unlike
20 those proprietary operating systems, all of the code for GNU/Linux is
21 publicly available for inspection and modification. A widespread motivation
22 for developing software this way is to make it very difficult for “backdoors”
23 such as those now known to be part of Microsoft Windows, to be introduced
24 by the government or corporations. Even though their work is legal, because
25 these developers know that their work may complicate government
26 surveillance efforts, they are concerned about being targeted. A key
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1 organizational function of the FSF is to serve as an important point of contact
2 and coordination between developers working on this project. If we cannot
3 promise the confidentiality of our communications, this category of our
4 supporters will think twice before associating with us or with other members
5 through us.

6 b. Other of our software developer members are working in areas that are
7 legally controversial. They work on free software to protect anonymity
8 online, or to circumvent technological protection measures in order to access
9 copyrighted works to which they have a legal right, or on encryption software
10 that, while legal, may be used by criminals as well. These members are even
11 more concerned about the privacy of their communications, living in fear that
12 their work may be misconstrued as illegal.

13 c. As one of our members has told us directly, “While I do work very openly in
14 my day to day life in free software, and I am quite clearly an outspoken
15 advocate of free software, and the free software movement, the fact private
16 communications may be turned over to the government would result in a sort
17 of chilling effect. For instance, I would be reluctant to ask the FSF questions
18 about the legal status of code with federal regulation, such as the implications
19 of distributing cryptographic software under the GNU GPL, or questions
20 regarding privacy software, such as Tor, for fear it may implicate me later,
21 when someone else misuses such software. It would place me in an awkward
22 situation, one where I cannot ask a question about software without being
23 lumped into a group which may misuse such software. If I have misgivings
24 about such things, as an open and outspoken free software contributor, I fear
25 what the pseudo-anonymous contributors to free software communities must
26 think.”

27 5. This chilling effect extends beyond our members who are software

7. Since the disclosure of the Associational Tracking Program, we have lost the ability to assure our members and constituents, as well as all others who seek to communicate with us, that the fact of their communications to and with us will be kept confidential.

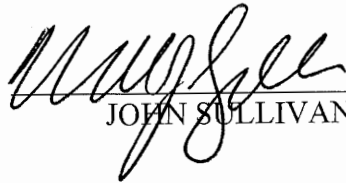
9. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by the intense secrecy of its activities, have left us unable to reassure our members and associates that additional forms of surveillance, as yet unconfirmed or actively denied by the government are not also occurring, leaving us with no alternative forms of confidential communication. This is extremely damaging for us, because the success of our movement depends concretely on the ability for dispersed individuals to collaborate freely and openly.

27 |||

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on October __, 2013, at Boston, MA, 02110.

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JOHN SULLIVAN
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on October 30, 2013, at Boston, MA, 02110.

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5 JOHN SULLIVAN
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF THE
REVEREND RICK HOYT FOR THE
FIRST UNITARIAN CHURCH OF
LOS ANGELES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, THE REVEREND RICK HOYT, hereby declare:

2 1. I am the Minister of the First Unitarian Church of Los Angeles. The Minister is the
3 senior staff position of the organization which is owned by the church members through a Board of
4 Trustees. The facts contained in the following affidavit are known to me of my own personal
5 knowledge and if called upon to testify, I could and would competently do so.

6 2. Our organization does charitable work as a non-profit religious organization. We
7 serve our church members and their families (about 100 persons/week) with programs of worship,
8 religious education, fellowship, pastoral care, social justice, evangelism, and connection to the
9 Unitarian Universalist tradition. And we serve the neighbors of the church (about 1,000
10 persons/week) with programs of education, health, social service and community activity.

11 3. The collection of our phone records by the government has resulted in (1) harassment,
12 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
13 objectively suggest an impact on, or 'chilling' of, the members' associational rights.

14 4. I say this because of the following facts:

15 a) Government surveillance is not a paranoid fantasy for First Church but a
16 historical fact. In the 1950s some members of First Church and our minister, Rev. Stephen
17 Fritchman, were subpoenaed by the House Un-American Activities Committee. Our minister was
18 required to testify before the committee on three separate occasions. Rev. Fritchman writes in his
19 autobiography (*Heretic*, Skinner House, pubs., 1977; pp.122-123) that "My new congregation [First
20 Church] had members who had repeatedly been visited by the F.B.I. to know whether they were
21 ready to talk about their past associations... old sins or new ones; were they ready to talk and name
22 their friends. I was told again and again of these merciless house calls by the pair of crew-cut, well-
23 dressed, deadpan visitors – what we came to know as the 'Brooks Brothers,' boys from J. Edgar
24 Hoover's local branch of the Federal monitors of our words and deeds." Plainclothes government
25 agents regularly attended church services at this time to hear what was preached and see who
26 attended. First Church discontinued keeping a membership list during this time to avoid implicating
27 our members. Some of our current members have been with the church long enough to remember

1 government surveillance of the church; and we have all heard the stories. After his retirement Rev.
2 Fritchman received a copy of his FBI file through a freedom of information request. We keep it in
3 our archives.

4 b) In the 1980s, First Church responded to the pleas of our neighbors, many of
5 whom are immigrants from Central America, to provide sanctuary from the civil wars they had fled
6 in their home countries. US policy at the time put them in danger of deportation. First Church
7 resisted US policy by offering sanctuary to our neighbors in our church building and some of these
8 refugees are now church members. Some of these First Church members have personal stories of
9 being physically tortured at the hands of their government. They understand the real possibility and
10 danger of coming to the attention of the government for political action, and they bring this
11 perspective to their current lives in the US. They are understandably wary of government
12 surveillance as they continue to speak out on issues and advocate for public policies that run counter
13 to current US positions.

14 c) Our church continues to be a fierce advocate for justice for the oppressed and
15 marginalized in Los Angeles, the United States and worldwide, including advocating for change to
16 existing US policy such as around immigration laws, rights for gays and lesbians, or military action.
17 This work is directly tied to our Unitarian Universalist faith principle of the power of individuals to
18 amplify their voices through collective organizations to change society. Although some church
19 members may welcome the public attention this advocacy work brings, others may choose, and
20 should be allowed to choose, to remain private and to speak out only through the voice of the church
21 organization. The threat of exposure has caused potential visitors to stay away, and members to
22 withdraw from the community, resulting in the church losing its voice and damaging our faith and
23 our organization. Even more damaging is the effect on our neighbors, many of whom depend on the
24 church for basic necessities such as our weekly food distribution, and life-enhancing programs such
25 as exercise classes, and math tutoring for children. Our neighbors now fear that a simple contact
26 with the church inquiring about a church program will bring scrutiny upon other aspects of their
27 lives, or bring their persons to the attention of a government that they may have reason to fear.

6. Many members of our larger community have expressed concern about the confidentiality of the fact of their telephone communications with us. First Church members have expressed anxiety to me about which sorts of communication might be looked at by the NSA program.

7. Since the disclosure of the Associational Tracking Program, we have lost the ability to assure our members and constituents, as well as all others who seek to communicate with us, that the fact of their communications to and with us will be kept confidential. We made assurances of confidentiality prior to the disclosure, but we now know that we were mistaken.

8. As noted above, the principles of its faith often require the church to take bold stands on controversial issues. Church members and neighbors who come to the church for help should not fear that their participation in the church might have consequences for themselves or their families. This spying makes people afraid to belong to the church community.

9. The telephone provider for the church is Intermedia using voice-over-internet. Our internet provider is AT&T. At least one member of our Board of Trustees has Verizon as a telephone provider.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 1, 2013 at Los Angeles, California.

THE REVEREND RICK HOYT

6. Many members of our larger community have expressed concern about the confidentiality of the fact of their telephone communications with us. First Church members have expressed anxiety to me about which sorts of communication might be looked at by the NSA program.

7. Since the disclosure of the Associational Tracking Program, we have lost the ability to assure our members and constituents, as well as all others who seek to communicate with us, that the fact of their communications to and with us will be kept confidential. We made assurances of confidentiality prior to the disclosure, but we now know that we were mistaken.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2013 at Los Angeles, California.

performed on October 29, 2013 at Los Angeles,

 THE REVEREND RICK HOYT

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF DEEPA
PADMANABHA FOR
GREENPEACE, INC., IN SUPPORT
OF PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, DEEPA PADMANABHA, hereby declare:

2 1. I am a Staff Attorney with Greenpeace, Inc. ("Greenpeace"). The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify,
4 I could and would competently do so.

5 2. Greenpeace is an advocacy organization dedicated to combating the most serious
6 threats to the planet's biodiversity and environment. Since 1971, Greenpeace has been at the
7 forefront of environmental activism through non-violent protest, research, lobbying, and public
8 education. Greenpeace has approximately 350,000 members and fourteen offices in the United
9 States.

10 3. The collection of our phone records by the government has resulted in (1) harassment,
11 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
12 objectively suggest an impact on, or 'chilling' of, the members' associational rights. I say this
13 because of the facts listed below.

14 4. As part of its environmental advocacy, Greenpeace staff and members engage in
15 communications, via telephone and email, on a daily basis. Individuals contacted include
16 representatives of multinational organizations, government officials, scientific experts, and
17 Greenpeace members.

18 5. Greenpeace is aware that it has been targeted for surveillance in the past by the NSA.
19 For example, in 1992 British intelligence officials revealed to the *London Observer* that in the 1990s
20 the NSA had used the word "Greenpeace" as a keyword to intercept communications. Government
21 documents obtained under the Freedom of Information Act (FOIA) reveal that Greenpeace has been
22 the subject of surveillance by the FBI and Joint Terrorism Task Forces, whose internal documents
23 contend that the organization is associated with "suspicious activity with a connection to
24 international terrorism." Documents obtained through FOIA also indicate that the FBI has used
25 confidential informants to obtain information about Greenpeace activities.

26 6. In October 2003, the Department of Justice indicted Greenpeace using a 19th century
27 statute that had not been invoked for over a century. This information was widely reported in the
28

1 *New York Times* and other national media outlets.

2 7. In July 2005, the American Civil Liberties Union, in response to a FOIA request,
3 received 2,383 pages of internal FBI documents regarding the surveillance of Greenpeace. News of
4 the FBI's possession of these documents and investigations of Greenpeace were widely reported in
5 the *New York Times* and other news outlets.

6 8. In September 2010, a report by the Department of Justice's Inspector General noted
7 several instances in which the FBI had conducted improper investigations of Greenpeace. This
8 information was reported by ABC News, as well as other national media outlets.

9 9. Greenpeace's past and recent activities make the organization a likely target for
10 government surveillance. Greenpeace has used various means, including non-violent direct action,
11 to actively publicize the ties between our presidential administrations and the fossil fuel industry.

12 10. Because of the nature of Greenpeace's communications, Greenpeace's recent
13 activities, and the U.S. government's past surveillance of Greenpeace, Greenpeace members have a
14 well-founded belief that their communications have been, or currently are being, intercepted by the
15 NSA.

16 11. Greenpeace's telephone calls with its members, as well as other individuals and
17 organizations, are vital to its organizational goal of addressing environmental problems of global
18 magnitude. The mission requires free and open communication with colleagues, members, experts,
19 and leaders of government and industry.

20 12. Since May 2000, Greenpeace has operated six Verizon plain old telephone service
21 (POTS) lines used for inbound and outbound faxing.

22 13. From August 2000 through January 2013, Greenpeace operated two Primary Rate
23 Interface (PRI) lines connected to the Private Branch Exchange (PBX) based in the Greenpeace
24 Headquarters office in Washington, DC. Greenpeace directly contracted with MetTel for these
25 services, and the underlying carrier was Verizon.

26 14. The Associational Tracking Program substantially impairs the ability of Greenpeace
27 to engage in communications that are vital to its mission. Knowledge of the Associational Tracking
28

1 Program creates a chilling effect on Greenpeace members who wish to communicate information by
2 telephone that they reasonably believe could be used to disrupt Greenpeace's lawful activities
3 through preemptive action against legitimate, and peaceful, protests.

4 15. Since the disclosure of the Associational Tracking Program, we cannot reassure those
5 who contact Greenpeace and as well as those we actively seek out for collaboration that their
6 communications with Greenpeace will be confidential.

7 16. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by
8 the intense secrecy of its activities, have left us unable to reassure our members and associates that
9 additional forms of surveillance, as yet unconfirmed or actively denied by the government, are not
10 also occurring, leaving us with no alternative forms of confidential communication.

11 I declare under penalty of perjury under the laws of the United States of America that
12 the foregoing is true and correct. Executed on October __, 2013 at Washington, DC.

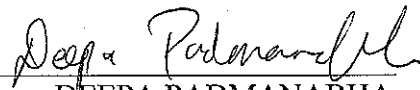
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14 _____
DEEPA PADMANABHA
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5 who contact Greenpeace and as well as those we actively seek out for collaboration that their
6 communications with Greenpeace will be confidential.

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8 the intense secrecy of its activities, has left us unable to reassure our members and associates that
9 additional forms of surveillance, as yet unconfirmed or actively denied by the government, are not
10 also occurring, leaving us with no alternative forms of confidential communication.

11 I declare under penalty of perjury under the laws of the United States of America that
12 the foregoing is true and correct. Executed on October 30, 2013 at Washington, DC.

13 
14 DEEPA PADMANABHA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF DINAH
POKEMPNER FOR HUMAN
RIGHTS WATCH IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, DINAH POKEMPNER, hereby declare:

2 1. I am the General Counsel of Human Rights Watch. The facts contained in the following
3 affidavit are known to me of my own personal knowledge and if called upon to testify, I could and
4 would competently do so.

5 2. Our organization conducts research and advocacy on human rights conditions around the
6 globe, in conjunction with activists, civil society organizations, and victims of human rights
7 violations in many countries (collectively, “our associates”).

8 3. The collection of our phone records by the government has resulted in (1) intimidation,
9 withdrawal, and/or discouragement of existing and new associates, and (2) other consequences
10 which objectively suggest an impact on, or ‘chilling’ of, the associational rights of those who
11 collaborate with us. I say this because of the following facts:

12 4. We conduct research and advocacy such that its effectiveness and credibility depend
13 heavily on being able to interview those with direct knowledge of human rights abuses, be they
14 victims, witnesses, perpetrators, or knowledgeable bystanders such as government officials,
15 humanitarian agencies, lawyers and other civil society partners. Because this type of research and
16 reporting can endanger people and organizations, our stakeholders—including even some of our
17 researchers and/or consultants—often require us to keep their identities or other identifying
18 information confidential. HRW has staff in these offices who talk to the above-mentioned types of
19 stakeholders by telephone to conduct research. HRW believes that many of these stakeholders now
20 have heightened concerns about contacting us through our offices now that we are aware the NSA is
21 logging metadata of these calls. This impairs HRW’s research ability and/or causes HRW to rely
22 more on face-to-face encounters or other costly means of holding secure conversations.

23 5. One particular area where we work is with prisoners, illegal migrants and asylum-
24 seekers, victims of torture and others who fear contact or revelation of their identities to the
25 government. This includes victims in the United States. From past experience, we know that
26 where these types of individuals are identified to authorities, they may suffer reprisal for being
27 known to associate with or pass information to groups like Human Rights Watch. For example,

1 some women prisoners in Michigan who reported sexual harassment to us by prison guards alleged
2 they suffered retaliation. Michigan authorities subsequently sought, unsuccessfully, to discover the
3 identities of yet other such women from us.

4 6. Because of this knowledge, to protect victims and witnesses from retaliation for
5 associating with us, we have for some time mailed them materials in blank envelopes, rather than
6 envelopes that bear our name and return address, and arranged our telephone service not to display
7 the company and number when we make outside calls.

8 7. Whereas before we were fairly confident that telephone communications with our
9 research and advocacy staff were secure and confidential, we now need to find other ways to
10 reassure these types of informants and partners that their contact with us is secure and will not put
11 them at risk of retaliation.

12 8. We have experienced an increase in questions from our researchers, other staff, external
13 partners and potential associates expressing concern about the confidentiality of the fact of their
14 communications with HRW itself and among our staff and associates. While it is difficult to get
15 precise information about communications that did not occur, based on the concerns raised by
16 others, I believe that some individuals may have refrained from reporting human rights abuses to us
17 and some partners may have refrained from contacting us due to their concerns about security and
18 confidentiality.

19 9. Our security team and Operations Department are studying new protocols and issuing
20 frequent advice on the need to use caution to keep confidential communications secure, increasing
21 their workload.

22 10. Since the disclosure of the Associational Tracking Program, we have lost the ability to
23 assure our associates, sources and staff, as well as all others who seek to communicate with us, that
24 the fact of their communications to and with us will be kept confidential. We also realized that the
25 promises of confidentiality we made prior to the disclosures were probably not accurate and should
26 not have been relied upon by our partners.

27 11. Moreover, the NSA's continued secrecy of the full range of its activities, and the
28

1 confusing messages they have sent about it over time, have left us unable to reassure our members
2 and associates that additional forms of surveillance, as yet unconfirmed or actively denied by the
3 government are not also occurring, leaving us with few options for alternative forms of confidential
4 communication.

5 12. HRW's telephone service provider is Verizon Business.

6 I declare under penalty of perjury under the laws of the United States of America that
7 the foregoing is true and correct. Executed on October 31, 2013 at New York, New York.

8 
9 DINAH POKEMPNER

1 CINDY COHN (SBN 145997)
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2 LEE TIEN (SBN 148216)
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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 FIRST UNITARIAN CHURCH OF LOS
18 ANGELES, *et al.*,
19 Plaintiffs,
20 v.
21 NATIONAL SECURITY AGENCY, *et al.*,
22 Defendants.
23
24
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27
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Case No: 3:13-cv-03287 JSW

**DECLARATION OF TRACY
ROSENBERG FOR MEDIA
ALLIANCE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, TRACY ROSENBERG, hereby declare:

2 1. I am the Executive Director of Media Alliance. The facts contained in the following
3 affidavit are known to me of my own personal knowledge and if called upon to testify, I could and
4 would competently do so.

5 2. Our organization is a non-profit, membership organization based in Oakland,
6 California. Media Alliance served as a resource and advocacy center for media workers, non-profit
7 organizations, and social justice advocates to make media accessible, accountable, decentralized,
8 representative of society's diversity, and free from covert or overt government control and corporate
9 dominance. Media Alliance brings this action on behalf of itself and its adversely affected members
10 and staff.

11 3. The collection of our phone records by the government has resulted in (1) harassment,
12 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
13 objectively suggest an impact on, or 'chilling' of, the members' associational rights.

14 4. I say this because of the following facts:

15 5. Media Alliance is a subscriber of AT&T for both wired and wireless telephone
16 service.

17 6. Many of our members access resources we provide like classes that provide training
18 in editing skills or public relations or they purchase regional press lists and how-to books or they
19 subscribe to a job listing service. They may or may not agree with stances the organization takes on
20 telecom policy and regulation, including specific actions by government officials, and have
21 expressed concern to us that transactional activity within my organization may be surveilled and/or
22 recorded by government agencies.

23 7. The Associational Tracking Program activities have harmed us because we have
24 experienced a decrease in communications from members and constituents who had desired the fact
25 of their communication to Media Alliance to remain secret.

26 8. Media Alliance regularly files comments with government agencies like the Federal
27 Communications Commission and the Federal Trade Commission as well as participating in
28

1 regional, state and federal hearings on a variety of issues relating to the telecom and media policy
2 and regulation. In addition, we provide training and resources to a variety of local not-for-profit
3 organizations and individuals engaged in the practice of journalism and communications work. We
4 have always assured our members that their privacy is guaranteed and the membership in our
5 organization, which at times can be quite critical of the actions of governmental organizations in the
6 telecom and media policy arena, would not endanger their relationships with governmental entities,
7 including public funding for not-for-profit organizations, and the issuance of press passes for
8 journalists just because we did not and do not disclose our membership roster nor our transactional
9 customer lists to governmental agencies without the permission of the member involved. Recent
10 revelations regarding phone metadata collection has rendered those assurances false and not
11 permitted us to continue to state that policy. This has had and will continue to have a chilling effect
12 on our membership rolls.

13 9. Specifically we have experienced the following:

14 Several organizational members have asked to have their membership terminated and their
15 data expunged from our database after purchasing products or services (and purchasing memberships
16 for the purpose of receiving discounted prices on those products or services in the wake of recent
17 publicity about the extent of telephone metadata surveillance. Media Alliance has experienced a
18 significant increase in the number of individuals expressing concern about the privacy of their
19 inquiries and transactions with our organization, more than a doubling from any previous year. I
20 have been in this position since 2007 and the increase is unprecedented. Moreover, we have had a
21 large number of individuals go beyond expressing concern to request the end of their memberships.

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing is true and correct. Executed on October __, 2013 at Oakland, California.

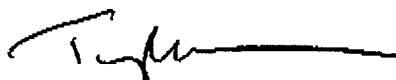
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TRACY ROSENBERG

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 5 organization, which at times can be quite critical of the actions of governmental organizations in the
 6 telecom and media policy arena, would not endanger their relationships with governmental entities,
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 20 have been in this position since 2007 and the increase is unprecedented. Moreover, we have had a
 21 large number of individuals go beyond expressing concern to request the end of their memberships.

22 I declare under penalty of perjury under the laws of the United States of America that the
 23 foregoing is true and correct. Executed on October ²⁸, 2013 at Oakland, California.

24 
 25 TRACY ROSENBERG

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF HEIDI
BOGHOSIAN FOR THE NATIONAL
LAWYERS GUILD IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, HEIDI BOGHOSIAN, hereby declare:

2 1. I am the Executive Director of the National Lawyers Guild. The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify,
4 I could and would competently do so.

5 2. Our organization provides legal services, through our approximately 4,000 members,
6 for individuals involved in legal cases where civil and constitutional rights are often in jeopardy. Our
7 National Office functions as a hub for the coordination and organization of legal defense and issue-
8 related advocacy on a broad range of topics often deemed controversial by several U.S. government
9 agencies. We have represented animal rights, environmental and information activists and others
10 targeted by the FBI and local law enforcement agencies.

11 3. The collection of our phone records by the government has resulted in (1) diminished
12 membership participation, (2) withdrawal or discouragement of new members joining, (3) other
13 consequences which objectively suggest an impact on, or “chilling” of, the members’ associational
14 rights. Most notably, we believe young attorneys refraining from taking on certain cases out of fear
15 of government surveillance and retaliation.

16 4. I say this because of the following facts: All of our National Office telephone lines
17 and web services are provided by Verizon. Upon hearing news reports that Verizon was under FISA
18 court order to turn over vast troves of customer data to the NSA, Guild members working on
19 initiatives to support the Petition for Compassionate Release of Lynne Stewart and the civil matter
20 *Panagacos v. Towery* (a case involving U.S. Army surveillance, infiltration, and the disruption of
21 peace groups in Washington state) altered their mode of communication due to concerns about
22 increased government surveillance of communication between lawyers, lawyers and their clients,
23 and lawyers and members of the media. Staff working in the National Office are curtailing the
24 duration and content of electronic communications that we deem privileged in nature.

25 The Associational Tracking Program activities have harmed us because we have experienced
26 a decrease in communications from members and constituents who had desired the fact of their
27 communication to Plaintiff to remain secret. Revelations of NSA surveillance in the press has caused
28

1 NLG members working on litigation and advocacy to restrict discussion of legal strategy, case
2 updates and confidential information to in-person meetings or to written correspondence sent by
3 mail. Practical restraints on the frequency of these meetings results in less robust information to pass
4 between attorneys and has potentially hindered Guild members from providing as vigorous a legal
5 representation as would have otherwise been possible with secure electronic communication
6 channels.

7 5. We also have experienced an increase in persons expressing concern to us about the
8 confidentiality of the fact of their communications.

9 6. Since the disclosure of the Associational Tracking Program, we have lost the ability
10 to assure our members and constituents, as well as all others who seek to communicate with us, that
11 the fact of their communications to and with us will be kept confidential.

12 7. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by
13 the intense secrecy of its activities, have left us unable to reassure our members and associates
14 that additional forms of surveillance, as yet unconfirmed or actively denied by the government are
15 not also occurring, leaving us with no alternative forms of confidential communication.

16 8. I declare under penalty of perjury under the laws of the United States of America that
17 the foregoing is true and correct. Executed on October __, 2013 at New York, New York.

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19 _____
HEIDI BOGHOSIAN

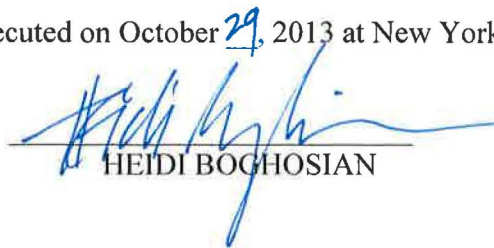
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5 representation as would have otherwise been possible with secure electronic communication
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8 confidentiality of the fact of their communications.

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10 to assure our members and constituents, as well as all others who seek to communicate with us, that
11 the fact of their communications to and with us will be kept confidential.

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13 the intense secrecy of its activities, have left us unable to reassure our members and associates
14 that additional forms of surveillance, as yet unconfirmed or actively denied by the government are
15 not also occurring, leaving us with no alternative forms of confidential communication.

16 8. I declare under penalty of perjury under the laws of the United States of America that
17 the foregoing is true and correct. Executed on October 29, 2013 at New York, New York.

18
19 
HEIDI BOGHOSIAN

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 FIRST UNITARIAN CHURCH OF LOS
18 ANGELES, *et al.*,
19 Plaintiffs,
20 v.
21 NATIONAL SECURITY AGENCY, *et al.*,
22 Defendants.
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Case No: 3:13-cv-03287 JSW

**DECLARATION OF DALE
GIERINGER FOR THE
CALIFORNIA CHAPTER OF
NORML IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, DALE GIERINGER, hereby declare:

2 1. I am the Director of the California chapter of the National Organization for the
3 Reform of Marijuana Laws ("NORML"). The facts contained in the following affidavit are known
4 to me of my own personal knowledge and if called upon to testify, I could and would competently do
5 so.

6 2. NORML advocates for the right of adults to use marijuana legally and assists users
7 with legal and health issues related to marijuana use.

8 3. The collection of our phone records by the government has resulted in (1) harassment,
9 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
10 objectively suggest an impact on, or 'chilling' of, the members' associational rights.

11 4. I say this because of the following facts:

12 5. Cal NORML routinely fields inquiries from countless individuals with legal concerns
13 and questions about marijuana on our telephone hotline (Verizon # 415-563-5858). Included are
14 many seriously ill individuals who use marijuana for medical purposes in accordance with California
15 state law (Proposition 215), but whose activities remain subject to federal arrest and prosecution.
16 Callers frequently express concern to us that their communications be held confidential out of fear of
17 repercussions from law enforcement.

18 6. California NORML has always maintained a strict policy of not revealing the identity
19 of our members or hotline callers. Our mailing list is held strictly confidential. For many years, we
20 had caller ID blocked on our public hotline (415-563-5858) so as to assure callers that their calls
21 wouldn't be traced. The value of this service would have been rendered negligible had their IDs
22 actually been tracked by NSA and federal enforcement officials. A few years ago, California
23 NORML decided to abandon caller ID blocking because we were unable to return a growing number
24 of calls that were coming from people who wrongly assumed that we knew their return phone
25 number via caller ID, even though we didn't have it. However, we have continued to maintain a
26 policy of strict privacy in all communications.

7. California NORML and its members are highly sensitive to the fact that numerous of our members and supporters have been arrested, prosecuted, or otherwise harassed for marijuana offenses by federal law enforcement authorities, even when their activities are specifically permitted under state or local law. Scores of such federal arrests are recorded on our website at: http://www.canorml.org/costs/federal_medical_marijuana_prisoners_and_cases.

8. California NORML is further aware of press reports that the DEA has a Special Operations Division that partners with NSA and other federal agencies to maintain a secret massive database of telephone records to launch criminal investigations. The DEA has been reported to cover up its misuse of this secretly obtained data by a tactic known as “parallel construction,” in which a secret investigation is launched against a suspect in order to develop legal evidence for a search warrant, without divulging the secretly obtained phone records that were the original source of the tip (“Exclusive: U.S. directs agents to cover up program used to investigate Americans,” Reuters Aug. 5, 2013: <http://www.reuters.com/article/2013/08/05/us-dea-sod-idUSBRE97409R20130805>).

9. California NORML experienced an abrupt drop in the number of hotline calls we received after revelation of NSA’s phone surveillance program in late June. Prior to then, we received an average of about 15-20 calls daily on our hotline; afterwards, calls dropped to 5 -10 per day. This data supports our belief that the NSA program had a chilling effect on our constituents’ willingness to communicate with us. Moreover, several of our members have expressed similar concerns in this regard.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October ____, 2013 at Oakland, California

DALE GIERINGER

7. California NORML and its members are highly sensitive to the fact that numerous of our members and supporters have been arrested, prosecuted, or otherwise harassed for marijuana offenses by federal law enforcement authorities, even when their activities are specifically permitted under state or local law. Scores of such federal arrests are recorded on our website at: http://www.canorml.org/costs/federal_medical_marijuana_prisoners_and_cases.

8. California NORML is further aware of press reports that the DEA has a Special Operations Division that partners with NSA and other federal agencies to maintain a secret massive database of telephone records to launch criminal investigations. The DEA has been reported to cover up its misuse of this secretly obtained data by a tactic known as "parallel construction," in which a secret investigation is launched against a suspect in order to develop legal evidence for a search warrant, without divulging the secretly obtained phone records that were the original source of the tip ("Exclusive: U.S. directs agents to cover up program used to investigate Americans," Reuters Aug. 5, 2013: <http://www.reuters.com/article/2013/08/05/us-dea-sod-idUSBRE97409R20130805>).

9. California NORML experienced an abrupt drop in the number of hotline calls we received after revelation of NSA's phone surveillance program in late June. Prior to then, we received an average of about 15-20 calls daily on our hotline; afterwards, calls dropped to 5 -10 per day. This data supports our belief that the NSA program had a chilling effect on our constituents' willingness to communicate with us. Moreover, several of our members have expressed similar concerns in this regard.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2013 at Oakland, California


DALE GIERINGER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF DEBORAH LIU
FOR PEOPLE FOR THE AMERICAN
WAY IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, DEBORAH LUI, hereby declare:

2 1. I am the General Counsel and Corporate Secretary of People For the American Way.

3 The facts contained in the following affidavit are known to me of my own personal knowledge and if
4 called upon to testify, I could and would competently do so.

5 2. Our organization has over 595,000 members and communicates regularly with those
6 members, supporters, and the general public about important issues that impact fundamental civil
7 and constitutional rights and freedoms, including issues concerning civil liberties, government
8 secrecy, improper government censorship, and First Amendment freedoms.

9 3. The collection of our phone records by the government has resulted in (1) harassment,
10 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
11 objectively suggest an impact on, or 'chilling' of, the members' associational rights.

12 4. The Associational Tracking Program is harmful to our organizations' work because of
13 its negative impact on the free communication from our members and members of the general public
14 who contact us daily on matters of import, including complaints or expressions of dissatisfaction
15 with the government, legislative bodies, and elected officials.

16 5. Some of our members have expressed concern about the confidentiality of the fact of
17 their communications and have stated to use that knowledge of the Associational Tracking Program
18 is a deterrent to calling our organization to express a concern, complaint or to provide information
19 relevant to our work.

20 6. Since the disclosure of the Associational Tracking Program, we have lost the ability
21 to assure our members and constituents, as well as all others who seek to communicate with us, that
22 the fact of their communications to and with us will be kept confidential.

23 7. In addition, the ongoing failure of the government to provide information to the
24 public about its mass surveillance activities has left us unable to reassure our members and
25 associates that additional forms of surveillance, are not also occurring, leaving us with a difficult
26 task in finding alternative forms of confidential communication.

27 8. Our current telephone provider is Megapath. From 2008-2011 our provider was
28

1 Verizon Business.

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct. Executed on October __, 2013 at Washington DC.

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DEBORAH LIU
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1 Verizon Business. -

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct. Executed on October 30, 2013 at Washington DC.

4
5 
6 DEBORAH LIU

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF SHERWIN SIY
FOR PUBLIC KNOWLEDGE IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, Sherwin Siy, hereby declare:

2 1. I am the Vice President of Legal Affairs of Public Knowledge. The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify,
4 I could and would competently do so.

5 2. Our organization is a non-profit public interest advocacy organization based in
6 Washington, D.C. Public Knowledge is dedicated to preserving the openness of the Internet and the
7 public's access to knowledge, promoting creativity through the balanced application of copyright
8 laws, and upholding and protecting the rights of consumers to use innovative technology lawfully.

9 3. The collection of our phone records by the government has resulted in reduced
10 communications with our members, constituents, and allies, chilling their associational rights.

11 4. Since the disclosure of the Associational Tracking Program, we have lost the ability to
12 assure our members and constituents, as well as all others who seek to communicate with us, that the
13 fact of their communications to and with us will be kept confidential.

14 5. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by the
15 intense secrecy of its activities, have left us unable to reassure our members and associates that
16 additional forms of surveillance, as yet unconfirmed or actively denied by the government are not
17 also occurring, leaving us with no alternative forms of confidential communication.

18 6. Public Knowledge engages in public advocacy on matters of intellectual property and
19 telecommunications law. While not directly representing clients, we frequently receive calls from
20 constituents seeking advice on whether their activities comport with the law, which is often complex
21 and frequently misstated in the popular media. In recent years, government authorities, and not just
22 private parties, have increasingly used disproportionate measures to address instances of alleged
23 infringement, to the point of staging armed raids on alleged secondary infringers in cases that, in
24 prior years, would likely have merited a civil suit or service of a warrant or summons. The increasing
25 criminalization of copyright infringement, alongside a heightened rhetoric that frequently claims that
26 infringing copyrights on entertainment media is a national security issue, means that callers are less

1 likely to contact Public Knowledge's staff to ask for advice or share information.

2 I declare under penalty of perjury under the laws of the United States of America that
3 the foregoing is true and correct. Executed on October 31, 2013 at Washington, DC.

4
5
6 /s/ Sherwin Siy

SHERWIN IY S

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF DEBORAH C.
PEEL, MD, FOR PATIENT PRIVACY
RIGHTS FOUNDATION IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, DEBORAH C. PEEL, MD, hereby declare:

2 1. I am the Founder and Chair of Patient Privacy Rights (“PPR”), a 501(c)(3) non-profit
3 foundation. The facts contained in the following affidavit are known to me of my own personal
4 knowledge and if called upon to testify, I could and would competently do so.

5 2. As a national health privacy advocacy organization, Patient Privacy Rights
6 Foundation educates the public about the elimination of health privacy and advocates for effective
7 privacy-protective laws and technical solutions that will restore trust in the patient-physician
8 relationship and electronic health systems, so patients will be willing to share sensitive health
9 information with physicians and other health professionals, and use electronic systems and data
10 exchanges.

11 3. The collection of our phone records by the government has (1) discouraged new
12 members, constituents, media, whistleblowers, and consumers from calling our office phone line to
13 seek information, help, and advice when their sensitive health information has been used or
14 disclosed; or discussing sensitive legal actions concerning corporate, state or federal government
15 violations of privacy; and (2) discouraged phone conversations with experts from other advocacy
16 organizations about collaborative efforts to hold industry or government accountable for privacy
17 health privacy violations, or to plan legal interventions at the state or federal level. The lack of
18 private phone calls has diminished the willingness of consumers, the media, members, and
19 whistleblowers to call PPR, creating a ‘chilling’ effect on key consumer services PPR offers, on
20 users’ and members’ associational rights, on whistleblowers willingness to speak, and on
21 collaborative advocacy efforts with other privacy and consumer organizations and experts and
22 actions such as lawsuits and campaigns to protect citizens’ rights to health information privacy.

23 4. I say this because of the following facts:

24 Patient Privacy Rights’ office line has been a key resource for consumers, members, the
25 media, and whistleblowers since 2006. Although our website offers resources and information,
26 phone calls are essential for discussion of sensitive matters concerning hidden use, disclosure, and
27 sale of the nation’s personal health information. PPR is a subscriber of Time Warner.

1 5. The Associational Tracking Program activities have harmed PPR because we have
2 experienced a decrease in communications from whistleblowers, members and users who would
3 have requested that their communications with Plaintiff remain secret.

4 6. PPR experienced a decrease in calls to our office phone line during the summer. For
5 example, prior to the revelations of NSA tracking, we received on average 40 calls per month. After
6 the NSA revelations became public, we received on average only 20 calls per month.

7 7. The NSA revelations have caused heightened attention to health data security
8 breaches and requests for help and resources to deal with breaches, but nevertheless have resulted in
9 a decrease in whistleblower calls. Since September, more people have expressed concerns to us
10 about health information security breaches.

11 8. Since the disclosure of the Associational Tracking Program, we can no longer assure
12 our members and constituents, as well as all others who seek to communicate with us, that their
13 communications to and with us can be kept confidential.

14 9. We make strong assurances of confidentiality of information shared with PPR in our
15 privacy policy, but clearly in light of NSA tracking, those assurances were false.

16 10. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by
17 the intense secrecy of its activities, have left us unable to reassure our members and the public that
18 additional forms of surveillance, as yet unconfirmed or actively denied by the government are not
19 also occurring, leaving us with no alternative forms of confidential communication.

20 11. Patient Privacy Rights works to protect the public's fundamental Constitutional, state
21 and federal rights to health information privacy. We work to inform the public about how the
22 healthcare industry and government violate patients' rights to health information privacy. We offer
23 technical and legal solutions to enable the benefits of technology while eliminating current
24 technology-caused harm from hidden health data surveillance, collection, disclosure, sale, and
25 misuse. 40-50 million patients per year delay or avoid essential treatment or hide information to try
26 and protect the privacy of their health data because they know health data is used to damage
27 reputations, jobs, credit, and more. The lack of health information privacy causes bad health

1 outcomes. At the same time, patients cannot obtain electronic copies of health data or obtain a
 2 ‘chain of custody’ to track the hidden flows of their health information. *See theDataMap.org*¹, a
 3 project PPR supports to map the hidden flows of health data inside and outside the US. As the
 4 nation’s leading health privacy advocacy organization, PPR has over 20,000 members in all 50
 5 states. PPR leads the bipartisan Coalition for Patient Privacy, representing 10.3 million US citizens
 6 who want to control the use of personal health data in electronic systems. In 2007-2008, PPR led
 7 development of the PPR Trust Framework, 75+ auditable criteria² to measure how effectively
 8 technology systems protect data privacy. The Framework can be used for research about privacy
 9 and to certify health IT systems. Since 2011, PPR has convened the ‘International Summits on the
 10 Future of Health Privacy’,³ co-hosted by Georgetown Law Center. In 2012, PPR proposed a 5-year
 11 plan to move the US health IT system from institutional to patient control over health data in
 12 *Information Privacy in the Evolving Healthcare Environment*.⁴ As a privacy organization, PPR tries
 13 to hold itself to the highest privacy standards and practices. PPR promised users and members that
 14 any information shared with PPR would remain private. Our online privacy policy states, “We do
 15 not share, sell, rent, or lease your email address or any personal information. EVER.” The
 16 revelations that the NSA collects and stores all phone calls and metadata violates PPR’s members’
 17 and users’ expectations that their phone conversations with our staff were private and would not be
 18 disclosed.

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24 ¹ theDataMap.org

25 ² <http://patientprivacyrights.org/wp-content/uploads/2013/04/%C2%A9-2010-to-2013-PPRs-Trust-Framework-Brief-Summary-and-Auditable-Criteria.pdf>

26 ³ <http://www.healthprivacy-summit.org/events/2013-health-privacy-summit/event-summary-1bfa9be80d364092aedd1a8803377fa8.aspx>.

27 ⁴ <http://ebooks.himss.org/product/information-privacy-in-evolving-healthcare-environment44808>.

a. Phone and email surveillance has made whistleblowers afraid to report government and industry health privacy violations to PPR because all calls, metadata, and emails are being collected and stored by NSA.

c. NSA surveillance forces us to convene in-person meetings to discuss sensitive matters. This is very difficult for PPR because our office is in Austin, Texas and we serve the entire country. PPR must rely more on more time-consuming and costly face-to-face meetings or attempt to find and purchase technology so we can hold private conversations.

e. PPR must advise callers that phone calls and metadata are not secure, ask for limited information and ensure timely deletion of any notes of the calls.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 10, 2013 at Austin, Texas.

4

12. Specifically, the key consequences of NSA surveillance on the public and Plaintiff's members are:

a. Phone and email surveillance has made whistleblowers afraid to report government and industry health privacy violations to PPR because all calls, metadata, and emails are being collected and stored by NSA.

b. Knowledge that telephonic communications are monitored has forced our employees and members to restrict what they say over the telephone about privacy violations, legal advocacy, and work related to litigation or legal defense committees.

c. NSA surveillance forces us to convene in-person meetings to discuss sensitive matters. This is very difficult for PPR because our office is in Austin, Texas and we serve the entire country. PPR must rely more on more time-consuming and costly face-to-face meetings or attempt to find and purchase technology so we can hold private conversations.

d. PPR must revise its privacy policy.

e. PPR must advise callers that phone calls and metadata are not secure, ask for limited information and ensure timely deletion of any notes of the calls.

f. PPR's effectiveness and credibility depend on being able to interview people with direct knowledge of violations of health information privacy rights, including victims, witnesses, perpetrators, whistleblowers, or knowledgeable bystanders such as government officials or industry employees, other advocacy organizations, and lawyers and other civil society partners. PPR is concerned that many of these parties will fear contacting our office knowing that the NSA logs all calls and metadata.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2013, at Austin, Texas.



DEBORAH C. PEEL MD

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF RABBI
ARTHUR WASKOW FOR THE
SHALOM CENTER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, RABBI ARTHUR WASKOW, hereby declare:

2 1. I am the Director of The Shalom Center. The facts contained in the following
3 affidavit are known to me of my own personal knowledge and if called upon to testify, I could and
4 would competently do so.

5 2. Our organization draws on ancient and modern Jewish wisdom, teachings, and
6 practice to seek peace, pursue justice, and heal our wounded Earth. We especially address the power
7 configurations (in Jewish tradition, the “pharaohs”) that bring plagues upon human society and the
8 planet.

9 3. The Shalom Center receives its wired telephone service from Verizon Business
10 Services and its wireless services from Verizon Wireless.

11 4. The collection of our phone records by the government has resulted in (1) harassment,
12 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
13 objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.

14 5. I say this because of the following facts: I was personally subjected to
15 COINTELPRO activity (warrantless searches, theft, forgery) by the FBI between 1968 and 1974. I
16 took part along with other plaintiffs in a suit against the FBI and the Washington DC police (*Hobson*
17 *v. Wilson*) for deprivation of the “right of the people peaceably to assemble.” We won in DC
18 Federal District Court and the part of the suit that focused on the FBI was upheld in the DC Circuit
19 Court of Appeals. The result of this experience is that I have been very troubled and frightened by
20 the revelations of warrantless mass searches of telephone and Internet communications by the NSA.
21 For several weeks, as the revelations continued, I realized the likelihood that the organization I lead,
22 The Shalom Center, and I were under illegitimate surveillance and – because of our involvement in
23 legal and nonviolent opposition to US government policy in several fields – possibly worse. For
24 example, I delayed publication of some essays on bringing religious outlooks to bear on possible US
25 war in Syria; possible State Department collusion with major oil companies in certifying the Tar
26 Sands Pipeline; and on the NSA surveillance, a violation of Torah as well as of the Consitution.
27 These activities seemed especially likely to have called down NSA surveillance and possibly

1 additional attacks on our work.

2 6. This realization made me rethink whether I wanted to continue in sharp religiously
3 rooted prophetic criticism and action in regard to disastrous public policies. I had trouble sleeping,
4 delayed some essays and blogs I had been considering, and worried whether my actions
5 might make trouble for nonpolitical relatives. I certainly felt a chill fall across my work of peaceable
6 assembly, association, petition, and the free exercise of my religious convictions. Since as the
7 Rabbinic Director of The Shalom Center I am the chief spokesperson for its religious outlook and
8 religious work, this chilling effect has slowed down, inhibited, and distorted the expression of our
9 religious concerns.

10 7. Since the disclosure of the Associational Tracking Program, supporters and donors of
11 the Shalom Center have expressed concerns about the confidentiality of their communications.

12 8. Because the extent of the NSA's surveillance activities is unknown and because of the
13 secrecy of these activities, we have been unable to ensure that these supporters of the Shalom Center
14 can communicate with us in confidence. We have considered other means of communication with
15 these supporters, but many of them require technological acumen that our local partners simply do
16 not have.

17 I declare under penalty of perjury under the laws of the United States of America that
18 the foregoing is true and correct. Executed on October, __, 2013 at Philadelphia, PA.

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RABBI ARTHUR WASKOW

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15 these supporters, but many of them require technological acumen that our local partners simply do
16 not have.

17 I declare under penalty of perjury under the laws of the United States of America that
18 the foregoing is true and correct. Executed on October, 31, 2013 at Philadelphia, PA.

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21 RABBI ARTHUR WASKOW
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF ANASTACIA
COSNER FOR STUDENTS FOR
SENSIBLE DRUG POLICY IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, ANASTACIA COSNER, hereby declare:

2 1. I am the Deputy Director of Students for Sensible Drug Policy. The facts contained in
3 the following affidavit are known to me of my own personal knowledge and if called upon to testify, I
4 could and would competently do so.

5 2. Our organization educates and trains young people about harms caused by the war on
6 drugs. We involve young people in the political process and discuss alternatives to the failed policies
7 of drug prohibition.

8 3. The collection of our phone records by the government has resulted in (1) harassment,
9 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
10 objectively suggest an impact on, or 'chilling' of, the members' associational rights.

11 4. I say this because of the following facts:

12 The Associational Tracking Program activities have harmed us because we have
13 experienced a decrease in communications from members and constituents who had desired the fact
14 of their communication to Plaintiff to remain secret.

15 5. For example, we have experienced a decrease in calls to our hotline. For example,
16 prior to the revelations of government tracking, we received on average 6 calls per day, but since the
17 revelations became public, we have received on average only 3 calls per day.

18 6. This is not surprising because many people who we approach to become members of
19 our organization are worried about others discovering their support of a controversial issue.

20 7. We have also seen an increase in members and potential members expressing concern
21 about the confidentiality of the fact of their communications with us.

22 8. Since the disclosure of the Associational Tracking Program, we have lost the ability to
23 assure our members and constituents, as well as all others who seek to communicate with us, that the
24 fact of their communications to and with us will be kept confidential. The assurances of
25 confidentiality we made prior to the disclosure, were apparently incorrect.

26 9. Moreover, the pattern of distortion and lawless conduct by the NSA, exacerbated by
27 the intense secrecy of its activities, have left us unable to reassure our members and associates that
28 additional forms of surveillance, as yet unconfirmed or actively denied by the government are not

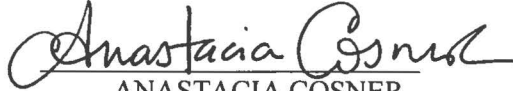
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2 also occurring, leaving us with no alternative forms of confidential communication.

3 I declare under penalty of perjury under the laws of the United States of America that
4 the foregoing is true and correct. Executed on October __, 2013 at Washington, DC.

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ANASTACIA COSNER
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2 I declare under penalty of perjury under the laws of the United States of America that
3 the foregoing is true and correct. Executed on October 31, 2013 at Washington, DC.

4 
5 ANASTACIA COSNER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF BERIN SZOKA
ON BEHALF OF TECHFREEDOM
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, BERIN SZOKA, hereby declare:

2 1. I am the President of TechFreedom. The facts contained in the following affidavit are
3 known to me of my own personal knowledge and, if called upon to testify, I could and would
4 competently do so.

5 2. Our organization is a non-profit¹ think tank based in Washington, D.C. Our mission is
6 promoting technology that improves the human condition and expands individual capacity to choose
7 by educating the public, policymakers, and thought leaders about the kinds of public policies that
8 enable technology to flourish. TechFreedom seeks to advance public policy that makes
9 experimentation, entrepreneurship, and investment possible, and thus unleashes the ultimate
10 resource: human ingenuity.

11 3. All of TechFreedom's employees use Verizon for business and personal purposes.
12 The compelled disclosure of our phone records to the government will decrease our organization's
13 capacity to effectively communicate with policymakers, journalists, thought leaders, civil society
14 allies, and our donors.

15 4. TechFreedom's ability to effectively advocate for our positions and influence
16 lawmakers, policymakers, journalists and thought leaders, as well as to raise funds from donors,
17 often hinges on our ability to communicate, and develop, our policy positions in confidence.

18 5. Since the disclosure of the Associational Tracking Program, we have lost the ability
19 to assure policymakers, journalists, thought leaders, civil society allies, and our donors, that the fact
20 of their communications to and with us will be kept confidential.

21 6. Indeed, in many circumstances, disclosure of the fact and timing of a particular
22 communication is more important and revealing than the content of the communication.

23 7. This is particularly so in the case of TechFreedom's fundraising. Private
24 communication is often essential for fundraising purposes: Some donors are less willing to engage
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26 ¹ We have applied for federal tax-exempt status under Section 501(c)(3); while we have not yet
27 received that status, we are operating according to the requirements of federal tax law.

1 with the organization and its employees if they know the fact of their communications will not be
2 confidential.

3 8. Moreover, the timing of our communication with other parties, such as donors, might
4 imply a chain of causation between donations, positions we take, and changes to the intellectual
5 landscape that result from our advocacy – even where such causation does not actually exist. Such
6 inaccurate perceptions could substantially damage our reputation for independence or even
7 potentially jeopardize our non-profit status. Even if we were vindicated, the mere fact of an
8 investigation or suggestion of impropriety could damage our reputation, limit our effectiveness and
9 harm our ability to raise support for our work.

10 9. This fear is neither speculative nor abstract. Indeed, my former think tank, The
11 Progress & Freedom Foundation (PFF), was the subject of a three year investigation by the Internal
12 Revenue Service into whether PFF had, by funding a college course (Renewing American
13 Civilization”) taught by then-House-Speaker Newt Gingrich, violated its tax-exempt status by
14 engaging in electoral politics. The investigation ultimately concluded that the course and course
15 book "were educational in content," rather than electoral. While this finding vindicated PFF, the
16 investigation did considerable damage to PFF’s reputation, its relationship with Gingrich, and its
17 ability to raise money from individuals who sympathized with Gingrich’s futurist views. Combined
18 with speculation that the investigation was itself politically motivated, this experience further chilled
19 PFF’s ability to exercise its free speech rights within the confines of its tax-exempt status by causing
20 its future employees to be excessively cautious about engaging in speech that either might
21 conceivably raise legitimate questions of tax law or that might raise the ire of those in a position to
22 launch another such investigation.

23 10. The disclosure of TechFreedom’s communication records similarly harms our ability
24 to fully advocate and advance our positions with policymakers.

25 11. For example, if TechFreedom has taken a public position on a particular issue, and
26 policymakers are poised to vote on that issue, the content of our communication to policymakers and
27 their staffs can safely be inferred: our communications will likely be consistent with our

1 public position.

2 12. In this example, however, the *fact and timing* of our communication with a lawmaker
3 can be substantially more revealing. For example, if TechFreedom communicates with a
4 policymaker shortly before that policymaker shifts his or her public position to align more closely
5 with TechFreedom's position, it can safely be assumed that TechFreedom's communication had
6 some influence over that decision.

7 13. Because of the acrimonious and partisan nature of Washington politics, the
8 Associational Tracking Program will necessarily cause policymakers to be more inhibited with their
9 communications with TechFreedom. For some policymakers, a change in their policy positions
10 attributable to TechFreedom's advocacy may imply, accurately or not, an association or relationship
11 that the policymaker might otherwise be unwilling to publicly acknowledge.

12 14. This inhibition, in turn, hinders TechFreedom's ability to advocate effectively for its
13 ideas.

14 15. Similarly, our communications with journalists and foreign nationals is limited by the
15 risk of disclosure. Knowing that the government will retain a record of all our communications, and
16 the inevitable possibility of disclosure, will reduce the likelihood of such individuals working with
17 TechFreedom on important Internet freedom issues, which are inherently trans-national and often
18 require collaboration with foreign civil society groups and policymakers.

19 16. Given the nature of our work, all the parties we deal with are exceptionally sensitive
20 to the risk of breaches of data collected by the government – be they inadvertent, the result of
21 malicious attacks on U.S. government servers, or intentional leaks or disclosures by politically
22 motivated individuals. Nor are the parties we deal with likely to accept official insistence that data
23 collected for one purpose by one agency will not be shared with other government agencies or with
24 policymakers. In short, the fact the government collects our call records in the first instance is
25 sufficient to inhibit parties from engaging with us without inhibition.

26 17. The compelled disclosure to the government of all TechFreedom's telephone
27 communications, and the associated risk that those communications may later be disclosed, is a

1 risk some policymakers, journalists, thought leaders, civil society allies, and donors are unwilling to
2 take.

3 18. As a result, the Associational Tracking Program has chilled TechFreedom's ability to
4 effectively advocate for our positions and advance our organizational mission.

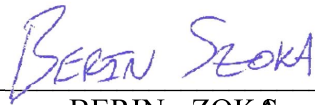
5 I declare under penalty of perjury under the laws of the United States of America that
6 the foregoing is true and correct. Executed on October ____, 2013 at _____, _____.
7 [City] [State]

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10 BERIN SZOKA
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2 take.

3 18. As a result, the Associational Tracking Program has chilled TechFreedom's ability to
4 effectively advocate for our positions and advance our organizational mission.

5 I declare under penalty of perjury under the laws of the United States of America that
6 the foregoing is true and correct. Executed on October 29, 2013 at Washington, DC.
7 [City] [State]

8 
9 BERIN SZOKA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRST UNITARIAN CHURCH OF LOS
ANGELES, *et al.*,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

Case No: 3:13-cv-03287 JSW

**DECLARATION OF CONSTANCE
KANE FOR UNITARIAN
UNIVERSALIST SERVICE
COMMITTEE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: February 7, 2014
Time: 9:00 A.M.
Hon. Jeffrey S. White
Courtroom 11 - 19th Floor

1 I, CONSTANCE KANE, hereby declare:

2 1. I am the Vice President and Chief Operating Officer of the Unitarian Universalist
3 Service Committee ("UUSC"). The facts contained in the following affidavit are known to me of
4 my own personal knowledge and if called upon to testify, I could and would competently do so.

5 2. Plaintiff UUSC partners with grassroots organizations that courageously confront
6 unjust systems and human rights violations.

7 3. As a membership organization that does not seek nor accept government funds,
8 UUSC is able to advocate for a broad range of justice-oriented public policies, some of which are
9 controversial. Often this work is done in active conflict zones or other sites of humanitarian disaster.
10 Additionally, our partners often represent marginalized populations, including survivors of torture,
11 many of whom fled persecution in their country of origin and have open asylum cases in the United
12 States; active military members organizing to protect and exercise their right to free speech; human
13 rights activists in countries with active conflict; and migrant workers in the informal economy who
14 are denied basic protections and rights due to their residency status. We carry out many of our
15 conversations with partners over the phone, as the organizations with which we work are spread
16 across the globe. We believe that these partners are now hesitant to contact our organization or to
17 speak freely as a result of the revelation of the NSA's dragnet surveillance, including the bulk
18 acquisition, storage, and searching of telephone communications information.

19 4. Furthermore, because the people we work with are marginalized by definition,
20 knowledge of the work they are doing and who they are doing it with renders them extremely
21 vulnerable and even endangers them. Knowing that their calls are being monitored in any way has,
22 understandably, dissuaded them from working with us and other partners. This significantly inhibits
23 our ability to effectively carry out our mission of promoting social justice.

24 5. UUSC is a telephone subscriber of Comcast.

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CONSTANCE KANE

1 I declare under penalty of perjury under the laws of the United States of America that
2 the foregoing is true and correct. Executed on November 1, 2013 at Cambridge, Massachusetts.

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