

1 CINDY COHN (SBN 145997)
 cindy@eff.org
 2 LEE TIEN (SBN 148216)
 3 KURT OPSAHL (SBN 191303)
 MATTHEW ZIMMERMAN (SBN 212423)
 4 MARK RUMOLD (SBN 279060)
 DAVID GREENE (SBN 160107)
 5 JAMES S. TYRE (SBN 083117)
 ELECTRONIC FRONTIER FOUNDATION
 6 815 Eddy Street
 San Francisco, CA 94109
 7 Tel.: (415) 436-9333; Fax: (415) 436-9993
 8 THOMAS E. MOORE III (SBN 115107)
 9 tmoore@rroyselaw.com
 ROYSE LAW FIRM, PC
 10 1717 Embarcadero Road
 Palo Alto, CA 94303
 11 Tel.: 650-813-9700; Fax: 650-813-9777

12 Attorneys for Plaintiffs

RACHAEL E. MENY (SBN 178514)
 rmeny@kvn.com
 MICHAEL S. KWUN (SBN 198945)
 BENJAMIN W. BERKOWITZ (SBN 244441)
 KEKER & VAN NEST, LLP
 633 Battery Street
 San Francisco, California 94111
 Tel.: (415) 391-5400; Fax: (415) 397-7188
 RICHARD R. WIEBE (SBN 121156)
 wiebe@pacbell.net
 LAW OFFICE OF RICHARD R. WIEBE
 One California Street, Suite 900
 San Francisco, CA 94111
 Tel.: (415) 433-3200; Fax: (415) 433-6382
 ARAM ANTARAMIAN (SBN 239070)
 aram@eff.org
 LAW OFFICE OF ARAM ANTARAMIAN
 1714 Blake Street
 Berkeley, CA 94703
 Telephone: (510) 289-1626

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 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

1 from jail because Californians are often arrested for actually innocent possession or use of firearms.

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.

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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, __ 2013 at Redwood City, California.

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GENE HOFFMAN, JR.

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