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**JASON ANDERSON
DISTRICT ATTORNEY**

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James R. Secord, SBN 126321
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SPACE BELOW FOR COURT
NO FEE PURSUANT TO GOV'T C. § 6103

Attorneys for the People of the State of California and
the San Bernardino County District Attorney

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

ELECTRONIC FREEDOM FOUNDATION,

Plaintiff,

vs.

SUPERIOR COURT FOR THE STATE OF
CALIFORNIA, COUNTY OF SAN
BERNARDINO, et al.,

Defendant.

CASE NO. CIVDS1930054

NOTICE OF RULING

**DATE : 1/15/2021
TIME : 1:30 P.M.
DEPT : S-19**

SAN BERNARDINO COUNTY DISTRICT
ATTORNEY, and, SAN BERNARDINO
COUNTY SHERIFF'S DEPARTMENT,

Real Parties in Interest.

This matter having come regularly before the Court on January 15, 2021, the Honorable Dwight W. Moore, presiding; Michael Rischer, Esq., appearing for Plaintiff Electronic Freedom Foundation ("EFF"); Miles Kowalski, Deputy County Counsel, appearing on behalf of the San Bernardino County Sheriff's Department (the "Sheriff's Department"); Stephen Pascover, Esq., appearing on behalf of the San Bernardino County Superior Court; and, Mark Vos and James R. Secord, Deputy District Attorneys, appearing on behalf of the People of the State of California and the San Bernardino

1 County District Attorney (collectively, the "District Attorney"); and all counsel appearing
2 either telephonically or by videoconference;

3 The matter having come before the Court on Electronic Freedom Foundation's
4 Petition for release of those certain search warrants and their accompanying affidavits,
5 involving cellular telephone information; and, the Motion for Judgment on the Pleadings
6 and supporting declarations filed by the District Attorney, the opposition and declarations
7 to the Motion for Judgment on the Pleadings filed by EFF, and the reply and supporting
8 declarations of the District Attorney; the Court having read and considered each of the
9 documents filed by EFF and the District Attorney; and following oral argument of counsel;
10 the Court ruled as follows:

11 The Petition of EFF is denied; the Court found that EFF is not entitled to the relief
12 it sought for release of the information contained in the affidavits, including Penal Code
13 sections 638.52(g), 1534(a), California Rules of Court, Rules 2.550 and 2.551, the First
14 Amendment to the United States Constitution, and Article 1, Section 3 of the California
15 Constitution;

16 As an additional and separate ground, the Court further found that, having read
17 each of the search warrant files individually, and pursuant to Penal Code section 1534,
18 and Evidence Code sections 1040, 1041 and 1042, and *People v. Hobbs* (1994) 7 Cal.4th
19 948, and related statutes, at the time the search warrants were issued by the Court, the
20 search warrants, affidavits and supporting documents were properly sealed by the issuing
21 Court; further, regarding the affidavits and supporting papers, there currently exists an
22 important state interest in protecting the identity of the parties, that the entirety of each of
23 the affidavits must remain sealed because there is no alternative means to release any
24 of the information without compromising the identity of the parties, and that the affidavits
25 are to remain sealed indefinitely.

26 Further, pursuant to agreement of the parties on a prior date, in the document
27 entitled Disclosure of Unsealed Pages From Nine Sealed Search Warrant Packets
28 consisting of 62 pages, which was lodged with the Court and served upon the parties, the

1 search warrants themselves in file numbers SBSW 18-0298, SBSW 18-0850, SBSW 17-
2 0615, SBSW 17-0694, SBSW 17-0695, SBSW 17-0834, SBSW 17-0890, SBSW 17-
3 0892, and SBSW 18-0259 were disclosed to EFF. The Court ordered its attorney,
4 Stephen Pascover, Esq., to ensure that a copy of that 63 page document is placed in the
5 Court's file in this case.

6 The Court further ruled that the District Attorney give notice of the Court's rulings
7 from this hearing in this matter within 10 days.

8 DATED: January 25, 2021

JASON ANDERSON,
San Bernardino County District Attorney

9
10 By: 
11 Mark Vos, Deputy District Attorney

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**OFFICE OF THE DISTRICT ATTORNEY
SAN BERNARDINO COUNTY**

PROOF OF SERVICE BY EMAIL AND BY U.S. MAIL

STATE OF CALIFORNIA

**EFF v. Superior Court
Case no. CIVDS1930054**

COUNTY OF SAN BERNARDINO

Mark Vos says:

That I am a citizen of the United States and employed in San Bernardino County, over eighteen years of age and not a party to the within action; that my business address is: 303 W. Third St., Fifth Floor, San Bernardino California 92415-0511.

That I am readily familiar with the business practice of sending court briefs over county email; that service and receipt is dependable and takes a matter of seconds, and that it is usually verifiable by means of read-receipt;

That on January 25, 2021, I served the within:

Notice of Ruling

on interested party by sending an electronic copy in pdf format via San Bernardino County email to:


Michael T. Risher
2081 Center St. #154
Berkeley, CA 94702

Email:
michael@risherlaw.com

Miles Kowalski
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Sheriff's Dept.
655 E. Third St.
San Bernardino, CA
92415-0061
CA 94107
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mkowalski@sbcasd.org

Stephen Pascover
Superior Court
247 West Third St.
San Bernardino, CA
92415
Email: **spascover@sb-court.org**

I certify under penalty of perjury that the foregoing is true, and that this declaration was executed at San Bernardino California, on January 25, 2021.



Mark Vos