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18 UNITED STATES DISTRICT COURT

19 FOR THE NORTHERN DISTRICT OF CALIFORNIA

20 IN RE NATIONAL SECURITY AGENCY )  
TELECOMMUNICATIONS RECORDS )  
21 LITIGATION, MDL No. 1791 )  
22 This Document Relates To: )  
23 Al-Haramain Islamic Foundation, et al., )  
24 v. )  
25 Bush, et al. (07-CV-109-VRW) )  
26 )  
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MDL Docket No 06-1791 VRW  
**DECLARATION OF JENNIFER L.  
KELLY IN SUPPORT OF  
AMICI CURIAE MEMORANDUM OF  
MDL PLAINTIFFS ADDRESSING THE  
APPLICATION OF THE PROTOCOL OF  
SECTION 1806(F), TITLE 50 U.S.C., TO  
CIVIL ACTIONS FOR UNLAWFUL  
ELECTRONIC SURVEILLANCE**  
Date: April 23, 2008  
Time: 10:00 a.m.  
Courtroom: 6, 17th Floor  
Judge: The Hon. Vaughn R. Walker

1 I, JENNIFER L. KELLY, declare and state:

2 1. I am a member in good standing of the State Bar of California, and admitted to  
3 practice in this District. I am an associate in the law firm of Fenwick & West LLP, which  
4 represents Plaintiffs in *Riordan v. Verizon Commc'ns Inc.*, No. 3:06-cv-3574 (N.D. Cal.) and  
5 *Campbell v. AT&T*, No. 3:06-cv-03596 (N.D. Cal). I have personal knowledge of the matters set  
6 forth herein, and could and would testify competently thereto if called upon to do so.

7 2. Attached hereto are true and correct copies of the following documents:

No.	Exhibit
1	Christopher H. Pyle, <i>CONUS Intelligence: The Army Watches Civilian Politics</i> , Wash. Monthly, January 1970, at 4, <i>reprinted in</i> 116 Cong. Rec. 2227 (1970)
2	116 Cong. Rec. 26329 (1970) (Statement of Sen. Sam Ervin, Chairman Subcomm. on Constitutional Rights, S. Comm. on the Judiciary)
3	Memorandum for the File: CIA Matters, James A. Wilderotter, Assoc. Dep. Atty. Gen. (Jan. 3, 1975)
4	Seymour Hersh, <i>Huge C.I.A. Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years</i> , N.Y. Times, Dec. 21, 1974, at 1
5	S. Select Comm. to Study Governmental Operations with Respect to Intelligence Activities, Book II: <i>Intelligence Activities and the Rights of Americans</i> , S. Rep. No. 94-755 (1976) (excerpts)
6	S. Select Comm. to Study Governmental Operations with Respect to Intelligence Activities, Book III: <i>Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans</i> , S. Rep. No. 94-755 (1976) (excerpts)
7	S. Rep. No. 95-604(I) (1978), <i>reprinted in</i> 1978 U.S.C.C.A.N. 3904 (excerpts)
8	Brief of <i>Amicus Curiae</i> of People for the American Way Foundation in Support of Plaintiffs-Appellees, <i>Hepting v. AT&amp;T</i> , Nos. 06-17132, 06-17137 (9th Cir., filed May 3, 2007)
9	S. Rep. No. 94-1035 (1976) (excerpts)
10	Peter Swire, <i>The System of Foreign Intelligence Surveillance Law</i> , 72 Geo Wash. L. Rev. 306 (2004)
11	<i>Electronic Surveillance for National Security Purposes, Hearings Before the Subcomm. on Criminal Laws and Procedures and Constitutional Rights of the S. Comm. on the Judiciary</i> , 93rd Cong. (1974) (excerpts)
12	H.R. Rep. No. 95-1283 (1978) (excerpts)
13	<i>Foreign Intelligence Surveillance Act of 1977, Hearings on S. 1566 Before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary 95th Cong.</i> (1977)
14	H.R. Rep. No. 95-1720 (1978) (Conf. Rep.), <i>reprinted in</i> 1978 U.S.C.C.A.N. 4048 (excerpts)
15	S. Rep. No. 95-701 (1978), <i>reprinted in</i> 1978 U.S.C.C.A.N. 3973 (excerpts)

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No.	Exhibit
16	S. 1566, 95th Cong. (as reported by S. Select Comm. on Intelligence, Mar. 14, 1978)
17	124 Cong. Rec. 28427-28432 (1978) (S. 1566, as reported by House, September 7, 1978)
18	S. Rep. No. 110-209 (2007) (excerpts)
19	Siobhan Gorman, <i>NSA's Domestic Spying Grows as Agency Sweeps Up Data</i> , Wall St. J., Mar. 10, 2008, p. A1

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 7th day of April, 2008, at San Francisco, California.

/s/ JENNIFER L. KELLY  
JENNIFER L. KELLY

Counsel for Amici and  
Counsel for *Riordan* and *Campbell* Plaintiffs