

1 ANN BRICK (CSB No. 65296)  
NICOLE A. OZER (CSB No. 228643)  
2 AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA  
3 39 Drumm Street  
San Francisco, CA 94111  
4 Telephone: 415/621-2493; Facsimile: 415/255-8437  
[abrick@aclunc.org](mailto:abrick@aclunc.org), [nozer@aclunc.org](mailto:nozer@aclunc.org)

5  
6 LAURENCE F. PULGRAM (CSB No. 115163)  
MITCHELL ZIMMERMAN (CSB No. 88456)  
JENNIFER L. KELLY (CSB No. 193416)  
7 SAINA SHAMILOV (CSB No. 215636)  
CANDACE MOREY (CSB No. 233081)  
8 FENWICK & WEST LLP  
275 Battery Street  
9 San Francisco, CA 94111  
Telephone: 415/875-2300; Facsimile: 415/281-1350  
10 [lpulgram@fenwick.com](mailto:lpulgram@fenwick.com);  
[mzimmerman@fenwick.com](mailto:mzimmerman@fenwick.com); [jkelly@fenwick.com](mailto:jkelly@fenwick.com)  
11 [sshamilov@fenwick.com](mailto:sshamilov@fenwick.com); [cmorey@fenwick.com](mailto:cmorey@fenwick.com)

12 Attorneys for Plaintiffs  
*Additional counsel listed on following page*

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO

13  
14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION  
17

18 IN RE:

Case No. MDL-06-1791

19  
20 NATIONAL SECURITY AGENCY  
TELECOMMUNICATIONS RECORDS  
21 LITIGATION

**PLAINTIFFS' JOINT STATEMENT OF  
RECENT DECISIONS IN SUPPORT OF  
MOTIONS FOR REMAND**

22  
23 (Captions on Following Pages)  
24

Date: December 21, 2006  
Time: 2:00 p.m.  
Courtroom: 6, 17th floor  
Judge: Hon. Vaughn R. Walker

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DENNIS P. RIORDAN, et al.,

Case No. C-06-3574 VRW

Plaintiffs,

v.

VERIZON COMMUNICATIONS, INC.,  
a corporation; and DOES 1 through 20,

Defendants.

TOM CAMPBELL, et al.,

Case No. C-06-3596 VRW

Plaintiffs,

v.

AT&T COMMUNICATIONS OF  
CALIFORNIA, et al.,

Defendants.

**ADDITIONAL COUNSEL**

PETER ELIASBERG (CSB No. 189110)  
CLARE PASTORE (CSB No. 135933)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SOUTHERN CALIFORNIA  
1616 Beverly Boulevard  
Los Angeles, CA 90026  
Telephone: 213/977-9500  
Facsimile: 213/250-3919  
[peliasberg@aclu-sc.org](mailto:peliasberg@aclu-sc.org), [cpastore@aclu-sc.org](mailto:cpastore@aclu-sc.org)

DAVID BLAIR-LOY (CSB No. 229235)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SAN DIEGO/IMPERIAL COUNTIES  
P.O. Box 87131  
San Diego, CA 92138  
Telephone: 619/232-2121  
Facsimile: 619/232-0036  
[dblairloy@aclusandiego.org](mailto:dblairloy@aclusandiego.org)

1 Pursuant to Civil Local Rule 7-3(d), Plaintiffs Dennis P. Riordan, et al. and Tom  
2 Campbell, et al. submit Plaintiffs' Joint Statement of Recent Decisions in Support of Plaintiffs'  
3 Motions for Remand. Attached hereto are copies of the following:

4 1. *Voicenet Commc'ns, Inc. v. Corbett*, Civ. A. No. 04-1318, 2006 WL 2506318,  
5 2006 U.S. Dist. LEXIS 61916 (E.D.Pa. Aug. 30, 2006) (attached as Exhibit 1) (concluding, based  
6 on review of legislative history, that "language [in 18 U.S.C. Section 2708 that 'remedies and  
7 sanctions described in this chapter are the only judicial remedies and sanctions for non-  
8 constitutional violations of this chapter'] was enacted principally to ensure that violations of the  
9 ECPA would not be used as the basis for excluding evidence under the statutory exclusion  
10 rule . . . .").

11 2. *California v. H&R Block, Inc.*, No. C 06-2058, 2006 WL 2669045, 2006 U.S. Dist.  
12 LEXIS 69472 (N.D. Cal Sep. 26, 2006) (attached as Exhibit 2)(applying the "well-pleaded  
13 complaint rule" to order remand because, *inter alia*, under *Grable & Sons Metal Products, Inc. v.*  
14 *Darue Eng. & Mnfrg., Inc.*, 545 U.S. 308 (2005), in order for a case to "arise under" federal law,  
15 "the elements of the state claim which involve a federal issue must be 'essential parts of the  
16 plaintiffs' cause of action'").

17  
18 Dated: **December 18, 2006**

Respectfully,

FENWICK & WEST LLP

21 By:                   /s/ Laurence F. Pulgram                    
22 Laurence F. Pulgram

*Attorneys for Plaintiffs*

23 AMERICAN CIVIL LIBERTIES UNION  
24 FOUNDATION OF NORTHERN CALIFORNIA  
25 Ann Brick, Nicole A. Ozer

26 AMERICAN CIVIL LIBERTIES UNION  
27 FOUNDATION OF SOUTHERN CALIFORNIA  
28 Peter Eliasberg, Clare Pastore

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SAN DIEGO/IMPERIAL  
COUNTIES  
David Blair-Loy

FENWICK & WEST LLP  
Laurence F. Pulgram, Mitchell Zimmerman,  
Jennifer L. Kelly, Saina Shamilov,  
Candace Morey

B9320/00401/SF/5187922.1

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO