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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

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11 Counsel for Petitioner
12 *Pro hac vice applications to be filed upon the assignment of this case to a judge.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CW

15 INTERNET ARCHIVE; AMERICAN CIVIL)
16 LIBERTIES UNION; AMERICAN CIVIL)
LIBERTIES UNION FOUNDATION;)
17 AMERICAN CIVIL LIBERTIES UNION OF)
NORTHERN CALIFORNIA, INC.;)
18 AMERICAN CIVIL LIBERTIES UNION)
FOUNDATION OF NORTHERN)
19 CALIFORNIA, INC.; and ELECTRONIC)
FRONTIER FOUNDATION,)

Case No. _____

**PETITION OF PLAINTIFF INTERNET
ARCHIVE TO SET ASIDE NATIONAL
SECURITY LETTER**

**DOCUMENT SUBMITTED UNDER
SEAL**

Plaintiffs,

v.

22 MICHAEL B. MUKASEY, in his official)
capacity as Attorney General of the United)
23 States; ROBERT S. MUELLER III, in his)
official capacity as Director of the Federal)
24 Bureau of Investigation; and ARTHUR M.)
CUMMINGS II, in his official capacity as)
25 Deputy Assistant Director of the)
26 Counterterrorism Division of the Federal Bureau)
of Investigation,)

Defendants.

1 Petitioner Internet Archive has received a National Security Letter ("NSL") issued by the
2 Federal Bureau of Investigation ("FBI") pursuant to 18 U.S.C. § 2709, demanding certain records
3 in the organization's possession. Petitioner hereby petitions the Court under 18 U.S.C. § 3511(a)
4 for an order setting aside the NSL because it is unlawful on the following grounds:

- 5 1. Petitioner is not an electronic communication service provider as required by 18 U.S.C.
6 section 2709(a);
- 7 2. As a library, petitioner is not an electronic communication service provider within the
8 meaning of 18 U.S.C. § 2709(f); and
- 9 3. Section 2709 of Title 18 of the United States Code, pursuant to which the NSL was
10 issued, is unconstitutional on its face under the First Amendment.

11 A Memorandum of Points and Authorities in Support of Petition to Set Aside NSL is being
12 filed concurrently herewith.


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14 Respectfully submitted,

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17 JAMEEL JAFFER
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19 American Civil Liberties Union Foundation
20 National Security Project

21
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23 American Civil Liberties Union
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25 By: 
26 ANN BRICK
27 Counsel for Petitioner

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29 CINDY COHN
30 KURT OPSAHL
31 MARCIA HOFMANN
32 Electronic Frontier Foundation

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34 MARCIA HOFMANN
35 Counsel for Petitioner

36 DATED: December 14, 2007