

1 CINDY COHN  
LEE TIEN  
2 KURT OPSAHL  
KEVIN S. BANKSTON  
3 CORYNNE MCSHERRY  
JAMES S. TYRE  
4 ELECTRONIC FRONTIER FOUNDATION  
454 Shotwell Street  
5 San Francisco, CA 94110  
Telephone: (415) 436-9333  
6 Facsimile: (415) 436-9993

7 Counsel For AT&T Class Plaintiffs And  
Co-Lead Coordinating Counsel

8 RICHARD R. WIEBE (CSB No. 121156)  
9 LAW OFFICE OF RICHARD R. WIEBE  
425 California Street, Suite 2025  
10 San Francisco, CA 94104  
11 Telephone: (415) 433-3200  
Facsimile: (415) 433-6382

12 Counsel For AT&T Class Plaintiffs

HARVEY GROSSMAN  
ADAM SCHWARTZ  
ROGER BALDWIN FOUNDATION OF ACLU  
180 North Michigan Avenue  
Suite 2300  
Chicago, IL 60601  
Telephone: (312) 201-9740  
Facsimile: (312) 201-9760

Counsel For AT&T Class Plaintiffs And  
Co-Lead Coordinating Counsel

ARAM ANTARAMIAN  
LAW OFFICE OF ARAM ANTARAMIAN  
1714 Blake Street  
Berkeley, CA 94703  
Telephone: (510) 841-2369

Counsel For AT&T Class Plaintiffs

[Additional Counsel on Last Page]

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

16 IN RE NATIONAL SECURITY AGENCY )  
17 TELECOMMUNICATIONS RECORDS )  
18 LITIGATION, MDL No. 1791 )

MDL Docket No 06-1791 VRW

19 )  
20 This Document Relates To: All Cases Except: )  
21 *Al-Haramain Islamic Foundation, Inc. v. Bush,* )  
22 *No. 07-0109; Center for Constitutional Rights v.* )  
23 *Bush, No. 07-1115; Guzzi v. Bush, No. 06-* )  
24 *06225; Shubert v. Bush, No. 07-0693; Clayton v.* )  
25 *AT&T Commc'ns of the Southwest, No. 07-1187;* )  
26 *U. S. v. Adams, No. 07-1323; U. S. v. Clayton,* )  
27 *No. 07-1242; U. S. v. Palermino, No. 07-1326;* )  
28 *U. S. v. Rabner, No. 07-1324; U. S. v. Volz,* )  
*No. 07-1396* )

**DECLARATION OF KURT OPSAHL  
REGARDING PLAINTIFFS' EVIDENCE  
RULE 1006 SUMMARY OF  
VOLUMINOUS EVIDENCE FILED IN  
SUPPORT OF PLAINTIFFS' OPPOSITION  
TO MOTION OF THE UNITED STATES  
SEEKING TO APPLY FISAAA § 802  
(50 U.S.C. § 1885a) TO DISMISS THESE  
ACTIONS**

Date: December 2, 2008  
Time: 10:00 a.m.  
Courtroom: 6, 17th Floor  
Judge: The Hon. Vaughn R. Walker

1 I, KURT OPSAHL, hereby declare,

2 1. I am an attorney of record for plaintiffs in this action and a member of good standing of  
3 the California State Bar. I am admitted to practice before this Court. I have personal knowledge of  
4 the matters stated in this declaration and if called upon to do so I am competent to testify to all  
5 matters set forth herein.

6 2. In support of plaintiffs' Opposition To Motion Of The United States Seeking To Apply  
7 FISAAA § 802 (50 U.S.C. § 1885a) To Dismiss These Actions (MDL Dkt. No. 475), plaintiffs also  
8 submit a Summary of Voluminous Evidence pursuant to Federal Rule of Evidence 1006. The  
9 Summary of Voluminous Evidence is based on evidence previously filed in this case, as well as  
10 new information that has come to light more recently in testimony before congressional hearings,  
11 speeches, letters and other statements by administrations officials, publicly released administration  
12 documents, books, magazine articles, newspapers, and other sources.

13 3. For the convenience of the Court, to facilitate judicial access to plaintiffs' supporting  
14 evidence, plaintiffs file both the new information (supplemental evidence) and the previously filed  
15 evidence along with the Rule 1006 Summary of Voluminous Evidence. The supplemental evidence  
16 is contained in Volumes I- IV and VIII of the Evidence in Support of Plaintiff's Opposition to  
17 Motion of the United States Seeking To Apply FISAAA § 802 (50 U.S.C. § 1885a) To Dismiss  
18 These Actions. The relevant previously filed evidence is contained in Volumes V-VII.

19 4. The Summary of Voluminous Evidence is an accurate summary conveying information  
20 contained in the exhibits to the summary, described below.

21 5. Attached hereto as Exhibit 1 is a true and correct copy of the following book: ERIC  
22 LICHTBLAU, BUSH'S LAW: THE REMAKING OF AMERICAN JUSTICE (Pantheon Books 2008).

23 6. Attached hereto as Exhibit 2 is a true and correct copy of the following document:  
24 Hearing Of the S. Select Comm. on Intelligence on The Nomination of Gen. Michael V. Hayden  
25 to be the Dir. of the Central Intelligence Agency, 109th Cong. (May 18, 2006), *available at*  
26 [http://www.fas.org/irp/congress/2006\\_hr/051806transcript.pdf](http://www.fas.org/irp/congress/2006_hr/051806transcript.pdf).

27 7. Attached hereto as Exhibit 3 is a true and correct copy of the following document:  
28 Letter from Shannen W. Coffin, Counsel to the Vice President, Office of the Vice President, to

1 Sen. Patrick J. Leahy, Chairman, S. Comm. on the Judiciary, and Sen. Arlen Specter, Ranking  
2 Minority Member, S. Comm. on the Judiciary (Aug. 20, 2007), *available at*  
3 <http://leahy.senate.gov/press/200708/07-08-20%20vp%20letter.pdf>.

4 8. Attached hereto as Exhibit 4 is a true and correct copy of the following document:  
5 National Security Agency, *Transition 2001* (December 2000), provided by the National Security  
6 Agency in response to a Freedom of Information Act request and available through the National  
7 Security Archive at George Washington University at  
8 <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB24/nsa25.pdf>.

9 9. Attached hereto as Exhibit 5 is a true and correct copy of the following document: *FISA*  
10 *Hearing*: Hearing Before the H. Permanent Select Comm. on Intelligence, 110th Cong. (Sept. 18,  
11 2007) *available at* [http://www.fas.org/irp/congress/2007\\_hr/fisa091807.pdf](http://www.fas.org/irp/congress/2007_hr/fisa091807.pdf).

12 10. Attached hereto as Exhibit 6 is a true and correct copy of the following document: Dept.  
13 of Justice Press Release, *Transcript of Background Briefing By Senior Justice Department Officials*  
14 *On FISA Authority Of Electronic Surveillance* (Jan. 17, 2007), *available at*  
15 <http://www.fas.org/irp/news/2007/01/doj011707.html>.

16 11. Attached hereto as Exhibit 7 is a true and correct copy of the following document:  
17 Office of the Inspector Gen., *U.S. Dept. of Justice, Report of Investigation Regarding Allegations*  
18 *of Mishandling of Classified Documents by Att'y Gen. Alberto Gonzales* (Sept. 2, 2008), *available*  
19 *at* <http://www.usdoj.gov/oig/special/s0809/final.pdf>.

20 12. Attached hereto as Exhibit 8 is a true and correct copy of the following book: BARTON  
21 GELLMAN, ANGLER: *THE CHENEY VICE PRESIDENCY* (Penguin Press 2008).

22 13. Attached hereto as Exhibit 9 is a true and correct copy of the following book: JACK L.  
23 GOLDSMITH, *THE TERROR PRESIDENCY: LAW AND JUDGMENT INSIDE THE BUSH ADMINISTRATION*  
24 (W. W. Norton 2007).

25 14. Attached hereto as Exhibit 10 is a true and correct copy of the following document:  
26 Interview by PBS Frontline with John C. Yoo, (Jan. 10, 2007), *available at*  
27 <http://www.pbs.org/wgbh/pages/frontline/homefront/interviews/yoo.html>.

28 15. Attached hereto as Exhibit 11 is a true and correct copy of the following document:

1 *Dept. of Justice Oversight*: Hearing before the S. Comm. on the Judiciary, 110th Cong. (Jan 18,  
2 2007), available at [http://www.fas.org/irp/congress/2007\\_hr/doj.pdf](http://www.fas.org/irp/congress/2007_hr/doj.pdf).

3 16. Attached hereto as Exhibit 12 is a true and correct copy of the following document:  
4 *Proposed FISA Modernization Legislation*: Hearing before the S. Select Comm. on Intelligence,  
5 110th Cong. (May 1, 2007), available at  
6 [http://www.odni.gov/testimonies/20070501\\_transcript.pdf](http://www.odni.gov/testimonies/20070501_transcript.pdf).

7 17. Attached hereto as Exhibit 13 is a true and correct copy of the following document: *The*  
8 *Terrorist Surveillance Program and the Foreign Intelligence Surveillance Act (FISA)*: Hearing of  
9 the Subcomm. on the Constitution, Civil Rights, and Civil Liberties, H. Comm. on the Judiciary,  
10 110th Cong. (June 7, 2007) (Statement of Steven G. Bradbury, Principal Deputy Asst. Att’y Gen.,  
11 Office of Legal Counsel, U.S. Dept. of Justice), available at  
12 [http://www.fas.org/irp/congress/2007\\_hr/060707bradbury.pdf](http://www.fas.org/irp/congress/2007_hr/060707bradbury.pdf).

13 18. Attached hereto as Exhibit 14 is a true and correct copy of the following document:  
14 Interview with Rep. Peter Hoekstra by Paul Gigot, *Lack of Intelligence: Congress Dawdles on*  
15 *Terrorist Wiretapping*, JOURNAL EDITORIAL REPORT, FOX NEWS CHANNEL (Aug. 6, 2007),  
16 available at <http://www.opinionjournal.com/jer/?id=110010431>.

17 19. Attached hereto as Exhibit 15 is a true and correct copy of the following document:  
18 White House Press Release, *Transcript of Background Briefing on FISA by Senior Administration*  
19 *Officials*, (Feb 26, 2008), available at  
20 <http://www.whitehouse.gov/news/releases/2008/02/20080226-11.html>.

21 20. Attached hereto as Exhibit 16 is a true and correct copy of the following document: Eric  
22 Lichtblau & Scott Shane, *Bush Is Pressed Over New Report on Surveillance*, N.Y. TIMES (May 12,  
23 2006), available at <http://www.nytimes.com/2006/05/12/washington/12nsa.html>.

24 21. Attached hereto as Exhibit 17 is a true and correct copy of the following document:  
25 *Warrantless Surveillance And The Foreign Intelligence Surveillance Act: The Role Of Checks And*  
26 *Balances In Protecting Americans' Privacy Rights (Part II)*: Hearing before the H. Comm. on the  
27 Judiciary, 110th Cong. (Sept. 18, 2007).

28 22. Attached hereto as Exhibit 18 is a true and correct copy of the Executive Summary of

1 the following report: *Protecting Individual Privacy in the Struggle Against Terrorists: A*  
2 *Framework for Assessment Committee on Technical and Privacy Dimensions of Information for*  
3 *Terrorism Prevention*, National Research Council, Executive Summary (2008).

4 23. Attached hereto as Exhibit 19 is a true and correct copy of the following document:  
5 Transcript of *Strengthening FISA (Foreign Intelligence Surveillance Act): Does the Protect*  
6 *America Act Protect Americans' Civil Liberties and Enhance Security?*: Hearing before the S.  
7 Comm. on the Judiciary, 110th Cong. (Sept. 25, 2007).

8 24. Attached hereto as Exhibit 20 is a true and correct copy of the following document: *The*  
9 *Foreign Intelligence Surveillance Act and Implementation of the Protect America Act*: Hearing  
10 before the S. Comm. on the Judiciary, 110th Cong. (Sept. 25, 2007) (Statement of J. Michael  
11 McConnell, Dir. of Nat'l Intelligence), *available at*  
12 [http://www.fas.org/irp/congress/2007\\_hr/092507mcconnell.pdf](http://www.fas.org/irp/congress/2007_hr/092507mcconnell.pdf)

13 25. Attached hereto as Exhibit 21 is a true and correct copy of the following document:  
14 ODNI Minimization Attachment, provided by the Office of the Dir. of Nat'l Intelligence in  
15 response to a Freedom of Information Act request and available through the ODNI's Electronic  
16 Reading Room at [http://www.dni.gov/electronic\\_reading\\_room.htm](http://www.dni.gov/electronic_reading_room.htm).

17 26. Attached hereto as Exhibit 22 is a true and correct copy of the following document:  
18 Letter from Kathleen Turner, Dir. of Legislative Affairs, Office of the Dir. of Nat'l Intelligence, to  
19 Rep. Silvestre Reyes, Chairman, and Rep. Peter Hoekstra, Ranking Member of the H. Intelligence  
20 Comm (Oct. 16, 2007), provided by the Office of the Dir. of Nat'l Intelligence in response to a  
21 Freedom of Information Act request and available through the ODNI's Electronic Reading Room  
22 at [http://www.dni.gov/electronic\\_reading\\_room.htm](http://www.dni.gov/electronic_reading_room.htm)

23 27. Attached hereto as Exhibit 23 is a true and correct copy of the following document:  
24 Interview by PBS Frontline with James A. Baker, Counsel, U.S. Dept. of Justice (March 2, 2007)  
25 *available at* <http://www.pbs.org/wgbh/pages/frontline/homefront/interviews/baker.html>.

26 28. Attached hereto as Exhibit 24 is a true and correct copy of the following document:  
27 Department of Defense, DOD 5240 1-R, Procedures Governing the Activities of DOD Intelligence  
28 Components that Affect United States Persons § C.2.2.1 (Dec. 1982), *available at*

1 www.fas.org/irp/doddir/dod/d5240\_1\_r.pdf.

2 29. Attached hereto as Exhibit 25 is a true and correct copy of the following document:  
3 Lawrence Wright, *The Spymaster: Can Mike McConnell Fix America's Intelligence Community?*,  
4 NEW YORKER (Jan. 21, 2007), available at  
5 [http://www.newyorker.com/reporting/2008/01/21/080121fa\\_fact\\_wright?currentPage=all](http://www.newyorker.com/reporting/2008/01/21/080121fa_fact_wright?currentPage=all).

6 30. Attached hereto as Exhibit 26 is a true and correct copy of the following document:  
7 Mark Hosenball, *Spying: Giving Out U.S. Names*, NEWSWEEK (May 2, 2005), available at  
8 <http://www.newsweek.com/id/51880>.

9 31. Attached hereto as Exhibit 27 is a true and correct copy of the following document:  
10 Brian Ross, et. al., *Exclusive: Inside Account of U.S. Eavesdropping on Americans, U.S. Officers'*  
11 *"Phone Sex" Intercepted; Senate Demanding Answers*, ABC NEWS (Oct. 9, 2008), available at  
12 <http://abcnews.go.com/Blotter/Story?id=5987804&page=1>.

13 32. Attached hereto as Exhibit 28 is a true and correct copy of the following document:  
14 White House Press Release, *Statement by the Press Secretary on FISA* (Feb. 25, 2008), available at  
15 <http://www.whitehouse.gov/news/releases/2008/02/20080225-1.html>.

16 33. Attached hereto as Exhibit 29 is a true and correct copy of the following document:  
17 *Transcript of FISA Amendments: Panel I: Hearing before the S. Comm. on the Judiciary, 110th*  
18 *Cong. (Oct. 31, 2007)*, available at <http://www.lifeandliberty.gov/docs/fnstranscript-panel1.pdf>.

19 34. Attached hereto as Exhibit 30 is a true and correct copy of the following document:  
20 Letter from J. Michael McConnell, Dir. of Nat'l Intelligence, to Rep. Peter Hoekstra, Ranking  
21 Member, H. Permanent Select Comm. on Intelligence (Dec. 13, 2007), provided by the Office of  
22 the Director of National Intelligence in response to a Freedom of Information Act request and  
23 available through the ODNI's Electronic Reading Room at  
24 [http://www.dni.gov/electronic\\_reading\\_room.htm](http://www.dni.gov/electronic_reading_room.htm).

25 35. Attached hereto as Exhibit 31 is a true and correct copy of the following document:  
26 White House Press Release, *Transcript of President Bush Meeting with National Governors*  
27 *Association* (Feb. 25, 2008), available at  
28 <http://www.whitehouse.gov/news/releases/2008/02/20080225-2.html>.

1 36. Attached hereto as Exhibit 32 is a true and correct copy of the following document:  
2 White House Press Release, *Press Briefing by Dana Perino* (Feb. 12, 2008), available at  
3 <http://www.whitehouse.gov/news/releases/2008/02/20080212-2.html>.

4 37. Attached hereto as Exhibit 33 is a true and correct copy of the following document:  
5 *Annual Threat Assessment: Hearing before the S. Comm. on Armed Services, 110th Cong.* (Feb.  
6 27, 2008), available at [http://www.dni.gov/testimonies/20080227\\_transcript.pdf](http://www.dni.gov/testimonies/20080227_transcript.pdf).

7 38. Attached hereto as Exhibit 34 is a true and correct copy of the following document:  
8 Marcus Baram, *Ex-Qwest CEO: Spy Agency Retaliated Against Us, Joseph Nacchio Claims Telco*  
9 *Was Punished for Not Cooperating in Records Program*, ABC NEWS (Oct. 12, 2007) available at  
10 <http://www.abcnews.go.com/print?id=3723676>.

11 39. Attached hereto as Exhibit 35 is a true and correct copy of the following document:  
12 Barton Gellman & Arshad Mohammed, *Data on Phone Calls Monitored; Extent of*  
13 *Administration's Domestic Surveillance Decried in Both Parties*, WASH. POST (May 12, 2006),  
14 available at  
15 <http://pqasb.pqarchiver.com/washingtonpost/access/1035535981.html?dids=1035535981:1035535981&FMT=ABS&FMTS=ABS:FT&date=May+12%2C+2006&author=Barton+Gellman+and+Arshad+Mohammed&pub=The+Washington+Post&edition=&startpage=A.01&desc=Data+on+Phone+Calls+Monitored%3B+Extent+of+Administration%27s+Domestic+Surveillance+Decried+in+Both+Parties>.  
19

20 40. Attached hereto as Exhibit 36 is a true and correct copy of the following document:  
21 Joseph Menn & Josh Meyer, *U.S. Spying is Much Wider, Some Suspect*, L.A. TIMES (Dec. 25,  
22 2005), available at <http://articles.latimes.com/2005/dec/25/nation/na-spy25>.

23 41. Attached hereto as Exhibit 37 is a true and correct copy of the following document:  
24 Department of Justice Press Release, *Transcript of Conference Call with Senior Administration*  
25 *Officials Regarding FISA Modernization Legislation* (Aug. 7, 2007), available at  
26 <http://www.lifeandliberty.gov/docs/fisa-transcript080707.pdf>.

27 42. Attached hereto as Exhibit 38 is a true and correct copy of the following document:  
28 Ryan Singel, *FBI Seeking to Pay Telecoms to Store Records for Years and Provide Instant Access*,

1 WIRED NEWS (July 18, 2007), *available at* <http://blog.wired.com/27bstroke6/2007/07/fbi-unit-that->  
2 [l.html](http://blog.wired.com/27bstroke6/2007/07/fbi-unit-that-l.html).

3 43. Attached hereto as Exhibit 39 is a true and correct copy of the following document: Eric  
4 Lichtblau, *F.B.I. Data Mining Reached Beyond Initial Targets*, N.Y. TIMES (Sept. 9, 2007),  
5 *available at* <http://www.nytimes.com/2007/09/09/washington/09fbi.html>.

6 44. Attached hereto as Exhibit 40 is a true and correct copy of the following document:  
7 Letter from Randal S. Milch, Senior Vice President, Legal & External Affairs & General Counsel,  
8 Verizon, to Reps. John Dingell, Edward Markey and Bart Stupak (Oct. 12, 2007), *available at*  
9 [http://markey.house.gov/docs/telecomm/Verizon\\_wiretaping\\_response\\_101207.pdf](http://markey.house.gov/docs/telecomm/Verizon_wiretaping_response_101207.pdf).

10 45. Attached hereto as Exhibit 41 is a true and correct copy of the following document: Dan  
11 Eggen & Joby Warrick, *Data Mining Figured In Dispute Over NSA, Report Links Program to*  
12 *Gonzales Uproar*, WASH. POST (July 29, 2007), *available at* <http://www.washingtonpost.com/wp->  
13 [dyn/content/article/2007/07/28/AR2007072801401.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/07/28/AR2007072801401.html).

14 46. Attached hereto as Exhibit 42 is a true and correct copy of the following document:  
15 *Preserving the Rule of Law in the Fight Against Terrorism*: Hearing before the S. Comm. on the  
16 Judiciary, 110th Cong. (Oct. 2, 2007), *available at*  
17 [http://www.fas.org/irp/congress/2007\\_hr/ruleoflaw.html](http://www.fas.org/irp/congress/2007_hr/ruleoflaw.html).

18 47. Attached hereto as Exhibit 43 is a true and correct copy of the following document:  
19 Scott Shane, et al. , *Secret U.S. Endorsement of Severe Interrogations*, N.Y. TIMES (Oct. 4, 2007),  
20 *available at* <http://www.nytimes.com/2007/10/04/washington/04interrogate.html>.

21 48. Attached hereto as Exhibit 44 is a true and correct copy of the following document: Dan  
22 Eggen & Paul Kane, *Gonzales, Senators Spar on Credibility, Account of Meeting In '04 Is*  
23 *Challenged*, WASH. POST (July 25, 2007), *available at* <http://www.washingtonpost.com/wp->  
24 [dyn/content/article/2007/07/24/AR2007072400207.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/07/24/AR2007072400207.html).

25 49. Attached hereto as Exhibit 45 is a true and correct copy of the following document:  
26 *Oversight of the Department of Justice*: Hearing before the S. Comm. on the Judiciary, 110th  
27 Cong. (July 24, 2007), *available at* <http://www.washingtonpost.com/wp->  
28 [srv/politics/documents/gonzalez\\_transcript\\_072407.html](http://www.washingtonpost.com/wp-srv/politics/documents/gonzalez_transcript_072407.html).



1 50. Attached hereto as Exhibit 46 is a true and correct copy of the following document:  
2 Scott Shane & David Johnston, *Mining of Data Prompted Fight Over U.S. Spying*, N.Y. TIMES  
3 (July 29, 2007), available at <http://www.nytimes.com/2007/07/29/washington/29nsa.html>.

4 51. Attached hereto as Exhibit 47 is a true and correct copy of the following document:  
5 White House Press Release, *Press Briefing by Tony Snow*, (Jan. 17, 2007), available at  
6 <http://www.whitehouse.gov/news/releases/2007/01/20070117-5.html>.

7 52. Attached hereto as Exhibit 48 is a true and correct copy of the following document:  
8 James Risen, *Administration Pulls Back on Surveillance Agreement*, N.Y. TIMES (May 2, 2007),  
9 available at <http://www.nytimes.com/2007/05/02/washington/02intel.html>.

10 53. Attached hereto as Exhibit 49 is a true and correct copy of the following document:  
11 David Johnston & Scott Shane, *Senators Demand Details on New Eavesdropping Rules*, N.Y.  
12 TIMES (Jan. 19, 2007), available at  
13 <http://www.nytimes.com/2007/01/19/washington/19justice.html>.

14 54. Attached hereto as Exhibit 50 is a true and correct copy of the following document:  
15 Greg Miller, *New Limits Put On Overseas Surveillance*, L.A. TIMES (Aug. 2, 2007), available at  
16 <http://articles.latimes.com/2007/aug/02/nation/na-spying2>.

17 55. Attached hereto as Exhibit 51 is a true and correct copy of the following document:  
18 Ryan Singel, *Can the NSA Wiretap in Iraq Without A Warrant?*, WIRED NEWS (Feb. 28, 2008),  
19 available at <http://blog.wired.com/27bstroke6/2008/02/can-the-nsa-wir.html>.

20 56. Attached hereto as Exhibit 52 is a true and correct copy of the following document:  
21 Ellen Nakashima & Paul Kane, *Wiretap Compromise in Works: FISA Update May Hinge On Two*  
22 *Separate Votes*, WASH. POST (March 4, 2008), available at [http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2008/03/03/AR2008030302814_pf.html)  
23 [dyn/content/article/2008/03/03/AR2008030302814\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/03/03/AR2008030302814_pf.html).

24 57. Attached hereto as Exhibit 53 is a true and correct copy of the following document:  
25 Letter from Kenneth L. Wainstein, Asst. Att'y Gen. for Nat'l Sec., U.S. Dept. of Justice, to Rep.  
26 Silvestre Reyes, Chairman, H. Permanent Select Comm. on Intelligence (Sept. 14, 2007), available  
27 at <http://www.lifeandliberty.gov/docs/reyes091407.pdf>.

28 58. Attached hereto as Exhibit 54 is a true and correct copy of the following document:

1 Michael Isikoff, *Uncle Sam Is Still Watching You*, NEWSWEEK (July 21, 2008), available at  
2 <http://www.newsweek.com/id/145847>.

3 59. Attached hereto as Exhibit 55 is a true and correct copy of the following document:  
4 Memorandum from Alberto Gonzales, Fmr. Att’y Gen. of the U.S., *Concerning the Report of*  
5 *Investigation Regarding Allegations of Mishandling of Classified Documents by Fmr. Att’y Gen.*  
6 *Alberto Gonzales* (Aug. 28, 2008), available at  
7 [http://www.bork.com/downloads/Memo\\_re\\_classified\\_documents.pdf](http://www.bork.com/downloads/Memo_re_classified_documents.pdf).

8 60. Attached hereto as Exhibit 56 is a true and correct copy of the following document:  
9 Charles Babington, *Gonzales Denies More Extensive Domestic Spying*, WASH. POST (Mar. 3,  
10 2006), available at <http://www.washingtonpost.com/wp->  
11 [dyn/content/article/2006/03/02/AR2006030201783.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/03/02/AR2006030201783.html)

12 61. Attached hereto as Exhibit 57 is a true and correct copy of the following document:  
13 *Preserving Prosecutorial Independence: Is the Department of Justice Politicizing the Hiring and*  
14 *Firing of U.S. Attorneys?:* Hearing before the S. Comm. on the Judiciary, Part IV, 110th Cong.  
15 (May 15, 2007).

16 62. Attached hereto as Exhibit 58 is a true and correct copy of the following document:  
17 David Johnston & Scott Shane, *Gonzales Denies Improper Pressure on Ashcroft*, N.Y. TIMES (July  
18 25, 2007), available at <http://www.nytimes.com/2007/07/25/washington/25gonzales.html>.

19 63. Attached hereto as Exhibit 59 is a true and correct copy of the following document:  
20 White House Press Release, *Press Briefing by Tony Snow* (Aug. 1, 2007), available at  
21 <http://www.whitehouse.gov/news/releases/2007/08/20070801-3.html>.

22 64. Attached hereto as Exhibit 60 is a true and correct copy of the following document:  
23 Letter from William E. Moschella, Asst. Att’y Gen., U.S. Dept. of Justice, to Sen. Arlen Specter,  
24 Chairman, S. Comm. on the Judiciary (February 3, 2006), available at  
25 <http://www.usdoj.gov/ag/readingroom/surveillance17.pdf>.

26 65. Attached hereto as Exhibit 61 is a true and correct copy of the following transcript:  
27 White House Press Release, *Press Briefing by Tony Snow* (Aug. 8, 2007), available at  
28 <http://www.whitehouse.gov/news/releases/2007/08/20070808-4.html>.

1 66. Attached hereto as Exhibit 62 is a true and correct copy of the following document:  
2 Letter from William E. Moschella, Asst. Att’y Gen., U.S. Dept. of Justice, to Sen Arlen Specter,  
3 Chairman, S. Comm. on the Judiciary (March 24, 2006), *available at*  
4 <http://www.usdoj.gov/ag/readingroom/surveillance21.pdf>.

5 67. Attached hereto as Exhibit 63 is a true and correct copy of the following document:  
6 Computer Crime and Intellectual Property Section, U.S. Dept. of Justice, *Searching and Seizing*  
7 *Computers and Obtaining Electronic Evidence in Criminal Investigations* (2002), *available at*  
8 <http://www.usdoj.gov/criminal/cybercrime/s&smanual2002.htm>.

9 68. Attached hereto as Exhibit 64 is a true and correct copy of the following document: U.S  
10 Dept. of Justice, *U.S. Attorneys’ Manual 9-7.000 et seq.* (2003), *available at*  
11 [http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/usam/title9/7mcrm.htm](http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/7mcrm.htm).

12 69. Attached hereto as Exhibit 65 is a true and correct copy of the following document:  
13 Government’s Response to Plaintiffs’ Request for Judicial Notice, *available at*  
14 [http://www.eff.org/files/filenode/att/hepting\\_response\\_to\\_RFJN.pdf](http://www.eff.org/files/filenode/att/hepting_response_to_RFJN.pdf).

15 70. Attached hereto as Exhibit 66 is a true and correct copy of the following document:  
16 Executive Office of the President, *Statement of Administration Policy S. 2248* (Dec. 17, 2007),  
17 *available at* <http://www.lifeandliberty.gov/docs/sap-on-s2248.pdf>.

18 71. Attached hereto as Exhibit 67 is a true and correct copy of the following document:  
19 Richard Cheney, Vice President of the U.S., *Vice President’s Remarks to the Heritage Foundation*  
20 (Jan 23, 2008), *available at* <http://www.whitehouse.gov/news/releases/2008/01/20080123-2.html>.

21 72. Attached hereto as Exhibit 68 is a true and correct copy of the following document:  
22 White House Press Release, *Press Conference of the President* (Feb. 28, 2008), *available at*  
23 <http://www.whitehouse.gov/news/releases/2008/02/20080228-2.html>.

24 73. Attached hereto as Exhibit 69 is a true and correct copy of the following document:  
25 Letter from Michael Mukasey, Att’y Gen. of the U.S., and J. Michael McConnell, Dir. of Nat’l  
26 Intelligence, to Sen. Patrick Leahy, Chairman, S. Comm. on the Judiciary (Nov. 14, 2007),  
27 *available at* <http://www.lifeandliberty.gov/docs/final-leahy-sub-letter111407.pdf>.

28 74. Attached hereto as Exhibit 70 is a true and correct copy of the following document:

1 Michael Mukasey, Att’y Gen. of the U.S., Op-Ed., *We Balance Security, Privacy: Immunity For*  
2 *Telecoms Is Critical To Efforts To Protect The Nation*, USA TODAY (Dec. 20, 2007), available at  
3 <http://www.lifeandliberty.gov/docs/ag.fisa-editorial-2.pdf>.

4 75. Attached hereto as Exhibit 71 is a true and correct copy of the following document:  
5 Michael Mukasey, Att’y Gen. of the U.S., Op-Ed., *A FISA Fix*, L.A. TIMES (Dec. 12, 2007),  
6 available at <http://www.lifeandliberty.gov/docs/ag-fisa-editorial.pdf>.

7 76. Attached hereto as Exhibit 72 is a true and correct copy of the following document:  
8 Michael Mukasey, Att’y Gen. of the U.S., *Prepared Remarks of Attorney General Michael B.*  
9 *Mukasey at the American Bar Association National Security Law Breakfast* (Dec. 19, 2007),  
10 available at [http://www.usdoj.gov/ag/speeches/2007/ag\\_speech\\_071219.html](http://www.usdoj.gov/ag/speeches/2007/ag_speech_071219.html).

11 77. Attached hereto as Exhibit 73 is a true and correct copy of the following document:  
12 Letter from Michael Mukasey, Att’y Gen. of the U.S., and J. Michael McConnell, Dir. of Nat’l  
13 Intelligence, to Rep. Silvestre Reyes, Chairman, H. Permanent Select Comm. on Intelligence (Feb.  
14 22, 2008), available at <http://www.lifeandliberty.gov/docs/ag-dni-letter-to-chairman-reyes.pdf>.

15 78. Attached hereto as Exhibit 74 is a true and correct copy of the following document:  
16 Letter from Michael Mukasey, Att’y Gen. of the U.S., and J. Michael McConnell, Dir. of Nat’l  
17 Intelligence, to Sen. Harry Reid, S. Majority Leader (June 26, 2008), available at  
18 <http://www.lifeandliberty.gov/docs/reidletter.pdf>.

19 79. Attached hereto as Exhibit 75 is a true and correct copy of the following document:  
20 Letter from Michael Mukasey, Att’y Gen. of the U.S., and J. Michael McConnell, Dir. of Nat’l  
21 Intelligence, to Sen. Harry Reid, S. Majority Leader (July 7, 2008), available at  
22 <http://www.lifeandliberty.gov/docs/dni-ag-letter-sen-reid-070708.pdf>.

23 80. Attached hereto as Exhibit 92 is a true and correct copy of the following document: *The*  
24 *Foreign Intelligence Surveillance Act: Hearing before the H. Permanent Select Comm. on*  
25 *Intelligence, 110th Cong. (Sept. 20, 2007)*, available at  
26 [http://www.fas.org/irp/congress/2007\\_hr/fisa092007.pdf](http://www.fas.org/irp/congress/2007_hr/fisa092007.pdf).

27 81. Attached as Exhibit 93 is a true and correct copy of the following book: JAMES RISEN,  
28 STATE OF WAR: THE SECRET HISTORY OF THE CIA AND THE BUSH ADMINISTRATION (Simon &

1 Schuster 2006).

2 82. Attached hereto as Exhibit 94 is a true and correct copy of the following document:  
3 Scott Shane, *Former Phone Chief Says Spy Agency Sought Surveillance Help Before 9/11*, N.Y.  
4 TIMES (Oct. 14, 2007), available at <http://www.nytimes.com/2007/10/14/business/14qwest.html>.

5 83. Attached hereto as Exhibit 95 is a true and correct copy of the following document:  
6 White House Press Release, *Statement by the Press Secretary on FISA* (Feb. 25, 2008), available at  
7 <http://www.whitehouse.gov/news/releases/2008/02/20080225-1.html>.

8 84. Attached hereto as Exhibit 96 is a true and correct copy of the following document:  
9 White House Press Release, *Straight To The Point* (Feb. 28, 2008), available at  
10 <http://www.lifeandliberty.gov/docs/straight-to-the-point022808.pdf>.

11 85. Attached hereto as Exhibit 97 is a true and correct copy of the following document:  
12 *Wartime Executive Power and the National Security Agency's Surveillance Authority*: Hearing  
13 before the S. Comm. on the Judiciary, 109th Cong. (February 6, 2006).

14 86. Attached hereto as Exhibit 98 is a true and correct copy of the following document:  
15 Letter from Wayne Watts, Senior Executive Vice President and General Counsel, AT&T, to Reps.  
16 John Dingell, Edward Markey and Bart Stupak (Oct. 12, 2007), available at  
17 [http://markey.house.gov/docs/telecomm/ATT%20wiretapping%20response\\_101207.pdf](http://markey.house.gov/docs/telecomm/ATT%20wiretapping%20response_101207.pdf).

18 I declare under penalty of perjury under the laws of the United States of America that the  
19 foregoing is true and correct.

20 DATED: October 16, 2008

Respectfully submitted,

21

22

\_\_\_\_\_  
/s/  
Kurt Opsahl

23

24

25

26

27

28

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

ROGER BALDWIN FOUNDATION OF  
ACLU  
HARVEY GROSSMAN  
ADAM SCHWARTZ  
180 North Michigan Avenue  
Suite 2300  
Chicago, IL 60601  
Telephone: (312) 201-9740  
Facsimile: (312) 201-9760

LAW OFFICE OF RICHARD R. WIEBE  
RICHARD R. WIEBE  
425 California Street  
Suite 2025  
San Francisco, CA 94104  
Telephone: (415) 433-3200  
Facsimile: (415) 433-6382

COUNSEL FOR AT&T CLASS PLAINTIFFS

COUNSEL FOR AT&T CLASS  
PLAINTIFFS AND CO-CHAIR OF  
PLAINTIFFS' EXECUTIVE COMMITTEE

LIEFF, CABRASER, HEIMANN &  
BERNSTEIN, LLP  
Elizabeth J. Cabraser  
Barry R. Himmelstein  
Eric B. Fastiff  
275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN  
CALIFORNIA  
ANN BRICK (SBN 65296)  
39 Drumm Street  
San Francisco, CA 94111  
Telephone: (415) 621-2493  
Facsimile: (415) 255-8437

PLAINTIFFS' COUNSEL FOR MCI  
SUBSCRIBER CLASS

COUNSEL FOR PLAINTIFFS IN  
CAMPBELL v. AT&T AND RIORDAN v.  
VERIZON COMMUNICATIONS INC.

GEORGE & BROTHERS, L.L.P.  
R. JAMES GEORGE, JR.  
DOUGLAS BROTHERS  
1100 Norwood Tower  
114 W. 7th Street  
Austin, Texas 78701  
Telephone: (512) 495-1400  
Facsimile: (512) 499-0094

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SOUTHERN  
CALIFORNIA  
PETER J. ELIASBERG  
1313 West Eighth St.,  
Los Angeles, CA 90026

PLAINTIFFS' COUNSEL FOR CINGULAR  
SUBSCRIBER CLASS

Telephone: (213) 977-9500  
Facsimile: (213) 977-5299

LISKA, EXNICIOS & NUNGESSER  
ATTORNEYS-AT-LAW  
VAL PATRICK EXNICIOS  
One Canal Place, Suite 2290  
365 Canal Street  
New Orleans, LA 70130  
Telephone: (504) 410-9611  
Facsimile: (504) 410-9937

COUNSEL FOR PLAINTIFFS IN  
CAMPBELL v. AT&T AND RIORDAN v.  
VERIZON COMMUNICATIONS INC.

FENWICK & WEST LLP  
LAURENCE F. PULGRAM  
JENNIFER KELLY  
CANDACE MOREY  
555 California Street, 12th Floor  
San Francisco, CA 94104  
Telephone: (415) 875-2300  
Facsimile: (415) 281-1350

PLAINTIFFS' COUNSEL FOR BELLSOUTH  
SUBSCRIBER CLASS

COUNSEL FOR PLAINTIFFS IN  
CAMPBELL v. AT&T AND RIORDAN v.  
VERIZON COMMUNICATIONS INC.

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

MOTLEY RICE LLC  
RONALD MOTLEY  
DONALD MIGLIORI  
JODI WESTBROOK FLOWERS  
VINCENT I. PARRETT  
28 Bridgeside Boulevard  
P.O. Box 1792  
Mt. Pleasant, SC 29465  
Telephone: (843) 216-9000  
Facsimile: (843) 216-9450

MAYER LAW GROUP LLC  
CARL J. MAYER  
66 Witherspoon Street, Suite 414  
Princeton, New Jersey 08542  
Telephone: (609) 921-8025  
Facsimile: (609) 921-6964

PLAINTIFFS' COUNSEL FOR VERIZON  
SUBSCRIBER CLASS

PLAINTIFFS' COUNSEL FOR BELLSOUTH  
SUBSCRIBER CLASS

THE MASON LAW FIRM, PC  
GARY E. MASON  
NICHOLAS A. MIGLIACCIO  
1225 19th St., NW, Ste. 500  
Washington, DC 20036  
Telephone: (202) 429-2290  
Facsimile: (202) 429-2294

THE LAW OFFICES OF STEVEN E.  
SCHWARZ, ESQ.  
STEVEN E. SCHWARZ  
2461 W. Foster Ave., #1W  
Chicago, IL 60625  
Telephone: (773) 837-6134

PLAINTIFFS' COUNSEL FOR BELLSOUTH  
SUBSCRIBER CLASS

PLAINTIFFS' COUNSEL FOR SPRINT  
SUBSCRIBER CLASS

BRUCE I AFRAN, ESQ.  
10 Braeburn Drive  
Princeton, NJ 08540  
609-924-2075

PLAINTIFFS' COUNSEL FOR  
BELLSOUTH SUBSCRIBER CLASS

KRISLOV & ASSOCIATES, LTD.  
CLINTON A. KRISLOV  
20 North Wacker Drive  
Suite 1350  
Chicago, IL 60606  
Telephone: (312) 606-0500  
Facsimile: (312) 606-0207

PLAINTIFFS' COUNSEL FOR  
BELLSOUTH SUBSCRIBER CLASS