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

17 FIRST UNITARIAN CHURCH OF LOS
 18 ANGELES, *et al.*,
 19 Plaintiffs,
 20 v.
 21 NATIONAL SECURITY AGENCY, *et al.*,
 22 Defendants.

Case No: 3:13-cv-03287 JSW
**DECLARATION OF DALE
 GIERINGER FOR THE
 CALIFORNIA CHAPTER OF
 NORML IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 PARTIAL SUMMARY JUDGMENT**
 Date: February 7, 2014
 Time: 9:00 A.M.
 Hon. Jeffrey S. White
 Courtroom 11 - 19th Floor

1 I, DALE GIERINGER, hereby declare:

2 1. I am the Director of the California chapter of the National Organization for the
3 Reform of Marijuana Laws (“NORML”). The facts contained in the following affidavit are known
4 to me of my own personal knowledge and if called upon to testify, I could and would competently do
5 so.

6 2. NORML advocates for the right of adults to use marijuana legally and assists users
7 with legal and health issues related to marijuana use.

8 3. The collection of our phone records by the government has resulted in (1) harassment,
9 membership withdrawal, and/or discouragement of new members, and (2) other consequences which
10 objectively suggest an impact on, or ‘chilling’ of, the members’ associational rights.

11 4. I say this because of the following facts:

12 5. Cal NORML routinely fields inquiries from countless individuals with legal concerns
13 and questions about marijuana on our telephone hotline (Verizon # 415-563-5858). Included are
14 many seriously ill individuals who use marijuana for medical purposes in accordance with California
15 state law (Proposition 215), but whose activities remain subject to federal arrest and prosecution.
16 Callers frequently express concern to us that their communications be held confidential out of fear of
17 repercussions from law enforcement.

18 6. California NORML has always maintained a strict policy of not revealing the identity
19 of our members or hotline callers. Our mailing list is held strictly confidential. For many years, we
20 had caller ID blocked on our public hotline (415-563-5858) so as to assure callers that their calls
21 wouldn’t be traced. The value of this service would have been rendered negligible had their IDs
22 actually been tracked by NSA and federal enforcement officials. A few years ago, California
23 NORML decided to abandon caller ID blocking because we were unable to return a growing number
24 of calls that were coming from people who wrongly assumed that we knew their return phone
25 number via caller ID, even though we didn’t have it. However, we have continued to maintain a
26 policy of strict privacy in all communications.

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1 7. California NORML and its members are highly sensitive to the fact that numerous of
 2 our members and supporters have been arrested, prosecuted, or otherwise harassed for marijuana
 3 offenses by federal law enforcement authorities, even when their activities are specifically permitted
 4 under state or local law. Scores of such federal arrests are recorded on our website at:
 5 http://www.canorml.org/costs/federal_medical_marijuana_prisoners_and_cases.

6 8. California NORML is further aware of press reports that the DEA has a Special
 7 Operations Division that partners with NSA and other federal agencies to maintain a secret massive
 8 database of telephone records to launch criminal investigations. The DEA has been reported to
 9 cover up its misuse of this secretly obtained data by a tactic known as "parallel construction," in
 10 which a secret investigation is launched against a suspect in order to develop legal evidence for a
 11 search warrant, without divulging the secretly obtained phone records that were the original source
 12 of the tip ("Exclusive: U.S. directs agents to cover up program used to investigate Americans,"
 13 Reuters Aug. 5, 2013: [http://www.reuters.com/article/2013/08/05/us-dea-sod-](http://www.reuters.com/article/2013/08/05/us-dea-sod-idUSBRE97409R20130805)
 14 [idUSBRE97409R20130805](http://www.reuters.com/article/2013/08/05/us-dea-sod-idUSBRE97409R20130805)).

15 9. California NORML experienced an abrupt drop in the number of hotline calls we
 16 received after revelation of NSA's phone surveillance program in late June. Prior to then, we
 17 received an average of about 15-20 calls daily on our hotline; afterwards, calls dropped to 5 -10 per
 18 day. This data supports our belief that the NSA program had a chilling effect on our constituents'
 19 willingness to communicate with us. Moreover, several of our members have expressed similar
 20 concerns in this regard.

21 I declare under penalty of perjury under the laws of the United States of America that the
 22 foregoing is true and correct. Executed on October 29, 2013 at Oakland, California

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 24 
 25 DALE GIERINGER
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