

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

UNDER SEAL,

PETITIONER-APPELLEE (No. 13-15957),
PETITIONER-APPELLANT (No. 13-16731),

v.

ERIC H. HOLDER, JR., Attorney General; UNITED STATES DEPARTMENT
OF JUSTICE; and FEDERAL BUREAU OF INVESTIGATION,

RESPONDENT-APPELLANTS (No. 13-15957),
RESPONDENT-APPELLEES (No. 13-16731)

On Appeal from the United States District Court
for the Northern District of California
Case Nos. 11-cv-2173 SI, 13-mc-80089 SI
Honorable Susan Illston, District Judge

**JOINT MOTION TO UNSEAL GOVERNMENT'S CORRESPONDENCE
TO THE COURT DATED NOVEMBER 6, 2014 (ECF NO. 86 IN CASE
NO. 13-15957 AND ECF NO. 84 IN CASE NO. 13-16731)**

Cindy Cohn, Esq.
David Greene, Esq.
Lee Tien, Esq.
Kurt Opsahl, Esq.
Jennifer Lynch, Esq.
Nathan Cardozo, Esq.
Andrew Crocker, Esq.
ELECTRONIC FRONTIER
FOUNDATION
815 Eddy Street
San Francisco, CA 94109
Telephone: (415) 436-9333
Facsimile: (415) 436-9993

Richard R. Wiebe, Esq.
LAW OFFICE OF RICHARD R.
WIEBE
One California Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 433-3200
Facsimile: (415) 433-6382

Counsel for UNDER SEAL

Petitioner-Appellee-Appellant and the government Respondents-Appellants-Appellees hereby jointly request that this Court unseal Respondents-Appellants-Appellees' letter filed under seal on November 6, 2014 (ECF No. 86 in Case No. 13-15957 and ECF No. 84 in Case No. 13-16731) and this motion. The letter and exhibit attached thereto contain only public information and offer a correction to statements made at the public oral argument in this matter. Therefore unsealing is proper, reflecting the "general right to inspect and copy public records and documents, including judicial records and documents." *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). It is especially important to unseal this letter because it corrects a statement that is already on the public record, that, if left uncorrected, could lead to confusion.

Dated: November 10, 2014

Respectfully submitted,

/s/ Cindy Cohn

Cindy Cohn, Esq.

Kurt Opsahl, Esq.

David Greene, Esq.

Lee Tien, Esq.

Jennifer Lynch, Esq.

Nathan D. Cardozo, Esq.

Andrew Crocker, Esq.

ELECTRONIC FRONTIER

FOUNDATION

815 Eddy Street

San Francisco, CA 94109

Richard R. Wiebe, Esq.
LAW OFFICE OF RICHARD R. WIEBE
One California Street, Suite 900
San Francisco, CA 94111

Counsel for UNDER SEAL

Dated: November 10, 2014

Respectfully submitted,

/s/ Jonathan H. Levy
Scott R. McIntosh, Esq.
Jonathan H. Levy, Esq.
Attorneys, Appellate Staff
Civil Division, Room 7231
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Telephone: (202) 353-0169

*Counsel for Government Respondents-
Appellants-Appellees*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on November 10, 2014.

I certify that all parties in the cases are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: November 10, 2014

By: /s/ Cindy Cohn
Cindy Cohn

Counsel for UNDER SEAL