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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.  
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Case No: 3:13-cv-03287 JSW

**DECLARATION OF GENE  
 HOFFMAN, JR. FOR CALGUNS  
 FOUNDATION, INC. 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, GENE HOFFMAN, JR., hereby declare:

2 1. I am the Chairman of The Calguns Foundation (“CGF”). The facts contained in the  
3 following affidavit are known to me of my own personal knowledge and if called upon to testify, I  
4 could and would competently do so.

5 2. Our organization is a non-profit member-based organization based in San Carlos,  
6 California. CGF defends Californians who are unjustly accused of violating California’s byzantine  
7 firearms laws while also working to vindicate the civil rights of California gun owners by  
8 challenging unconstitutional California laws. Additionally, we educate the public and government  
9 about California gun laws and the civil rights of California gun owners.

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

13 4. I say this because of the following facts: As part of our service of defending those  
14 unjustly charged with violating California gun law, we run an emergency hotline that also serves as a  
15 general information resource. Gun owners in California are justifiably concerned about whether any  
16 of the firearms they own are illegal in California as California makes the possession of ordinary  
17 firearms (in the other 49 states) a crime. Further, California gun laws prohibit certain combinations  
18 of cosmetic features on rifles or pistols. Much of CGF’s work is performed on message boards or via  
19 email, or social media. However, gun owners who are worried that they are in possession of a  
20 banned firearm do not wish to create an electronic trail of their inquiry and have traditionally turned  
21 to the phone to make that inquiry. Being known to have called the CGF hotline would leave a trail of  
22 evidence detrimental to any criminal action, and furthermore, the fear that such a call will give the  
23 government proof of the state of mind that the otherwise law abiding gun owner knew she was  
24 committing a crime.

25 5. Calguns has members who would be very worried about having their calls taped and  
26 stored by NSA/FBI when they’re enquiring about whether firearms and parts they possess are  
27 felonious in California. It has a phone number specifically so people or their loved ones can call

1 from jail because Californians are often arrested for actually innocent possession or use of firearms.

2 6. The Associational Tracking Program activities have harmed us because we have  
3 experienced a decrease in communications from members and constituents who had desired the fact  
4 of their communication to Plaintiff to remain secret. Many gun owners are distrustful of government  
5 or of having any record of their status as gun owners. At least one of our members is only known to  
6 us by his online alias and he would only directly contact us via telephone from a blocked number. He  
7 has not phoned since the disclosures that lead to this action.

8 7. Many of our constituents have expressed concern about the confidentiality of the fact  
9 of their telephone communications with us. Those who do call now leave fewer details in their  
10 voicemails of the concern or issue they are calling about, forcing staff and volunteers to make  
11 additional contacts to the caller, or more quickly refer the caller to one of our outside attorneys. This  
12 creates more expense than if a non-attorney volunteer could have answered a question.

13 8. Since the disclosure of the Associational Tracking Program, we have lost the ability  
14 to assure our members and constituents, as well as all others who seek to communicate with us, that  
15 the fact of their communications to and with us will be kept confidential.

16 9. We are also concerned because it seems that the promises of confidentiality from the  
17 government that we made prior to the disclosures were untrue.

18 10. Moreover, the ongoing secrecy of the government's surveillance activities, and the  
19 various incomplete or misleading government statements about it, have left us unable to reassure our  
20 members and associates that additional forms of surveillance, as yet unconfirmed or currently denied  
21 by the government are not also occurring, leaving us with no alternative forms of communication  
22 that we can use and still assure those who contact us will remain confidential.

23 11. The telephone provider for the Calguns is Toktumi d.b.a. Line2.

24  
25 I declare under penalty of perjury under the laws of the United States of America that  
26 the foregoing is true and correct. Executed on October, \_\_ 2013 at Redwood City, California.



GENE HOFFMAN, JR.

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