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

16 ELECTRONIC FRONTIER FOUNDATION,)
17 Plaintiff,)
18 v.)
19 OFFICE OF THE DIRECTOR OF NATIONAL)
20 INTELLIGENCE and DEPARTMENT OF)
21 JUSTICE,)
22 Defendants.)

NOS. 08-1023 JSW & 08-2997 JSW
SUPPLEMENTAL DECLARATION OF
MARCIA HOFMANN IN SUPPORT OF
MOTION FOR A STAY OF PROCEEDINGS
Date: April 3, 2009
Time: 9:00 a.m.
Courtroom: 2, 17th Floor

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1 1. I am an attorney of record for Plaintiff Electronic Frontier Foundation (“EFF”) in
2 this matter. I am a member in good standing of the California State Bar, and am admitted to
3 practice before this Court. I have personal knowledge of the matters stated in this declaration. If
4 called upon to do so, I am competent to testify to all matters set forth herein.

5 2. This supplemental declaration is submitted in support of EFF’s Motion for a Stay of
6 Proceedings.

7 3. On February 11, 2009, I phoned the Court’s courtroom deputy, Jennifer Ottolini, to
8 ask whether the Court wished EFF to file its reply in support of its cross motion for summary
9 judgment in light of the Court’s order vacating the March 13, 2009 hearing on the parties’ cross
10 motions for summary judgment (No. 08-1023 Dkt. No. 73; No. 08-2997 Dkt. No. 56). I was
11 instructed at that time that the Court did not require EFF to file its reply.

12 4. Attached hereto as Exhibit 1 is a true and correct copy of an order issued by Judge
13 Walton in *Electronic Frontier Foundation v. Dep’t of Justice*, No. 06-1773-RBW (D.D.C. filed
14 Feb. 11, 2009).

15 5. Attached hereto as Exhibit 2 is a true and correct copy of The FOIA blog,
16 *Department of Justice Email to FOIA Professionals*, [http://thefoiablog.](http://thefoiablog.typepad.com/the_foia_blog/2009/01/department-of-justice-email-to-foia-professionals.html)
17 [typepad.com/the_foia_blog/2009/01/department-of-justice-email-to-foia-professionals.html](http://thefoiablog.typepad.com/the_foia_blog/2009/01/department-of-justice-email-to-foia-professionals.html) (Jan.
18 30, 2009).

19 6. Attached hereto as Exhibit 3 is a true and correct copy of Attorney General Janet
20 Reno’s Memorandum for Heads of Executive Departments and Agencies (Oct. 4, 1993).

21 7. Attached hereto as Exhibit 4 is a true and correct copy of Major Calvin N. Anderson
22 and Major Lawrence M. Anderson, *Freedom of Information Act: Not So Free Anymore*, THE
23 REPORTER, Dec. 2001.

1 I declare under penalty of perjury of the laws of the State of California that the foregoing is
2 true and correct to the best of my knowledge and belief. Executed March 3, 2009 in San Francisco,
3 California.

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5 Date: March 3, 2009

/s/ Marcia Hofmann

Marcia Hofmann

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