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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 JENNIFER
 NIMER FOR THE COUNCIL ON
 AMERICAN-ISLAMIC RELATIONS
 OHIO 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, Jennifer Nimer, hereby declare:

2 1. I am the Legal Director for the Council on American Islamic Relations – Ohio
3 (“CAIR-OHIO”). The facts contained in the following affidavit are known to me of my own
4 personal knowledge and if called upon to testify, I could and would competently do so.

5 2. CAIR-Ohio is the largest Muslim civil rights organization in Ohio. We have three
6 active chapters in Cleveland, Columbus, and Cincinnati. We handle thousands of telephone calls per
7 year from our community. We serve approximately 200,000 Muslims across the state of Ohio.

8 3. CAIR-OHIO provides legal services to persons who are injured due to discriminatory
9 treatment by private or governmental actors.

10 4. In addition to working on cases involving discrimination, we also handle thousands of
11 referrals and inquiries from the Muslim and interfaith communities across the state. The referrals
12 could be seeking anything from a speaker for an interfaith panel to requests for help with a domestic
13 violence situation, immigration issues, requests for marital or psychiatric counseling, requests for
14 charitable assistance, drug abuse issues, juvenile legal cases, etc.

15 5. In short, CAIR-Ohio is a clearing house for all things related to the Muslim
16 community, as we are the main contact center for Muslims in Ohio. We frequently handle some of
17 the most sensitive and personal issues in the community, issues that require a high degree of trust,
18 confidentiality and privacy between us and our constituents.

19 6. The collection of our phone records by the government has and continues to (1)
20 inhibit CAIR-Ohio’s ability to communicate with individuals seeking our help and (2) has other
21 consequences which objectively suggest an impact on, or ‘chilling’ of, our organization’s
22 associational rights.

23 7. I say this because of the following facts:

24 8. On numerous occasions, prospective clients and current-clients have been unwilling to
25 communicate frankly over the phone or email due to concerns of government surveillance. This has
26 hindered my organization’s ability to provide legal services and has also interfered with my
27 organization’s ability to assess whether or not to help or retain particular clients.

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1 9. Additionally, believing that the United States would possess records pertaining to any
2 communication my organization makes, we have been forced to counsel clients in person rather than
3 over the phone to avoid surveillance.

4 10. And as a general matter, because many of the persons CAIR-OHIO represents are
5 subject to tangible manifestations of federal government scrutiny - discretion and confidentiality in
6 their communications and associations with us is of paramount importance to such persons.
7 Knowing that the government is certainly logging communications such persons may have with
8 CAIR-OHIO deters these persons from seeking our assistance.

9 11. Thus, the Associational Tracking Program activities have harmed us because we have
10 assumed extra burdens and have otherwise been inhibited in providing our legal services to clients
11 who had desired the fact of their communication to us to remain secret.

12 12. CAIR-OHIO's work does involve cases (some high profile) involving individuals
13 who have been charged with aiding terrorism or have otherwise come under formal government
14 indictment or scrutiny.

15 10. It is my understanding that the government uses the Associational Tracking Program
16 to investigate the contacts and relationships between those suspected of terrorism-related activities
17 and crimes.

18 11. It is also my understanding that, when using the Associational Tracking Program, the
19 government often examines multiple "degrees" of relationships between individuals, or "hops" of
20 associations. This means the government can examine the contact patterns and relationships between
21 an individual and their contacts; their contacts' contacts; and the contacts of their contacts' contacts.
22 I understand that these webs of associations can expand to include many thousands, if not millions,
23 of people.

24 12. By virtue of this "guilt by association" form of analysis, large swaths of the Ohio
25 Muslim community may be subject to government scrutiny, simply by virtue of having contacted
26 CAIR-OHIO and because of CAIR-OHIO's advocacy efforts on behalf of those wrongly accused.
27 That is, if a CAIR-OHIO client accused or suspected by government of wrongdoing contacts us, all
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1 those who contact CAIR-OHIO — including our constituents and prospective clients — are
2 accordingly put at risk of government scrutiny, solely through their shared “association” with CAIR-
3 OHIO.

4 13. Since the disclosure of the Associational Tracking Program, we have lost the ability to
5 confidently assure Ohio Muslim community members, as well as all others who seek to communicate
6 with us, that the fact of their communications to and with us will be kept confidential.

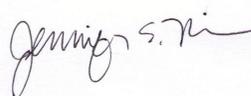
7 14. When the very act of communicating by phone with those we aim to serve puts our
8 constituents at risk for further government scrutiny, our organizational mission is essentially
9 undermined. The Associational Tracking Program makes it more difficult for CAIR-OHIO to
10 effectively accomplish its mission of defending the civil liberties of Muslims in Ohio.

11 15. Our organization also sometimes works on international causes that are not necessarily
12 popular causes. For example, we have helped arrange rallies for issues related to the Palestinian cause
13 as well as actions supporting the cessation of violence in Syria. Our Cleveland Chapter organized
14 dozens of local groups to host an event in Cleveland to break the Israeli Siege of Gaza. Our Cleveland
15 Chapter also organized hundreds of protestors to rally against Israel’s war against Lebanon and
16 organized hundreds of people to protest against the purchase of Israel Bonds by local officials in
17 Cuyahoga County. These actions in support of unpopular causes often go against current US foreign
18 policy and involve “countries of interest” to the US government. These actions are frequently
19 organized via telephone banking to community members. Due to the Associational Tracking
20 Program, CAIR-Ohio is now forced to reconsider whether it can subject community members to
21 government scrutiny during such telethon campaigns. As such, when the very act of communicating
22 by telephone increases the chances of scrutiny upon the communities we serve, we are forced to make
23 difficult choices about the types of activities we engage in with respect to our constituents, thus
24 forcing us to forgo certain first amendment activities.

25 16. Additionally, if the government has an interest in the telephone toll records and
26 metadata of particular “communities of interest” in order to drill down into calling patterns of
27 particular “persons of interest” within certain “communities of interest”, it is highly likely that
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1 government would have an interest in the myriad associations of CAIR-OHIO, the main organization
2 that handles legal and social issues for the Ohio Muslim community. Because of the nature and
3 volume of calls we receive and make to the Ohio Muslim community, it is reasonable to believe that
4 our organization would be subjected to additional scrutiny through our telephone toll records.

5 I declare under penalty of perjury under the laws of the United States of America that
6 the foregoing is true and correct. Executed on October 28, 2013 at Columbus, Ohio.

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11 JENNIFER NIMER
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