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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13)	CASE NO. C-08-4373-VRW
14	CAROLYN JEWEL, TASH HEPTING,)	
15	GREGORY HICKS, ERIK KNUTZEN and	)	<u>CLASS ACTION</u>
16	JOICE WALTON, on behalf of themselves and)	
17	all others similarly situated,	)	PLAINTIFFS' NOTICE OF
18		)	ADDITIONAL EVIDENCE IN
19	Plaintiffs,	)	OPPOSITION TO GOVERNMENT
20		)	DEFENDANTS' MOTION TO DISMISS
21	vs.	)	AND FOR SUMMARY JUDGMENT
22)	
23	NATIONAL SECURITY AGENCY, <i>et al.</i>,	)	Date: July 15, 2009
24		)	Time: 10:30 a.m.
25	Defendants.	)	Courtroom 6, 17 th Floor
26		)	The Honorable Vaughn R. Walker

Plaintiffs hereby submit additional evidence to assist the court in its determination of the above-referenced motion.

1. Attached hereto as Exhibit A is a true and correct copy of the Unclassified Report on the President's Surveillance Program dated and released July 10, 2009 and prepared by the Offices of the Inspectors General of the Department of Justice, the Department of Defense, Central Intelligence Agency, National Security Agency and Office of the Director of National Intelligence

1 pursuant to the Foreign Intelligence Surveillance Act Amendments Act of 2008 (“Unclassified
2 Report”). Congress mandated the Unclassified Report in section 301 of the FISA Amendments
3 Act of 2008, P.L. 110-261, and the Unclassified Report is admissible as a public record under Fed.
4 R. Evid. 803(8) and 902(5).

5 2. The Unclassified Report reflects a substantial amount of information surrounding
6 the “President’s Surveillance Program” that is both unclassified and calls into question the legality
7 of aspects of that Program. (*See, e.g.*, pp. 19-20). The Unclassified Report bolsters this Court’s
8 decision in *Hepting v. AT&T*, 439 F. Supp. 2d 974, 993-4 (N.D. Cal. 2006) that the very subject
9 matter of *Hepting* and of this case is not a state secret, and demonstrates that broad aspects of the
10 Program can be addressed in the open without undermining the national security of the United
11 States. The Unclassified Report also calls into serious question the effectiveness of the Program
12 (*see, e.g.*, pp. 31-36), noting that most leads generated by the Program “were determined not to
13 have any connection to terrorism” and that most Intelligence Community officials “had difficulty
14 citing specific instances where [the Program] had directly contributed to counterterrorism
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1 successes,” (pp. 32, 36), further undercutting the government’s sweeping assertions that any
2 disclosures regarding the Program would harm national security.

3
4 DATE: July 13, 2009

Respectfully submitted,

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6 /s/ Paula L. Blizzard

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