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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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12 *Pro hac vice applications to be filed upon the assignment of this case to a judge.

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SEALED
BY COURT ORDER

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

CV 07

6346

15 INTERNET ARCHIVE; AMERICAN CIVIL)
16 LIBERTIES UNION; AMERICAN CIVIL)
LIBERTIES UNION FOUNDATION;)
17 AMERICAN CIVIL LIBERTIES UNION OF)
NORTHERN CALIFORNIA, INC.;)
18 AMERICAN CIVIL LIBERTIES UNION)
FOUNDATION OF NORTHERN)
19 CALIFORNIA, INC.; and ELECTRONIC)
FRONTIER FOUNDATION,)

20 Plaintiffs,

21 v.

22 MICHAEL B. MUKASEY, in his official)
capacity as Attorney General of the United)
23 States; ROBERT S. MUELLER III, in his)
official capacity as Director of the Federal)
24 Bureau of Investigation; and ARTHUR M.)
CUMMINGS II, in his official capacity as)
25 Deputy Assistant Director of the)
26 Counterterrorism Division of the Federal Bureau)
of Investigation,)

27 Defendants.

Case No. _____

**DECLARATION OF ANN BRICK IN
SUPPORT OF PLAINTIFFS' MOTION
TO FILE CASE UNDER SEAL**

**DOCUMENT SUBMITTED UNDER
SEAL**

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I, Ann Brick, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am admitted to practice before this Court. I am an attorney with the American Civil Liberties Union Foundation of Northern California, Inc., and am co-counsel for plaintiff Internet Archive (the "Archive") and for the other plaintiffs in this civil action. Except for those matters stated on information and belief, which I believe to be true, I have personal knowledge of the facts stated herein and, if called as a witness, I could and would competently testify thereto.

2. I am informed and believe that on November 26, 2007, an agent of the Federal Bureau of Investigation ("FBI") served a National Security Letter ("November 2007 NSL") on the Archive through its counsel, Electronic Frontier Foundation.

3. The November 2007 NSL directed the Archive to disclose records pertaining to one of its patrons, and pursuant to 18 U.S.C. § 2709(c), expressly prohibited the Archive, its officers, employees, and agents from disclosing that the FBI had demanded information from it through the NSL.

4. Plaintiffs in this case are challenging the facial and as-applied constitutionality of 18 U.S.C §§ 2709 and 3511(b),(d), and (e). Nevertheless, because it appears that the filing of the Complaint on the public docket would violate the NSL statute's gag provisions and the gag imposed by the November 2007 NSL, and in order to avoid any penalties, plaintiffs believe that they are obligated to file the entire case initially under seal.

5. Because it is the FBI that included the gag order in the November 2007 NSL, I have no reason to believe that defendants would oppose an order sealing the documents in this case.

6. Upon filing the Complaint, plaintiffs intend immediately to ask defendants for a stipulation that would allow plaintiffs to disclose certain information about the case without

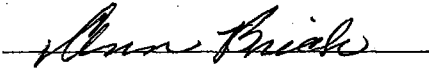
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1 violating Section 2709(c). If defendants agree to the stipulation, plaintiffs will immediately seek
2 the Court's leave to unseal the case, and file on the public docket a redacted version of all sealed
3 documents that have already been filed in the case.

4 I declare under penalty of perjury under the laws of the State of California and the
5 United States that the foregoing is true and correct.

6 Executed this 14th day of December, 2007, at San Francisco, California.

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Ann Brick