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8 Attorneys for Federal Defendant

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12 CAITLIN KELLY HENRY and JESSE  
13 STOUT,

14 Plaintiffs,

15 v.

16 UNITED STATES DEPARTMENT OF  
17 JUSTICE,

18 Defendant.

) Civil Action No. C13-5924 DMR

) **SUPPLEMENTAL DECLARATION OF**  
) **LILIBETH MARGEN IN SUPPORT OF**  
) **FEDERAL DEFENDANT’S MOTION FOR**  
) **SUMMARY JUDGMENT**

) Date: January 22, 2015

) Time: 11:00 a.m.

) Place: Courtroom 4 - 3rd Floor

) Hon. Donna M. Ryu

19 1. I am a Paralegal Specialist for the Criminal Division of the United States Attorney’s Office for the  
20 Northern District of California (“USAO/NDCA” or the “District”). From March 2011 until March  
21 2014, I was the Freedom of Information Act (“FOIA”) and Privacy Act (“PA”) point of contact for  
22 the USAO/NDCA Criminal Divisiogn. In this capacity, I served as a liaison to the FOIA/PA Staff of  
23 the Executive Office for United States Attorneys (“EOUSA”) in Washington, D.C., which processes  
24 and responds to FOIA/PA requests located in the USAO/NDCA. My duties included receiving and  
25 reviewing requests made pursuant to FOIA, 5 U.S.C. § 552, and/or the PA, 5 U.S.C. § 552a, for  
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1 records maintained by, or located in the USAO/NDCA. In addition, I was responsible for the  
2 searches conducted by the USAO/NDCA for records responsive to FOIA/PA requests.

3 2. The statements I make in this supplemental declaration are made on the basis of my review of the  
4 official files and records of the USAO/NDCA, my own personal knowledge, or on the basis of  
5 knowledge acquired by me through the performance of my official duties.  
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7 3. As discussed in my declaration dated October 1, 2014, "Declaration of Lilibeth Margen In Support  
8 of Federal Defendant's Motion for Summary Judgment" (hereinafter, "First Margen Declaration"), I  
9 am familiar with the FOIA/PA requests submitted by plaintiffs, Jesse Stout and Caitlin Henry, dated  
10 April 30, 2013 and May 1, 2013, respectively, and with the searches conducted by the USAO/NDCA  
11 for records responsive to the requests.

12 4. Cases and matters opened in the USAO/NDCA are assigned a USAO number. The USAO/NDCA  
13 maintains paper case and matter files, identified by USAO number; it does not maintain case and  
14 matter files electronically. The USAO/NDCA does not have a central, searchable, electronic filing  
15 system in which it maintains copies of records.  
16

17 5. As discussed in the First Margen Declaration, to search for records responsive to plaintiffs'  
18 FOIA/PA requests, I used the Legal Information Office Network Systems ("LIONS"), a system used  
19 by the USAO/NDCA to track cases and matters in the District. LIONS does not store electronically  
20 the actual documents from USAO/NDCA cases and matters. As a first step, I used LIONS to  
21 determine if there is a case/matter in the USAO/NDCA involving Ms. Henry or Mr. Stout.  
22

23 6. When I conducted a search of LIONS, I did so by entering the names that were provided to me on  
24 the plaintiffs' FOIA requests in a search of the "participants" field. The name variations that I used  
25 were provided in the First Margen Declaration at paragraphs 5 and 7.

26 7. In LIONS, a "participant" may include litigants, subjects of investigation, witnesses, victims, and  
27 other individuals, organization, or business associated with the case or matter. For example,  
28

1 “participant” may include, in a matter involving use of investigative techniques such as an  
2 application for a pen register or search warrant, the individual whose phone or property is at issue.

3 8. The “participant” search returns all the cases/matters opened in which the individual whose name (or  
4 other search term) I enter into the search has been listed as a “participant.” Those results will  
5 include, among other information, the USAO number for the case/matter, Assistant United States  
6 Attorney (“AUSA”) assigned, case caption, and the status of the case, *i.e.*, whether the case/matter is  
7 active or closed. Closed files for the District are stored at the Federal Records Center.  
8

9 9. The District uses LIONS to track cases at the Federal Records Center. If LIONS identifies a  
10 case/matter as closed, I use the USAO number assigned to that case/matter to locate and retrieve  
11 case files at the Federal Records Center.

12 10. By entering Ms. Henry’s and Mr. Stout’s names in a “participant” search in LIONS, I would have  
13 been able to see if there were any cases/matters that were opened in the District related to Ms. Henry  
14 or Mr. Stout. Specifically, by entering these names in this field, I would be able to see if there was a  
15 single case, or multiple cases that related to either individual. Also, this type of search allowed me  
16 to see what role, if any, Ms. Henry or Mr. Stout had regarding a case that was filed, investigated, or  
17 prosecuted in the District. As discussed in the First Margen Declaration, my searches did not return  
18 any results. I also performed a “participant” search of all the “associated key words” listed in  
19 plaintiffs’ FOIA/PA requests. Search of the “associated key words” listed in Mr. Stout’s FOIA/PA  
20 request located no results. Although LIONS showed matters in the USAO/NDCA involving several  
21 of the organizations listed as “associated key words” in Ms. Henry’s FOIA/PA request, as discussed  
22 in the First Margen Declaration, further review into those cases located no information that Ms.  
23 Henry was related to those cases.  
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25  
26 11. A “participant” search allowed me to obtain broader results than a LIONS query for a specific case  
27 caption or case number. Those searches would only have allowed me to find information regarding  
28

1 the specific case queried. Moreover, neither Ms. Henry's nor Mr. Stout's request included a specific  
2 case caption or number.

3 12. Although an AUSA may enter notes about the status of a particular case/matter to which the AUSA  
4 is assigned in "comments" fields on LIONS, use of these fields is discretionary. These fields are  
5 often unused, and even if an AUSA opts to use the field, the type of status information that the  
6 AUSA chooses to include is discretionary.

7  
8 13. For the reasons described above and in the First Margen Declaration, in the absence of a specific  
9 case name or case number provided by either Ms. Henry or Mr. Stout, a LIONS "participant" search  
10 using plaintiffs' names was the most comprehensive method available to determine whether there  
11 was a case/matter in the USAO/NDCA involving plaintiffs. If the "participant" searches I ran had  
12 returned any results, those results would have included the USAO number and the assigned AUSA,  
13 allowing the USAO/NDCA to locate the corresponding paper case file.

14  
15 I declare under the penalty of perjury that the foregoing is true and correct, to the best of my knowledge  
16 and belief. Executed this 8<sup>th</sup> day of December, 2014, at San Francisco, California.

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20 LILIBETH D. MARGEN  
21 Paralegal Specialist  
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