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8 Attorney for Plaintiffs

9  
10 United States District Court  
11 Southern District of New York

12 Michael S. Pascazi on Behalf of Himself, ) Case No.: 06 Civ. 1221  
13 Lelia E. Borrelli, Ennio J. Pascazi and, all ) Judge Assigned: Hon. William C. Conner  
14 Others Similarly Situated, ) Class Action  
15 Plaintiffs, ) Complaint for Declaratory Judgment &  
16 vs. ) Damages  
17 Verizon Communications Inc. and Does 1-20 ) Demand for Jury Trial  
18 Inclusive,  
19 Defendants.

20 1. Plaintiffs' counsel brings this action on behalf of himself, and as attorney for Lelia E.  
21 Borrelli, Ennio J. Pascazi, and all others similarly situated, and allege upon personal  
22 knowledge and belief as to his own acts, and upon information and belief as to all other  
23 matters, as to which allegations Plaintiffs believe substantial evidentiary support exists or  
24 will exist after a reasonable opportunity for further investigation and discovery, as follows:  
25

1 **PRELIMINARY STATEMENT**

2 2. This case challenges the legality of Defendants’ participation in a secret and illegal  
3 government program to intercept and analyze vast quantities of Americans’ telephone and  
4 Internet communications, surveillance done without the authorization of a court and in  
5 violation of federal electronic surveillance and telecommunications statutes, as well as the  
6 First and Fourth Amendments to the United States Constitution.  
7

8 3. In December of 2005, the press revealed that the government had instituted a comprehensive  
9 and warrantless electronic surveillance program that violates the Constitution and ignores the  
10 careful safeguards set forth by Congress. This surveillance program, purportedly authorized  
11 by the President at least as early as 2001 and primarily undertaken by the National Security  
12 Agency (“NSA”) without judicial review or approval, intercepts and analyzes the  
13 communications of millions of Americans. Prior to this revelation, Plaintiffs and class  
14 members had no reasonable opportunity to discover the existence of the surveillance program  
15 or the violations of law alleged herein.  
16

17 4. The government did not act—and is not acting—alone. The government requires the  
18 collaboration of major telecommunications companies to implement its unprecedented and  
19 illegal domestic spying program.  
20

- 1 5. Defendant Verizon Communications Inc. (“Verizon”) maintains domestic  
2 telecommunications facilities over which millions of Americans’ telephone and Internet  
3 communications pass every day. They also manage some of the largest databases in the  
4 world containing records of most or all communications made through their vast  
5 telecommunications services.  
6
- 7 6. On information and belief, Verizon has opened its key telecommunications facilities and  
8 databases to direct access by the NSA and/or other government agencies, intercepting and  
9 disclosing to the government the contents of its customers’ communications as well as  
10 detailed communications records about millions of its customers, and also disclosing to the  
11 government the content of persons’ communications traveling through or across Verizon’s  
12 communications facilities, including Plaintiffs and class members.  
13
- 14 7. On information and belief, Defendants continue to assist the government in its secret  
15 surveillance of millions of ordinary Americans.  
16
- 17 8. Plaintiffs are suing to hold Defendants responsible for their illegal collaboration in the  
18 surveillance program, which has violated the law and damaged the fundamental freedoms of  
19 the American public.  
20

## 21 **JURISDICTION AND VENUE**

- 22 9. This court has subject matter jurisdiction over the federal claims pursuant to Article III of the  
23 United States Constitution and 28 U.S.C. §1331, 28 U.S.C. §2201, 50 U.S.C. §1810, 18  
24 U.S.C. §§2520 and 2707, and 47 U.S.C. §605, and over the state claims pursuant to 28  
25 U.S.C. §§1332 and 1367.

1 10. Plaintiffs are informed, believe and thereon allege that Defendants have sufficient contacts  
2 with this district generally and, in particular, with the events herein alleged, that Defendants  
3 are subject to the exercise of jurisdiction of this court over the person of such Defendants and  
4 that venue is proper in this judicial district pursuant to 28 U.S.C. §1391.

5  
6 11. Plaintiffs are informed, believe and thereon allege that, based on the places of business of  
7 the Defendants identified above, a substantial part of the events giving rise to the claims  
8 herein alleged occurred in this district and that Defendants and/or agents of Defendants may  
9 be found in this district.

10 **PARTIES**

11 12. Plaintiff Michael S. Pascazi (“Pascazi”) is an individual residing in Hopewell Junction, New  
12 York, currently, and at all times relevant hereto.

13  
14 13. Pascazi, for approximately 20 years from 1985 until 2005, was the founder and Chief  
15 Executive Officer of a fiber optic communications firm headquartered in the New York City  
16 metropolitan area. He was previously employed by IBM Corp. as a communications  
17 engineer.

18 14. Pascazi has three inventions assigned to IBM Corp., in the field of telecommunications, and  
19 has one patent pending with the United States Patent and Trademark Office entitled: “System  
20 and Apparatus for the Transmission of Cell to Cell Communications Utilizing the Internet.”  
21

22 15. Pascazi holds a Bachelor of Engineering Degree in Electrical Engineering, with minors in  
23 Physics and Theology, from Manhattan College; has completed course work towards a  
24 Master of Science Degree in Electrical Engineering at Syracuse University, and holds a Juris  
25 Doctor *Cum Laude* Degree from Albany Law School.

1 16. Pascazi further interned for an acting New York State Supreme Court Justice.

2  
3 17. Pascazi personally utilized the communications facilities of Verizon, since well before 2001  
4 to 2005, to place and receive telephone calls from/to England, Ireland, Italy, France, Poland,  
5 and the United Arab Emirates, among other places. Further, upon information and belief,  
6 telephone calls placed and received by Pascazi, and originating with other carriers, were  
7 transported over and through the communications facilities of Verizon.

8 18. Pascazi personally, from payphones, utilized the communications facilities of Verizon, since  
9 well before 2001 to present, to place telephone calls to France, among other places. Further,  
10 upon information and belief, telephone calls placed by Pascazi, and originating with other  
11 carriers, were transported over and through the communications facilities of Verizon.

12 19. Additionally, Pascazi personally utilized the communications facilities of Verizon, since well  
13 before 2001 to 2005, to transmit and receive faxes to/from England, Ireland, Italy, and  
14 France, among other places. Further, upon information and belief, faxes transmitted and  
15 received by Pascazi, and originating with other carriers, were transported over and through  
16 the communications facilities of Verizon.

17  
18 20. Also, Pascazi personally utilized the communications facilities of Verizon, since well before  
19 2001 to 2005, to transmit and receive Emails to/from England, Ireland, Italy, France, Poland,  
20 and the United Arab Emirates, among other places. Further, upon information and belief,  
21 Emails transmitted and received by Pascazi, and originating with other carriers, were  
22 transported over and through the communications facilities of Verizon.

1 21. Additionally, Pascazi personally, upon information and belief, utilized the communications  
2 facilities of Verizon, since well before 2001 to 2005 for Web browsing, including but not  
3 limited to, visits to Web sites hosted outside of the United States. Further, upon information  
4 and belief, Web browsing communications transmitted and received by Pascazi, and  
5 originating with other carriers, were transported over and through the communications  
6 facilities of Verizon.

7  
8 22. Plaintiff Lelia E. Borrelli, (“Borrelli”) is an individual residing in Eastchester, New York,  
9 currently, and at all times relevant hereto.

10 23. Borrelli personally utilized the communications facilities of Verizon, since well before 2001  
11 to present, to place and receive telephone calls to/from various places. Further, upon  
12 information and belief, telephone calls placed and received by Borrelli, and originating with  
13 other carriers, were transported over and through the communications facilities of Verizon.

14 24. Also, Borrelli personally utilized the communications facilities of Verizon, since 2005 to  
15 present, to transmit and receive Emails to/from various places. Further, upon information and  
16 belief, Emails transmitted and received by Borrelli, and originating with other carriers, were  
17 transported over and through the communications facilities of Verizon.

18  
19 25. Additionally, Borrelli personally utilized the communications facilities of Verizon, since  
20 2005 to present for Web browsing, including but not limited to, visits to Web sites hosted  
21 outside of the United States. Further, upon information and belief, Web browsing  
22 communications transmitted and received by Borrelli, and originating with other carriers,  
23 were transported over and through the communications facilities of Verizon.

1 26. Plaintiff Ennio J. Pascazi, (“EJPascazi”) is an individual residing in Yorktown, New York,  
2 currently, and at all times relevant hereto.

3 27. EJPascazi personally utilized the communications facilities of Verizon, since well before  
4 2001 to present, to place and receive telephone calls to/from various places. Further, upon  
5 information and belief, telephone calls placed and received by EJPascazi, and originating  
6 with other carriers, were transported over and through the communications facilities of  
7 Verizon.  
8

9 28. Defendant Verizon is a Delaware corporation with its principal place of business at 1095  
10 Avenue of the Americas, New York, NY 10036.

11 29. Defendant Verizon is a Dow 30 company, is a self proclaimed leader in delivering broadband  
12 and other communication innovations to wire-line and wireless customers.  
13

14 30. Verizon claims to operate America's most reliable wireless network, serving 51.3 million  
15 customers nationwide.

16 31. Verizon claims to have 48.8 million U.S. Wire-line Access Lines; 5.1 million Broadband  
17 Connections, and one of the most expansive wholly-owned global IP networks with a  
18 presence in 140+ countries.  
19

20 32. Based in New York, Verizon closed on a merger with MCI, Inc. on Jan. 6, 2006. Following  
21 the merger, Verizon has a diverse workforce of approximately 250,000 and generates annual  
22 consolidated operating revenues of approximately \$90 billion.

23 33. Plaintiffs are currently unaware of the true names and capacities of Defendants sued herein as  
24 Does 1-20, and therefore sue these Defendants by using fictitious names.  
25

1 34. Plaintiffs will amend this complaint to allege their true names and capacities when  
2 ascertained.

3  
4 35. Upon information and belief each fictitiously named Defendant is responsible in some  
5 manner for the occurrences herein alleged, and the injuries to Plaintiffs and class members  
6 herein alleged were proximately caused in relation to the conduct of Does 1-20, as well as the  
7 named Defendant Verizon.

8 **FACTUAL ALLEGATIONS RELATED TO ALL COUNTS**

9 **THE NSA SURVEILLANCE PROGRAM**

10  
11 36. The NSA began a classified surveillance program (“the Program”) shortly after September  
12 11, 2001 to intercept the telephone and Internet communications of people inside the United  
13 States without judicial authorization, a program that continues to this day.

14  
15 37. The President has stated that he authorized the Program in 2001, that he has reauthorized the  
16 Program more than 30 times since its inception, and that he intends to continue doing so.

17  
18 38. The Attorney General has admitted that, absent additional authority from Congress, the  
19 electronic surveillance conducted by the Program requires a court order under the Foreign  
20 Intelligence Surveillance Act of 1978 (50 U.S.C. § 1801 et seq.).

21  
22 39. The President and other government officials have admitted that the NSA does not seek  
23 judicial review of the Program’s interceptions before or after the surveillance, whether by the  
24 Foreign Intelligence Surveillance Court or any other court.

25 40. Neither the President nor the Attorney General personally approves the individual targets of  
the Program’s electronic surveillance before communications are intercepted. Instead, NSA

1 operational personnel identify particular persons, telephone numbers or Internet addresses as  
2 potential surveillance targets, and NSA shift supervisors approve those targets.

3  
4 41. On information and belief, besides actually eavesdropping on specific conversations, NSA  
5 personnel have intercepted large volumes of domestic and international telephone and  
6 Internet traffic in search of patterns of interest, in what has been described in press reports as  
7 a large “data- mining” program.

8 42. On information and belief, as part of this data-mining program, the NSA intercepts millions  
9 of communications made or received by people inside the United States, and uses powerful  
10 computers to scan their contents for particular names, numbers, words or phrases.

11 43. Additionally, on information and belief, the NSA collects and analyzes a vast amount of  
12 communications traffic data to identify persons whose communications patterns the  
13 government believes may link them, even if indirectly, to investigatory targets.

14  
15 44. On information and belief, the NSA has accomplished its massive surveillance operation by  
16 arranging with some of the nation’s largest telecommunications companies, including  
17 Verizon, to gain direct access to the telephone and Internet communications transmitted via  
18 those companies’ telecommunications facilities, and to those companies’ records pertaining  
19 to the communications they transmit.

20 45. On information and belief, Verizon. has provided and continues to provide the government  
21 with direct access to all or a substantial number of the communications transmitted through  
22 its telecommunications facilities, including direct access to streams of domestic, international  
23 and foreign telephone and Internet communications.  
24  
25

1 46. On information and belief, Verizon has installed and used, or assisted government agents in  
2 installing or using, interception devices and pen registers and/or trap and trace devices on or  
3 in a number of its key telecommunications facilities for use in the Program.

4 47. On information and belief, the interception devices acquire the content of all or a substantial  
5 number of the wire or electronic communications transferred through the Verizon facilities  
6 where they have been installed.

7  
8 48. On information and belief, the pen registers and/or trap and trace devices capture, record or  
9 decode the dialing, routing, addressing and/or signaling information (“DRAS information”)  
10 for all or a substantial number of the wire or electronic communications transferred through  
11 the Verizon facilities where they have been installed.

12 49. On information and belief, using these devices, government agents have acquired and are  
13 acquiring wire or electronic communications content and DRAS information directly via  
14 remote or local control of the device, and/or Verizon has disclosed and is disclosing those  
15 communications and information to the government after interception, capture, recording or  
16 decoding.

17  
18 50. On information and belief, Verizon used or assisted in the use of these devices to acquire  
19 wire or electronic communications to which Plaintiffs and class members were a party, and  
20 to acquire DRAS information pertaining to those communications.

21 51. On information and belief, Verizon continues to do so.

22  
23 52. Verizon has provided at all relevant times and continues to provide electronic communication  
24 services to the public, i.e., services that provide to users thereof the ability to send or receive  
25 wire or electronic communications.

1 53. Verizon has provided at all relevant times and continues to provide computer or storage  
2 processing services to the public, by means of wire, radio, electromagnetic, photo-optical or  
3 photo-electronic facilities for the transmission of wire or electronic communications, and/or  
4 by means of computer facilities or related electronic equipment for the electronic storage of  
5 such communications.

6 54. Plaintiffs and class members are, or at pertinent times, were subscribers to, users of, directly  
7 or indirectly, or customers of, one or more of those services.  
8

9 55. On information and belief, Verizon has provided and continues to provide the government  
10 with direct access to its databases of stored telephone and Internet records, which are updated  
11 with new information in real time or near-real time.

12 56. On information and belief, Verizon has disclosed and is currently disclosing to the  
13 government records concerning communications to which Plaintiffs and class members were  
14 a party, and there is a strong likelihood that Verizon will disclose more of the same in the  
15 future.  
16

17 57. According to the Winter Corporation, a leading center of expertise in database scalability,  
18 Verizon maintains multiple databases with combined contents of 19,923 Gigabytes of data,  
19 as at September 14, 2005.

20 58. Upon information and belief, Verizon's databases keep track of telephone numbers on both  
21 ends of calls, as well as the duration of all calls.  
22  
23  
24  
25

1 59. Upon information and belief, after Sept. 11, 2001, intelligence agencies began to view these  
2 type databases as a potential investigative tool, and the NSA has had a direct hookup into the  
3 databases. See Joseph Menn and Josh Meyer, *U.S. Spying is Much Wider, Some Suspect*,  
4 L.A. TIMES, Dec. 25, 2005, at A1.

5  
6 60. On information and belief, this report is substantially correct.

7 61. Verizon's databases were designed to manage call detail records ("CDR") database, which  
8 contains records of nearly every telephone communication carried over its network, records  
9 that include the originating and terminating telephone numbers and the time and length for  
10 each call.

11 62. On information and belief, this CDR database contains records pertaining to Plaintiffs' and  
12 class members' use of Verizon's local and long distance service and Internet service,  
13 including but not limited to DRAS information and personally identifiable customer  
14 proprietary network information ("CPNI") that Verizon obtained by virtue of its  
15 provision of telecommunications service.

16  
17 63. The databases' system's speed and powerful query language allow users to quickly and  
18 easily search the entire contents of a database to find records that match simple or complex  
19 search parameters. For example, a user can query the databases for all calls made to a  
20 particular country from a specific area code during a specific month, and receive information  
21 about all such calls in about one minute.

1 64. The databases are also used to manage Verizon's huge network-security operations. The  
2 databases contains huge amounts of data acquired by firewalls, routers, honey-pots and other  
3 devices on Verizon's global IP (Internet Protocol) network and other networks connected to  
4 Verizon's network, including but not limited to DRAS information and personally  
5 identifiable CPNI that Verizon obtained by virtue of its provision of telecommunications  
6 service.

7  
8 65. On information and belief, these databases contain records or other information, including  
9 but not limited to DRAS information and CPNI, pertaining to Plaintiffs' and class members'  
10 use of Verizon's Internet services.

11 66. On information and belief, Verizon has provided the government with direct access to the  
12 contents of these databases that it manages, including all information, records, DRAS  
13 information and CPNI pertaining to Plaintiffs and members of the class by providing the  
14 government with copies of the information in the databases and/or by giving the government  
15 access to the databases' querying capabilities and/or some other technology enabling the  
16 government agents to search the databases' contents.

17 67. On information and belief, there is a strong likelihood that Verizon will continue to  
18 intentionally intercept, disclose, divulge and use Plaintiffs' and class members'  
19 communications and records in cooperation with the Program.  
20  
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1 **CLASS ACTION ALLEGATIONS**

2 **68.** Pursuant to Rules 23 (a) and (b) of the Federal Rules of Civil Procedure, Plaintiffs bring this  
3 action on behalf of themselves and a **Nationwide Class** of similarly situated persons defined  
4 as: **All persons within the United States that are, current subscribers or customers of**  
5 **Verizon’s telephone or Internet services, and/or users, directly or indirectly of**  
6 **Verizon’s communications facilities, and/or that were within the United States and that**  
7 **were subscribers or customers of Verizon’s telephone or Internet services, and/or users,**  
8 **directly or indirectly of Verizon’s communications facilities, at any time after**  
9 **September 11, 2001 to the present day.**

10  
11 **69.** The Nationwide Class seeks certification of claims for declaratory relief, and damages  
12 pursuant to 50 U.S.C. § 1810, 18 U.S.C. § 2520, 47 U.S.C. § 605, and 18 U.S.C. § 2707, in  
13 addition to declaratory relief for violations of the First and Fourth Amendments.

14  
15 **70.** Plaintiffs also bring certain of the claims, identified, on behalf of themselves and the  
16 following **New York Subclass: All persons within the State of New York that are**  
17 **current subscribers or customers of Verizon’s telephone or Internet services, and/or**  
18 **users, directly or indirectly of Verizon’s communications facilities, and/or that were**  
19 **within the State of New York and that were subscribers or customers of Verizon’s**  
20 **telephone or Internet services, and/or users, directly or indirectly of Verizon’s**  
21 **communications facilities, at any time after September 11, 2001 to the present day.**

22 **71.** The New York Subclass seeks certification of claims for declaratory judgment, and for  
23 damages pursuant to New York's Consumer Protection from Deceptive Acts and Practices  
24 Statute. New York General Business Law § 349.

1 72. Excluded from the Nationwide Class and New York Subclass are the subsidiaries, officers,  
2 directors, and employees of Verizon, and the legal representatives, heirs, successors, and  
3 assigns of Verizon.

4  
5 73. Also excluded from the Nationwide Class and New York Subclass are any foreign powers, as  
6 defined by 50 U.S.C. § 1801(a), or any agents of foreign powers, as defined by 50 U.S.C. §  
7 1801(b) (1) (A), including without limitation anyone who knowingly engages in sabotage or  
8 international terrorism, or activities that are in preparation therefore.

9 74. This action is brought as a class action and may properly be so maintained pursuant to the  
10 provisions of Rule 23 (a), and (b) (1) or (b) (2) of the Federal Rules of Civil Procedure as  
11 follows:

12 **Numerosity of the Nationwide Class and New York Subclass:**

13  
14 75. Members of the Nationwide Class and New York Subclass are so numerous that their  
15 individual joinder is impracticable. The precise numbers and addresses of members of the  
16 Nationwide Class and New York Subclass are unknown to the Plaintiffs. Plaintiffs estimate  
17 that the Nationwide Class consists of millions of members and the New York Subclass  
18 consists of hundreds of thousands of members. Upon information and belief, the precise  
19 number of persons in both the Nationwide Class and New York Subclass and their identities  
20 and addresses may be ascertained from Verizon's records.  
21  
22  
23  
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25

1 **Existence of Common Questions of Fact and Law:**

2  
3 76. There is a well-defined community of interest in the questions of law and fact involved  
4 affecting the members of the Nationwide Class and New York Subclass. These common  
5 legal and factual questions include:

6 (a) Whether Verizon, acting as agents or instruments of the government,  
7 have violated the First and Fourth Amendment rights of Nationwide Class  
8 members, or is currently doing so;

9  
10 (b) Whether Verizon has subjected Nationwide Class members to electronic  
11 surveillance, or have disclosed or used information obtained by  
12 electronic surveillance of the Nationwide Class members, in violation of 50  
13 U.S.C. § 1809, or is currently doing so;

14  
15 (c) Whether Verizon has intercepted, used or disclosed Nationwide Class  
16 members' communications in violation of 18 U.S.C. § 2511, or is currently  
17 doing so;

18  
19 (d) Whether Verizon has divulged or published the existence, contents,  
20 substance, purport, effect, or meaning of Nationwide Class members'  
21 communications in violation of 47 U.S.C. § 605(a), or is currently doing so;

22  
23 (e) Whether Verizon has divulged the contents of Nationwide Class  
24 members' communications in violation of 18 U.S.C. § 2702(a) (1) or (a) (2),  
25 or is currently doing so;

1 (f) Whether Verizon has divulged subscriber information or other records  
2 pertaining to Nationwide Class members in violation of 18 U.S.C. §  
3 2702(a)(3), or is currently doing so;

4  
5 (g) Whether Verizon's interception, use or disclosure of New York Subclass  
6 members' communications, or the disclosure of subscriber information or  
7 other records pertaining to New York Subclass members, constitutes  
8 Deceptive acts or practices in the conduct of business, trade or commerce, or  
9 in the furnishing of service, in violation of New York's Consumer  
10 Protection from Deceptive Acts and Practices Statute. New York General  
11 Business Law § 349;

12  
13 (h) Whether Plaintiffs and New York Subclass members are entitled to  
14 damages to remedy Verizon's Deceptive acts or practices in the conduct of  
15 business, trade or commerce, or in the furnishing of service;

16  
17 (i) Whether Plaintiffs and class members are entitled to recover  
18 compensatory, statutory and punitive damages, whether as a result of  
19 Verizon's fraudulent, illegal and deceitful conduct, and/or otherwise; and

20 (j) Whether Plaintiffs and class members are entitled to an award of  
21 reasonable attorneys' fees, pre-judgment interest, and costs of this  
22 suit?  
23  
24  
25

1 **Typicality:**

2 77. Plaintiffs' claims are typical of the claims of the members of the Nationwide Class and New  
3 York Subclass because Plaintiffs are current subscribers or customers of Verizon's telephone  
4 or Internet services, and/or users, directly or indirectly of Verizon's communications  
5 facilities, and/or were subscribers or customers of Verizon's telephone or Internet services,  
6 and/or users, directly or indirectly of Verizon's communications facilities, at any time after  
7 September 11, 2001 to the present day. Further Plaintiffs are and have been residents of New  
8 York State continuously since at least 1960.

9  
10 78. Plaintiffs and all members of the Nationwide Class and New York Subclass have similarly  
11 suffered harm arising from Verizon's violations of law, as alleged herein.

12 **Adequacy:**

13  
14 79. Plaintiffs are adequate representatives of the Nationwide Class and New York Subclass  
15 because their interests do not conflict with the interests of the members of the classes they  
16 seeks to represent. Plaintiff Pascazi is himself a competent Attorney and Counselor-at-Law,  
17 and Plaintiffs intend to prosecute this action vigorously. Further, Plaintiff Pascazi is an expert  
18 in the field of telecommunications and has a unique knowledge of the workings of national  
19 and international telecommunications facilities. Plaintiffs will fairly and adequately protect  
20 the interests of the members of the Nationwide Class and New York Subclass.

21  
22 80. This suit may also be maintained as a class action pursuant to Federal Rules of Civil  
23 Procedure 23(b)(2) because Plaintiffs and both the Nationwide Class and New York Subclass  
24 seek declaratory relief, and all of the above factors of numerosity, common questions of fact  
25 and law, typicality and adequacy are present. Moreover, Verizon has acted on grounds

1 generally applicable to Plaintiffs and both the Nationwide Class and New York Subclass as a  
2 whole, thereby making declaratory relief proper.

3  
4 81. Or in the alternative, should the court not find class action maintainable pursuant to Rule 23  
5 (b) (1) or (b) (2) of the Federal Rules of Civil Procedure then this suit may be maintained as a  
6 class action pursuant to Rule 23 (b) (3) of the Federal Rules of Civil procedure as follows:

7 **Predominance and Superiority:**

8  
9 82. This suit may also be maintained as a class action under Federal Rules of Civil Procedure  
10 23(b) (3) because questions of law and fact common to the Nationwide Class and New York  
11 Subclass predominate over the questions affecting only individual members of the classes  
12 and a class action is superior to other available means for the fair and efficient adjudication  
13 of this dispute.

14  
15 83. The damages suffered by each individual class member may be relatively small, especially  
16 given the burden and expense of individual prosecution of the complex and extensive  
17 litigation necessitated by Verizon's conduct. Furthermore, it would be virtually impossible  
18 for the class members, on an individual basis, to obtain effective redress for the wrongs done  
19 to them. Moreover, even if class members themselves could afford such individual litigation,  
20 the court system could not. Individual litigation presents a potential for inconsistent or  
21 contradictory judgments. Individualized litigation increases the delay and expense to all  
22 parties and the court system presented by the complex legal issue of the case. By contrast,  
23 the class action device presents far fewer management difficulties, and provides the benefits  
24 of a single adjudication, economy of scale and comprehensive supervision by a single court.

1 84. Plaintiffs reserve the right to modify the Nationwide Class and the New York Subclass  
2 definitions and the class period based on the results of discovery.

3  
4 **COUNT I**

5 **Violation of Plaintiffs' and Class Members' Rights Under the**  
6 **First and Fourth Amendments to the United States Constitution**

7  
8 85. Plaintiffs and class members repeat and incorporate herein by reference the allegations in the  
9 preceding paragraphs of this complaint, as if set forth fully herein.

10 86. On information and belief, Plaintiffs and class members have a reasonable expectation of  
11 privacy in their communications, contents of communications, and/or records pertaining to  
12 their communications, transmitted, collected, and/or stored by Verizon.

13  
14 87. On information and belief, Plaintiffs and class members use and/or used Verizon's services  
15 to speak or receive speech anonymously and to associate privately.

16  
17 88. On information and belief, the above-described acts of interception, disclosure, divulgence  
18 and/or use of Plaintiffs' and class members' communications, contents of communications,  
19 and records pertaining to their communications occurred without judicial or other lawful  
20 authorization, probable cause, and/or individualized suspicion.

21 89. On information and belief, at all relevant times, the government instigated, directed and/or  
22 tacitly approved all of the above-described acts of Verizon.  
23  
24  
25

1 90. On information and belief, at all relevant times, the government knew of and/or acquiesced in  
2 all of the above-described acts of Verizon, and failed to protect the First and Fourth  
3 Amendment rights of the Plaintiffs and class members by obtaining judicial authorization.

4 91. In performing the acts alleged herein, Verizon had at all relevant times a primary or  
5 significant intent to assist or purpose of assisting the government in carrying out the Program  
6 and/or other government investigations, rather than to protect its own property or rights.

7  
8 92. By the acts alleged herein, Verizon acted as an instrument or agent of the government, and  
9 thereby violated Plaintiffs' and class members' reasonable expectations of privacy and  
10 denied Plaintiffs and class members their right to be free from unreasonable searches and  
11 seizures as guaranteed by the Fourth Amendment to the Constitution of the United States,  
12 and additionally violated Plaintiffs' and class members' rights to speak and receive speech  
13 anonymously and associate privately under the First Amendment.

14 93. By the acts alleged herein, Verizon's conduct proximately caused harm to Plaintiffs and class  
15 members.

16  
17 94. On information and belief, Verizon's conduct was done intentionally, with deliberate  
18 indifference, or with reckless disregard of, Plaintiffs' and class members' constitutional  
19 rights.

20 95. On information and belief, there is a strong likelihood that Verizon is now engaging in and  
21 will continue to engage in the above-described violations of Plaintiffs' and class members'  
22 constitutional rights, as agents of the government.  
23  
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1 96. Wherefore, Plaintiffs and class members pray for this court to declare that Verizon has  
2 violated their rights under the First and Fourth Amendments to the United States  
3 Constitution.

4  
5 **COUNT II**

6 **Electronic Surveillance Under Color of Law in Violation of 50 U.S.C. §1809**

7  
8 97. Plaintiffs and class members repeat and incorporate herein by reference the allegations in the  
9 preceding paragraphs of this complaint, as if set forth fully herein.

10 98. In relevant part, 50 U.S.C. § 1809 provides that:

11 (a) Prohibited activities--A person is guilty of an offense if he intentionally--(1)  
12 engages in electronic surveillance under color of law except as authorized by statute;  
13 or (2) discloses or uses information obtained under color of law by electronic  
surveillance, knowing or having reason to know that the information was obtained  
through electronic surveillance not authorized by statute.

14 99. In relevant part 50 U.S.C. §1801 provides that:

15  
16 (f) "Electronic surveillance" means--(1) the acquisition by an electronic, mechanical,  
17 or other surveillance device of the contents of any wire or radio communication sent by or  
intended to be received by a particular, known United States person who is in the United  
18 States, if the contents are acquired by intentionally targeting that United States person, under  
circumstances in which a person has a reasonable expectation of privacy and a warrant  
would be required for law enforcement purposes;

19  
20 (2) the acquisition by an electronic, mechanical, or other surveillance device of the  
contents of any wire communication to or from a person in the United States, without the  
21 consent of any party thereto, if such acquisition occurs in the United States, but does not  
include the acquisition of those communications of computer trespassers that would be  
22 permissible under section 2511(2)(i) of Title 18; (3) the intentional acquisition by an  
electronic, mechanical, or other surveillance device of the contents of any radio  
23 communication, under circumstances in which a person has a reasonable expectation of  
privacy and a warrant would be required for law enforcement purposes, and if both the  
24 sender and all intended recipients are located within the United States; or (4) the installation  
or use of an electronic, mechanical, or other surveillance device in the United States for  
25 monitoring to acquire information, other than from a wire or radio communication, under

1 circumstances in which a person has a reasonable expectation of privacy and a warrant  
2 would be required for law enforcement purposes.

3 100. On information and belief, Verizon has intentionally acquired, by means of a surveillance  
4 device, the contents of one or more wire communications to or from Plaintiffs and class  
5 members or other information in which Plaintiffs or class members have a reasonable  
6 expectation of privacy, without the consent of any party thereto, and such acquisition  
7 occurred in the United States.

8 101. By the acts alleged herein, Verizon has intentionally engaged in electronic surveillance  
9 [as defined by 50 U.S.C. § 1801(f)] under color of law, but which is not authorized by any  
10 statute, and Verizon has intentionally subjected Plaintiffs and class members to such  
11 electronic surveillance, in violation of 50 U.S.C. § 1809.

12 102. Additionally or in the alternative, by the acts alleged herein, Verizon has intentionally  
13 disclosed or used information obtained under color of law by electronic surveillance,  
14 knowing or having reason to know that the information was obtained through electronic  
15 surveillance not authorized by statute.

16 103. Verizon did not notify Plaintiffs or class members of the above-described electronic  
17 surveillance, disclosure, and/or use, nor did Plaintiffs or class members consent to such.

18 104. On information and belief, there is a strong likelihood that Verizon is now engaging in  
19 and will continue to engage in the above-described electronic surveillance, disclosure, and/or  
20 use of Plaintiffs' and class members' wire communications described herein.  
21

22 105. Plaintiffs and class members have been and are aggrieved by Verizon's electronic  
23 surveillance, disclosure, and/or use of their wire communications.  
24

1 106. Pursuant to 50 U.S.C. § 1810, which provides a civil action for any person who has been  
2 subjected to an electronic surveillance or about whom information obtained by electronic  
3 surveillance of such person has been disclosed or used in violation of 50 U.S.C. § 1809,  
4 Plaintiffs and class members seek declaratory relief; statutory damages for Plaintiffs and  
5 class members of whichever is the greater of \$100 a day for each day of violation or \$1,000;  
6 punitive damages as appropriate; and reasonable attorneys' fees and other litigation costs  
7 reasonably incurred.

8  
9 **COUNT III**

10 **Interception, Disclosure and/or Use of Communications in Violation of 18 U.S.C. §2511**

11 107. Plaintiffs repeat and incorporate herein by reference the allegations in the preceding  
12 paragraphs of this complaint, as if set forth fully herein.

13  
14 108. In relevant part, 18 U.S.C. § 2511 provides that:

15 (1) Except as otherwise specifically provided in this chapter any person who--(a)  
16 intentionally intercepts, endeavors to intercept, or procures any other person to  
intercept or endeavor to intercept, any wire, oral, or electronic communication...  
17 (c) intentionally discloses, or endeavors to disclose, to any other person the  
18 contents of any wire, oral, or electronic communication, knowing or having  
reason to know that the information was obtained through the interception of a  
19 wire, oral, or electronic communication in violation of this subsection... [or]

20 (d) intentionally uses, or endeavors to use, the contents of any wire, oral, or  
21 electronic communication, knowing or having reason to know that the information  
22 was obtained through the interception of a wire, oral, or electronic communication  
in violation of this subsection... shall be punished as provided in subsection (4) or  
23 shall be subject to suit as provided in subsection (5).  
24  
25

1 18 U.S.C. § 2511 further provides that:

2  
3 (3)(a) Except as provided in paragraph (b) of this subsection, a person or entity  
4 providing an electronic communication service to the public shall not  
5 intentionally divulge the contents of any communication (other than one to such  
6 person or entity, or an agent thereof) while in transmission on that service to any  
7 person or entity other than an addressee or intended recipient of such  
8 communication or an agent of such addressee or intended recipient.

9 109. By the acts alleged herein, Verizon has intentionally intercepted, endeavored to  
10 intercept, or procured another person to intercept or endeavor to intercept, Plaintiffs' and  
11 class members' wire or electronic communications in violation of 18 U.S.C. §  
12 2511(1)(a);and/or

13 110. By the acts alleged herein, Verizon has intentionally disclosed, or endeavored to  
14 disclose, to another person the contents of Plaintiffs' and class members' wire or electronic  
15 communications, knowing or having reason to know that the information was obtained  
16 through the interception of wire or electronic communications in violation of 18 U.S.C. §  
17 2511(1)(c); and/or

18 111. By the acts alleged herein, Verizon has intentionally used, or endeavored to use, the  
19 contents of Plaintiffs' and class members' wire or electronic communications, while knowing  
20 or having reason to know that the information was obtained through the interception of  
21 wire or electronic communications in violation of 18 U.S.C. § 2511(1)(d); and/or

1 112. On information and belief, Verizon has intentionally divulged the contents of Plaintiffs'  
2 and class members' wire or electronic communications to persons or entities other than the  
3 addressee or intended recipient, or the agents of same, or other providers of wire or electronic  
4 communication service, while those communications were in transmission on Verizon's  
5 electronic communications services, in violation of 18 U.S.C. § 2511(3) (a).

6  
7 113. Verizon did not notify Plaintiffs or class members of the above-described intentional  
8 interception, disclosure, divulgence and/or use of their wire or electronic  
9 communications, nor did Plaintiffs or class members consent to such.

10  
11 114. On information and belief, there is a strong likelihood that Verizon is now engaging in  
12 and will continue to engage in the above-described intentional interception, disclosure,  
13 divulgence and/or use of Plaintiffs' and class members' wire or electronic communications.

14 115. Plaintiffs and class members have been and are aggrieved by Verizon's intentional  
15 interception, disclosure, divulgence and/or use of their wire or electronic communications.

16  
17 116. Pursuant to 18 U.S.C. § 2520, which provides a civil action for any person whose wire or  
18 electronic communications have been intercepted, disclosed or intentionally used in violation  
19 of 18 U.S.C. § 2511, Plaintiffs and class members seek declaratory relief; statutory damages  
20 for Plaintiffs and each class member of whichever is the greater of \$100 a day for each day  
21 of violation or \$10,000; punitive damages as appropriate; and reasonable attorneys' fees and  
22 other litigation costs reasonably incurred.

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**COUNT IV**

**Unauthorized Publication and/or Use of Communications in Violation of 47 U.S.C. § 605**

117. Plaintiffs repeat and incorporate herein by reference the allegations in the preceding paragraphs of this complaint, as if set forth fully herein.

118. In relevant part, 47 U.S.C. § 605 provides that:

(a) Practices prohibited--Except as authorized by chapter 119, Title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpoena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority.

119. Verizon received, assisted in receiving, transmitted, or assisted in transmitting, Plaintiffs' and class members' interstate or foreign communications by wire or radio.

120. By the acts alleged herein, Verizon divulged or published the existence, contents, substance, purport, effect, or meaning of such communications, by means other than through authorized channels of transmission or reception, in violation of 47 U.S.C. § 605.

121. On information and belief, such divulgence or publication was willful and for purposes of direct or indirect commercial advantage or private financial gain.

122. Verizon did not notify Plaintiffs or class members of the divulgence or publication of their communications, nor did Plaintiffs or class members consent to such.

1 123. On information and belief, there is a strong likelihood that Verizon is now engaging in  
2 and will continue to engage in the above-described divulgence or publication of Plaintiffs'  
3 and class members' wire or radio communications.

4 124. Plaintiffs and class members have been and are aggrieved by Verizon's divulgence or  
5 publication of their wire or radio communications.  
6

7 125. Pursuant to 47 U.S.C. § 605(e) (3) (A), which provides a civil action for any person  
8 whose wire or electronic communications have been divulged or published in violation of 47  
9 U.S.C. § 605(a), Plaintiffs and class members seek declaratory relief, and statutory damages  
10 of not less than \$1,000 or more than \$10,000 for each violation aggrieving Plaintiffs and each  
11 class member, as the Court considers just; in the Court's discretion, an increase in the reward  
12 of damages to Plaintiffs and each class member by an amount of not more than \$100,000 for  
13 each violation; and the recovery of full costs, including reasonable attorneys' fees.

14  
15 **COUNT V**

16 **Divulgence of Communications Contents in Violation of 18 U.S.C. § 2702(a) (1) and/or**

17 **18 U.S.C. § 2702 (a) (2)**  
18

19 126. Plaintiffs repeat and incorporate herein by reference the allegations in the preceding  
20 paragraphs of this complaint, as if set forth fully herein.

21 127. In relevant part, 18 U.S.C. § 2702 provides that:  
22

23 (a) Prohibitions.--Except as provided in subsection (b)--(1) a person or entity  
24 providing an electronic communication service to the public shall not knowingly  
25 divulge to any person or entity the contents of a communication while in  
electronic storage by that service; and

1 (2) a person or entity providing remote computing service to the public shall not  
2 knowingly divulge to any person or entity the contents of any communication which  
3 is carried or maintained on that service--(A) on behalf of, and received by means of  
4 electronic transmission from (or created by means of computer processing of  
5 communications received by means of electronic transmission from), a subscriber  
6 or customer of such service; (B) solely for the purpose of providing storage or  
7 computer processing services to such subscriber or customer, if the provider is not  
8 authorized to access the contents of any such communications for purposes of  
9 providing any services other than storage or computer processing....

10 128. On information and belief, Verizon knowingly divulged to one or more persons or  
11 entities the contents of Plaintiffs' and class members' communications while in electronic  
12 storage by a Verizon electronic communication service, and/or while carried or maintained  
13 by a Verizon remote computing service, in violation of 18 U.S.C. § 2702(a)(1) and/or (a)(2).

14 129. Verizon did not notify Plaintiffs or class members of the divulgence of their  
15 communications, nor did Plaintiffs or class members consent to such.

16 130. On information and belief, there is a strong likelihood that Verizon is now engaging in  
17 and will continue to engage in the above-described divulgence of Plaintiffs' and class  
18 members' communications while in electronic storage by Verizon's electronic  
19 communication service(s), and/or while carried or maintained by Verizon's remote  
20 computing service(s).

21 131. Plaintiffs and class members have been and are aggrieved by Verizon's above- described  
22 divulgence of the contents of their communications.

23 132. Pursuant to 18 U.S.C. § 2707, which provides a civil action for any person aggrieved by  
24 knowing or intentional violation of 18 U.S.C. § 2702, Plaintiffs and class members seek such  
25 declaratory relief as may be appropriate; statutory damages of no less than \$1000 for  
Plaintiffs and each class member; punitive damages as the Court considers just; and  
reasonable attorneys' fees and other litigation costs reasonably incurred.

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**COUNT VI**

**Divulgence of Communications Records in Violation of 18 U.S.C. § 2702(a) (3)**

133. Plaintiffs repeat and incorporate herein by reference the allegations in the preceding paragraphs of this complaint, as if set forth fully herein.

134. In relevant part, 18 U.S.C. § 2702 provides that:

- a. Prohibitions.--Except as provided in subsection (b)-- (3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

135. On information and belief, Verizon, a provider of remote computing service and electronic communication service to the public, knowingly divulged records or other information pertaining to Plaintiffs and class members to a governmental entity in violation of 18 U.S.C. § 2702(a)(3).

136. Verizon did not notify Plaintiffs or class members of the divulgence of these records and other information pertaining to them and their use of Verizon's services, nor did Plaintiffs or class members consent to such.

137. On information and belief, there is a strong likelihood that Verizon is now engaging in and will continue to engage in the above-described divulgence of records or other information pertaining to Plaintiffs and class members.

1  
2 138. Pursuant to 18 U.S.C. § 2707, which provides a civil action for any person aggrieved  
3 by knowing or intentional violation of 18 U.S.C. § 2702, Plaintiffs and class members seek  
4 such declaratory relief as may be appropriate; statutory damages of no less than \$1000 for  
5 Plaintiffs and each class member; punitive damages as the Court considers just; and  
6 reasonable attorneys' fee and other litigation costs reasonably incurred.

7 **COUNT VII**

8 **Deceptive Acts and Practices in Business, Trade, Commerce or the Furnishing of Service in**  
9 **New York State**  
10 **(Plaintiffs and the New York Subclass vs. Defendants)**

11  
12 139. Plaintiffs repeat and incorporate herein by reference the allegations in the preceding  
13 paragraphs of this complaint, as if set forth fully herein.

14 140. Verizon has engaged in unlawful, deceptive and/or materially misleading business  
15 practices and/or acts as set forth above.

16  
17 141. By engaging in the acts and practices described herein, Verizon has committed one or  
18 more deceptive business practices within the meaning of New York General Business Law  
19 §§ 349 (a) and (h).

20 142. Furthermore, Verizon's acts and practices complained of are, upon information and  
21 belief, widespread and impact the consumer public at large.

22  
23 143. Verizon's above-described deceptive and materially misleading acts and practices have  
24 deceived and/or are likely to deceive Plaintiffs and other New York Subclass members.

1 144. Plaintiffs were, in fact, deceived as to the terms and conditions of services provided by  
2 Verizon.

3  
4 145. Plaintiffs and New York Subclass members have suffered harm as a result of Verizon's  
5 misrepresentations, acts, and/or omissions.

6  
7 146. Verizon's acts and practices are also unlawful because, as described above, they violate  
8 the First and Fourth Amendments to the United States Constitution, 50 U.S.C. § 1809, 18  
9 U.S.C. § 2511, 47 U.S.C. § 605, 18 U.S.C. § 2702(a)(1) and/or (a)(2), and 18 U.S.C. §  
10 2702(a)(3).

11 147. Verizon's acts and practices are also unlawful because they violate 18 U.S.C. § 3121.

12  
13 148. In relevant part, 18 U.S.C. § 3121 provides that:

14 (a) In general.--Except as provided in this section, no person may install or use a pen  
15 register or a trap and trace device without first obtaining a court order under  
16 section 3123 of this title or under the Foreign Intelligence Surveillance Act of  
17 1978 (50 U.S.C. 1801 et seq.).

18 149. As defined by 18 U.S.C. § 3127:

19 the term "pen register" means a device or process which records or decodes dialing,  
20 routing, addressing, or signaling information transmitted by an instrument or facility  
21 from which a wire or electronic communication is transmitted, provided, however,  
22 that such information shall not include the contents of any communication, but such  
23 term does not include any device or process used by a provider or customer of a wire  
24 or electronic communication service for billing, or recording as an incident to billing,  
25 for communications services provided by such provider or any device or process  
used by a provider or customer of a wire communication service for cost accounting  
or other like purposes in the ordinary course of its business;

1 the term "trap and trace device" means a device or process which captures the  
2 incoming electronic or other impulses which identify the originating number or other  
3 dialing, routing, addressing, and signaling information reasonably likely to identify  
4 the source of a wire or electronic communication, provided, however, that such  
5 information shall not include the contents of any communication;

6 150. On information and belief, Verizon installed or used pen registers and/or trap and trace  
7 devices without first obtaining a court order under 18 U.S.C. § 3123 or under the Foreign  
8 Intelligence Surveillance Act of 1978 (50 U.S.C. § 1801 et seq.), and continue to do so.

9 151. On information and belief, the pen registers and/or trap and trace devices installed and  
10 used by Verizon have captured, recorded, or decoded, and continue to capture, and record  
11 order-code, dialing, routing, addressing or signaling information pertaining to Plaintiffs  
12 and/or New York Subclass members' wire or electronic communications.

13 152. Verizon did not notify Plaintiffs or New York Subclass members of the installation or use  
14 of pen registers and/or trap and trace devices, nor did Plaintiffs or New York Subclass  
15 members consent to such.

16 153. Verizon's acts and practices are also unlawful because they violate 47 U.S.C. § 222,  
17 which in relevant part provides that:

18 (b) Confidentiality of customer proprietary network information--(1) Privacy  
19 requirements for telecommunications carriers--Except as required by law or with  
20 the approval of the customer, a telecommunications carrier that receives or  
21 obtains customer proprietary network information by virtue of its provision  
22 of a telecommunications service shall only use, disclose, or permit access to  
23 individually identifiable customer proprietary network information in its  
24 provision of (A) the telecommunications service from which such information is  
25 derived, or (B) services necessary to, or used in, the provision of such  
telecommunications service, including the publishing of directories.

1 154. Verizon is a telecommunications carrier that obtains and has obtained customer  
2 proprietary network information by virtue of its provisioning of telecommunications service.

3  
4 155. On information and belief, Verizon. used, disclosed and/or provided to government  
5 entities individually identifiable customer proprietary network information pertaining to  
6 Plaintiffs and New York Subclass members, and continue to do so.

7  
8 156. Verizon did not notify Plaintiffs or New York Subclass members of the disclosure and/or  
9 provision of their personally identifiable customer proprietary network information to  
10 government entities, nor did Plaintiffs or New York Subclass members consent to such.

11 157. Plaintiffs and the New York Subclass have suffered injury in fact and have lost money or  
12 property as a result of such deceptive and unlawful business practices. Such injuries and  
13 losses include, but are not limited to, the service fees and other fees and charges paid to  
14 Verizon. Neither the Plaintiffs nor any reasonable New York Subclass member would have  
15 paid such fees and charges for Verizon's services had they first known of Verizon's  
16 deceptive and/or unlawful acts and practices.

17  
18 158. On information and belief, there is a strong likelihood that Verizon is now engaging in  
19 and will continue to engage in the above-described electronic surveillance, disclosure, and/or  
20 use of Plaintiffs' and class members' wire communications.

21 159. Plaintiffs and the New York Subclass seek declaratory judgment, and actual damages  
22 suffered by each, and all other relief from Verizon allowed under New York General  
23 Business Law §§ 349 (a) and (h), including but not limited to exemplary damages, attorney's  
24 fees and costs.

1 **PRAYER FOR RELIEF**

2 **Wherefore**, the Plaintiffs for themselves, and all others similarly situated, respectfully requests  
3 that the Court:

4 A. Declare that Verizon’s participation in the Program as alleged herein violates applicable law  
5 including without limitation:

6  
7 (i) The First and Fourth Amendments to the United States Constitution, 50 U.S.C. § 1809, 18  
8 U.S.C. § 2511, 47 U.S.C. § 605, and 18 U.S.C. § 2702, as to Plaintiffs and the Nationwide Class;  
9 and

10 (ii) New York General Business Law § 349 (a) and (h) as to Plaintiffs and the New York  
11 Subclass.

12  
13 B. Award statutory damages to the extent permitted by law to Plaintiffs and each class member  
14 in the sum of:

15 (i) \$100 per day for each day of violation of 50 U.S.C. § 1809 aggrieving each Plaintiff or class  
16 member or \$1,000, whichever is greater, pursuant to 50 U.S.C. § 1810(a);

17  
18 (ii) \$100 a day for each violation of 18 U.S.C. § 2511 aggrieving each Plaintiff or class member  
19 or \$10,000, whichever is greater, pursuant to 18 U.S.C. § 2520(c) (2) (A);

20  
21 (iii) Not less than \$1,000 or more than \$10,000 for each violation aggrieving each Plaintiff or  
22 class member, as the court considers just, pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(II);

23 and

24 (iv) \$1000 pursuant to 18 U.S.C. § 2707(c);

1 C. Award punitive damages to the extent permitted by law to Plaintiffs and each class member,  
2 including without limitation:

3 (i) An appropriate sum pursuant to 50 U.S.C. § 1810(b);  
4

5 (ii) An appropriate sum pursuant to 18 U.S.C. § 520(b) (2); and

6 (iii) Not more than \$100,000 per violation of 47 U.S.C. § 605(a) aggrieving each Plaintiff or  
7 class member, in the court's discretion, pursuant to 47 U.S.C. § 605(e) (3) (C) (ii);  
8

9 D. Award to Plaintiffs attorneys' fees and other costs of suit to the extent permitted by law,  
10 including without limitation pursuant to 50 U.S.C. § 1810(c), 18 U.S.C. § 2520(b) (3), 47 U.S.C.  
11 § 605(e) (3) (B) (iii), 18 U.S.C. § 2707(b) (3), New York General Business Law §§ 349 (a) and  
12 (h), and the New York Civil Practice Law and Rules;

13 E. Award actual damages and all other relief allowed under New York General Business Law §§  
14 349 (a) and (h) to each Plaintiff and each member of the New York Subclass;

15 F. Grant such other and further relief as the Court deems just and proper.  
16

17 The total damages on all counts are currently estimated at \$20 Billion, subject to amendment  
18 pursuant to evidence adduced during discovery and at trial.  
19

### 20 **JURY DEMAND**

21 Plaintiffs hereby request a jury trial for all issues triable by jury including, but not limited to,  
22 those issues and claims set forth in any amended complaint or consolidated action.  
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Dated this 16<sup>th</sup> day of February, 2006

By: Michael S. Pascazi /S/

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