

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN DOE, INC.; JOHN DOE; AMERICAN  
CIVIL LIBERTIES UNION; and AMERICAN  
CIVIL LIBERTIES UNION FOUNDATION,

Plaintiffs,

v.

ERIC HOLDER, JR., in his official capacity as  
Attorney General of the United States; JAMES B.  
COMEY, in his official capacity as Director of  
the Federal Bureau of Investigation; and JAMES  
A. BAKER, in his official capacity as General  
Counsel of the Federal Bureau of Investigation,

Defendants.<sup>1</sup>  
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04 Civ. 2614 (VM)

**Stipulation and Order Modifying  
July 30, 2010, Judgment of Dismissal**

WHEREAS, in 2004, the Federal Bureau of Investigation (the "FBI") delivered a national security letter (the "Doe NSL") issued under 18 U.S.C. § 2709 to plaintiff John Doe, Inc., and its then-president, plaintiff John Doe. Pursuant to 18 U.S.C. § 2709, the Doe NSL sought certain information from its recipients. The Doe NSL included a page titled "Attachment," further specifying the information being sought (the "Attachment"). The Doe NSL further notified its recipients that 18 U.S.C. § 2709 prohibited its recipients from disclosing the fact that the FBI had sought or obtained access to information or records under that statute.

WHEREAS, plaintiffs John Doe, Inc., and John Doe refused to comply with the Doe NSL, and filed this action, challenging the Doe NSL, against defendants (the "government") in this Court on or about April 6, 2004. By Decision and Order entered September 6, 2007, this Court granted in part and denied in part plaintiffs' motion for summary judgment, and denied the government's cross-motion for dismissal or summary judgment. The government appealed, and the Court of Appeals for the Second Circuit, by opinion dated December 15, 2008, affirmed in part, reversed in part, and remanded the case for further proceedings.

WHEREAS, on remand, this Court considered the parties' cross-motions addressing whether the government was justified in continuing to impose a nondisclosure obligation on plaintiffs with respect to certain aspects of the Doe NSL.

WHEREAS, by Decision and Order dated October 20, 2009, this Court granted in part the government's motion for summary judgment and denied in part plaintiffs' motion for partial

<sup>1</sup> Pursuant to Fed. R. Civ. P. 25(d), the names of public officers have been automatically substituted for their predecessors.

summary judgment. By Decision and Order entered March 18, 2010, the Court granted in part and denied in part plaintiffs' motion for partial reconsideration.

WHEREAS, in particular, the March 18, 2010, Decision and Order considered the nondisclosure obligation as it related to the Attachment, directing the government to disclose certain information in the Attachment but also concluding that the nondisclosure obligation could continue to apply to other portions of the Attachment. In accordance with this order, the government provided plaintiffs with a redacted version of the Attachment (the "Redacted Attachment"), which is now in the public domain.

WHEREAS, plaintiffs appealed the March 18, 2010, Decision and Order, then later withdrew the appeal.

WHEREAS, by Stipulation and Order entered by the Court on July 30, 2010, plaintiffs and the government agreed to dismiss this action, and to partially set aside, but partially retain, the nondisclosure obligation set forth in 18 U.S.C. § 2709 as it pertains to the Doe NSL.

WHEREAS, due to changed circumstances, the FBI no longer believes that the nondisclosure of information in the Doe NSL—with the exception of non-public information in the Attachment—is necessary to prevent against a danger to the national security of the United States; interference with a criminal, counterterrorism, or counterintelligence investigation; interference with diplomatic relations; or danger to the life or physical safety of any person that is related to an authorized investigation to protect against international terrorism or clandestine intelligence activities.

WHEREAS, this Court has the authority to modify the July 30, 2010, Stipulation and Order pursuant to Fed. R. Civ. P. 60(b), and the parties consent to such modification upon the terms set forth below.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. The nondisclosure obligation set forth in 18 U.S.C. § 2709 continues to apply to the Attachment to the Doe NSL, except insofar as the information in the Attachment has already been made public in the Redacted Attachment.
2. Except as provided in paragraph 1 of this Stipulation and Order, the nondisclosure obligation set forth in 18 U.S.C. § 2709, as it pertains to the Doe NSL, is no longer in effect.
3. Nothing in this Stipulation and Order affects whatever rights plaintiffs John Doe and John Doe, Inc., may have to petition in the future under 18 U.S.C. § 3511(b) or any other provision of law for an order modifying or setting aside the nondisclosure requirement left in place by this Stipulation and Order.
4. This Stipulation constitutes the entire agreement of the parties, and no prior statement, representation, agreement, or understanding, oral or written, will have any force or effect.

Dated: New Haven, Connecticut  
April 11, 2014

MEDIA FREEDOM AND  
INFORMATION ACCESS CLINIC,  
YALE LAW SCHOOL  
Attorney for Plaintiffs John Doe and  
John Doe, Inc.

By: 

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Dated: New York, New York  
April 11, 2014

PREET BHARARA  
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District of New York  
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SO ORDERED.

Dated: New York, New York  
15 April, 2014

  
VICTOR MARRERO, U.S.D.J.

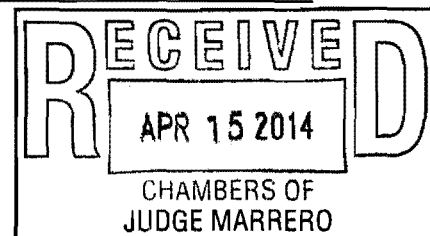


**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*86 Chambers Street  
New York, New York 10007*

April 11, 2014



By hand

The Honorable Victor Marrero  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Doe v. Holder*, 04 Civ. 2614 (VM)


Dear Judge Marrero:

The parties to the above-named case have entered into the enclosed stipulation to modify this Court's prior order. We respectfully request that the Court so-order the stipulation.

Respectfully,

PREET BHARARA  
United States Attorney

By:

  
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Encl.

cc: Anjali Motgi & Jonathan Manes, by email