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6 Attorneys for Plaintiff  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
11

12 KEVIN POULSEN,

13 Plaintiff,

14 vs.

15 UNITED STATES CUSTOMS AND BORDER  
16 PROTECTION,

17 Defendant.  
18

Case No. C-06-1743 SI

**DECLARATION OF LAUREN GELMAN IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
AWARD OF ATTORNEY'S FEES AND  
COSTS**

19  
20 I, Lauren Gelman, hereby declare:

- 21 1. I am the primary attorney for the plaintiff in this action. My time and expense computation  
22 totals through November 3, 2006, are as follows:

23  
24 125 hours at \$250/hour \$31,250.00

25 ///

26 ///

- 1       2. Attorney fees for the Director of the Stanford Law School Cyberlaw Clinic, Jennifer Granick,  
2       and a Center for Internet and society Resident Fellow David Olson are set forth separately in  
3       their own DELCARATIONS IN SUPPORT OF PLAINTIFF’S MOTION FOR AWARD OF  
4       ATTORNEY’S FEES AND COSTS, separately filed in conjunction with this Declaration and  
5       PLAINTIFF’S MOTION FOR AWARD OF ATTORNEY’S FEES AND COSTS.
- 6       3. A true copy of the total amount of hours spent by each individual who worked on the case and  
7       their billing rate, and the expenses incurred is attached as Exhibit A and is incorporated herein  
8       by reference. Exhibit A is a summary compiled from fully documented time records, receipts,  
9       computer files, file notes, and calendar entries maintained in the regular course of our legal  
10      services.
- 11     4. A true copy of the hours spent by each individual itemized by task and broken-down by attorney  
12      is attached as Exhibit B and is incorporated herein by reference. Exhibit B is a summary  
13      compiled from fully documented time records, receipts, computer files, file notes, and calendar  
14      entries maintained in the regular course or our legal services.
- 15     5. A true copy of our office’s expenses incurred is attached as Exhibit C and is incorporated herein  
16      by reference. Exhibit C is a summary complied from fully documented time records, receipts,  
17      computer files, file notes, and calendar entries maintained in the regular course of our legal  
18      services.
- 19     6. I certify that I met and conferred with Defendant’s counsel to resolve this dispute of attorney’s  
20      fees in good faith. During these negotiations we stipulated to two extensions moving the  
21      deadline to file this motion in hopes that a settlement would be reached. On October 25, 2006,  
22      law student Jeff Laretto emailed Assistant US Attorney Andrew Cheng with a proposed amount  
23      based on the hours spent by each member of the legal team and a reasonable billing rate for  
24      each member. At his request, we produced an itemized breakdown of each person’s hours spent  
25      on each task on October 25, 2006. On Friday, October 27th, Mr. Cheng notified us that his  
26      client was unwilling to counter our settlement offer. We replied that we would be filing this  
27      Motion by the stipulated deadline.
- 28

- 1 7. I received my J.D degree in 2001 from Georgetown University Law Center. I was admitted to  
2 the California bar and to the Northern District in February 2002. I have been practicing law for  
3 over four years. My bar number is 228734.
- 4 8. Before being recruited to be Associate Director of the Center for Internet and Society (CIS) at  
5 Stanford Law School, I spent six years in Washington, DC starting in 1995 as the Associate  
6 Director of Public Policy for ACM, the largest association of computer scientists in the world  
7 and as the Public Policy Director for the Electronic Frontier Foundation (EFF). During that  
8 time I received a M.S. from the Elliott School at George Washington University in Science,  
9 Technology and Public Policy. My focus in both my Master's thesis and in my DC policy work  
10 was primarily on issues of how new technology impacts privacy, the first amendment and  
11 access to information. After I left DC, I opened my own law offices in California. During that  
12 time, I consulted on numerous Freedom of Information Act requests and litigation and worked  
13 with clients on issues and cases related to the conflict between protecting privacy and access to  
14 information, especially in the wake of the events of 9/11
- 15 9. I am currently employed by Stanford Law School as Associate Director of Stanford Law  
16 School's (CIS). CIS is a public interest law center that brings together scholars, academics,  
17 legislators, students, programmers, security researchers, and scientists to study the interaction of  
18 new technologies and the law and to examine how the synergy between the two can either  
19 promote or harm public goods like free speech, privacy, public commons, diversity, and  
20 scientific inquiry. The CIS strives as well to improve both technology and law, encouraging  
21 decision makers to design both as a means to further democratic values.
- 22 10. As Associate Director, part of my job is to supervise students in the Stanford Law School  
23 Cyberlaw Clinic. In my years at Stanford Law School I have supervised over 15 student  
24 projects, including FOIA cases, First Amendment press cases, and other privacy matters.
- 25 11. My experience in privacy and access to information issues is nationally recognized. I am a  
26 Lecturer in Law and teach "Law, Technology and Privacy" at Stanford Law School, and I am an  
27 Adjunct Lecturer in Stanford's School of Engineering where I taught a Cyberlaw and policy  
28

1 seminar to undergraduate students. I edited a symposium at Stanford Law School “Securing  
2 Privacy (Stanford University Press, 2007).

3 12. My current hourly billing rate is \$250.00.

4 13. This billing rate is exceedingly reasonable given the experience I have accumulated in similar  
5 litigation and policy work and is also representative of the complexity of this action. This case  
6 posed several novel issues about the substantive scope of several FOIA exemptions, as well as  
7 the propriety of government attempts to discourage a requester from pursuing his FOIA request.  
8 The Defendant put forth the argument that the government can keep all information about  
9 computer security vulnerabilities in government computers secret and exempt from disclosure  
10 under the FOIA. My experience in working with government officials to balance computer  
11 security and privacy interests was particularly relevant given the government’s position.

12 14. In 2004 I served on the Transportation Security Administration's (TSA) Secure Flight Privacy  
13 and Security Working Group at the Department of Homeland Security. I have also worked with  
14 policymakers in Washington when revisions to the FOIA have been proposed. I am frequently  
15 called upon to comment or consult on FOIA requests. I currently sit on the Board of Computer  
16 Professionals for Social Responsibility, a non-profit organization that advocates for the public  
17 interest on technology policy issues. Since 1995, I have spoken at hundreds of conferences and  
18 symposia on issues related to privacy and access to information.

19 15. I supervised two law students enrolled in the Stanford Law School Cyberlaw Clinic throughout  
20 the course of this litigation. I billed each out at \$125.00 to reflect their modest level of  
21 experience. I have supervised recent law school graduates in a number of prior positions and I  
22 believe the work of these two students was comparable to those students, who were billed out at  
23 a higher rate.

24 16. Megan Adams was a second-year law student in the Clinic’s spring 2006 semester. She  
25 provided a substantial contribution to this litigation during its early phases. She drafted the  
26 Complaint, the Motion for Summary Judgment, and the Opposition. She also handled the  
27 negotiations with opposing counsel, was the primary client contact, and assisted in preparing me  
28 for the oral argument. Her total time spent on each of these tasks is reasonable.

1 17. Jeff Laretto is a second-year law student in the Fall 2006 Cyberlaw Clinic. He drafted this  
2 MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS. He also performed  
3 document review to verify that CBP disclosed the documents according to the Court's Order,  
4 conducted the negotiations with Defendant's counsel, and drafted all stipulations and  
5 declarations relevant to the MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS.  
6 His total time spent on each of these tasks is reasonable.

7  
8 I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration  
9 was executed November 3, 2006 at Stanford, California.

10  
11 Dated: November 3, 2006

STANFORD LEGAL CLINIC  
CYBERLAW CLINIC  
CENTER FOR INTERNET & SOCIETY

12  
13  
14 **By:** \_\_\_\_\_/S/\_\_\_\_\_  
15 Lauren Gelman  
16 Attorneys for Plaintiff  
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# **EXHIBIT A**

**Fees and Costs Summary**

	<b>Position</b>	<b>Hours</b>	<b>Billable Rate</b>	<b>Cost of Services</b>
<b>Jennifer Granick</b>	Director CIS	28.8	375	10,800.00
<b>Lauren Gelman</b>	Associate Director CIS	125	250	31,250.00
<b>David Olson</b>	Fellow	12.25	250	3,062.50
<b>Megan Adams</b>	Law Student	191	125	23,875.00
<b>Jeff Laretto</b>	Law Student	46.8	125	5,850.00

<b>Total Hours:</b>	403.6	<b>Total Services:</b>	74,837.50
		<b>Total Costs:</b>	262.64
		<b>Total Due:</b>	<b>75,100.14</b>

# **EXHIBIT B**

**Itemized Fees by Attorney**

**Jennifer Granick**

<b>DATE</b>	<b>HOURS</b>	<b>ACTIVITY</b>
2/21/06	1	Review Complaint draft
2/22/06	2	Meet with Gelman and Adams re: Complaint
2/27/06	2	Review Complaint draft
2/28/06	2	Meet with Gelman and Adams re: Revised Complaint
3/1/06	0.5	Review Complaint draft
3/2/06	1	Review Final Copy with Gelman and Adams
3/22/06	3	Review Draft of MSJ
3/22/06	0.5	Review proposal to delay filing and discuss with Gelman, Adams
3/23/06	1	Meet with Gelman and Adams re: MSJ;
3/24/06	0.3	Meeting with Gelman, Adams and Client
3/24/06	0.5	Discuss Negotiations with US Attorney with Gelman and Adams
3/29/06	0.5	Discuss Negotiations with US Attorney with Gelman and Adams
3/30/06	1	Finalizing MSJ papers for filing
4/12/06	1	Finalizing MSJ papers for filing, with information about new docs included
4/13/06	1	Final proofread of MSJ
4/19/06	2	Review of Papers opposing Motion to Continue Hearing
4/19/06	1	Review of David Sobel declaration
4/21/06	0.25	Call to Clerk Sutton re: scheduling hearing
4/25/06	2	Meet with Gelman and Adams re: Case Schedule
5/4/06	1.5	Review of Government Opposition to MSJ
5/9/06	0.25	Review of missing exhibit 5 from Gov't Opp
5/16/06	1	Review of papers in preparation for moot court
5/17/06	2	Moot court of Gelman for hearing
5/22/06	1.5	Moot court of Gelman for hearing
<b>Total Hours:</b>	<b>28.8</b>	

**Lauren Gelman**

<b>DATE</b>	<b>HOURS</b>	<b>ACTIVITY</b>
2/22/06	2	Meet with Adams and Granick re: Complaint
2/21/06	2	Review/edit Complaint draft
2/27/06	1	Review/edit Complaint draft
2/28/06	2	Meet with Adams and Granick re: Revised Complaint
3/2/06	1	Review/edit Complaint draft
3/2/06	1	Review Final Copy with Adams and Granick
3/18/06	1	Review research for MSJ
3/20/06	1	Review/edit Client Declaration
3/23/06	1	Meet with Adams and Granick re: MSJ;
3/31/06	1	Strategy meeting with Adams
4/3/06	3	Meet with Adams
4/7/06	1	Strategy Meeting with Adams
4/11/06	7	Edit MSJ; Review with Adams
4/14/06	2	Edit MSJ; Review with Adams
4/17/06	3	Discuss Deposition with US Attorney; Meet with Adams and Olson
4/18/06	5	Discussion with Sobel; Review/edit Opposition to Continue Hearing
4/19/06	3	Review/Edit Opp to Continue Hearing
4/25/06	2	Meet with Adams and Granick re: Case Schedule
5/4/06	8	Review Gvt Papers/ Research Reply
5/6/06	8	Research/draft Reply
5/7/06	8	Research/draft Reply
5/9/06	3	Call to Adams re: Reply;
5/11/06	5	Revise Reply
5/12/06	3	File Reply
5/16/06	3	Call to Adams re: Oral Argument
5/17/06	8	Preparation Oral Arg.
5/18/06	1	Call to Adams
5/19/06	8	Preparation; Moot Oral Arg.
5/20/06	5	Preparation Oral Arg
5/22/06	8	Preparation/Moot Oral Arg
5/23/06	5	Preparation Oral Arg
5/24/06	3	Review Suzuki Supplemental Brief
5/26/06	4	Hearing
10/30/06	1	Discuss Strategy with Laretto
10/31/06	1	Discuss Strategy with Laretto
11/2/06	4	Declaration; Revision MAF
<b>Total Hours:</b>	<b>125</b>	

**David Olson**

<b>DATE</b>	<b>HOURS</b>	<b>ACTIVITY</b>
4/17/06	3	Meet with Gelman and Adams; Review Documents
4/18/06	2	Review; edit Draft
5/19/06	5	Moot Court Prep
5/22/06	2	Moot Court Prep
5/22/06	0.25	Declaration Prep
<b>Total Hours:</b>	<b>12.25</b>	

**Megan Adams**

<b>DATE</b>	<b>HOURS</b>	<b>ACTIVITY</b>
2/16/06	3	Meet with Client; Review Facts
2/17/06	6	Read Statute; Research Potential Causes of Action
2/19/06	4	Draft Complaint
2/20/06	4	Draft Complaint
2/22/06	2	Meet with Gelman and Granick re: Complaint
2/23/06	2	Meet with Client; Review Facts; Research Causes of Action
2/25/06	5	Revise Complaint
2/27/06	7	Revise Complaint
2/28/06	2	Meet with Gelman and Granick re: Revised Complaint
3/1/06	5	Revise Complaint; Proofread
3/2/06	3	Review Final Copy with Gelman and Granick; Final Revisions
3/3/06	5	Meet with Client re: Complaint; Research Filing Procedures
3/6/06	8	Compile Paperwork to File Complaint
3/7/06	8	Prepare Complaint and Summons; File Complaint
3/13/06	4	Preliminary Research for Motion for Summary Judgment
3/14/06	8	Research
3/16/06	6	Research
3/19/06	8	Meet with Client; Write Client Declaration
3/20/06	8	Draft Motion for Summary Judgment
3/21/06	7	Call to US Attorneys Office; Continue Drafting
3/22/06	5	Draft Motion for Summary Judgment
3/23/06	6	Meet with Gelman and Granick re: MSJ; Revise MSJ; Negotiate with US Attorney
3/24/06	2	Negotiate with US Attorney; Discuss with Gelman and Granick
3/29/06	1	Negotiate with US Attorney; Discuss with Gelman and Granick
3/31/06	3	Reviewing New Documents; Strategy meeting with Gelman
4/2/06	2	Research Vaughn Index
4/3/06	3	Meet with Gelman; Meet with Client; Negotiate with US Attorney Cheng
4/6/06	2	Read Answer; Meet with Client
4/7/06	3	Call to US Attorney Cheng; Strategy Meeting with Gelman; Review MSJ Draft

4/10/06	8	Revise MSJ and Client Declaration to reflect new facts; Meet with Client
4/11/06	7	Revise MSJ; Proofread; Review with Gelman
4/13/06	5	Input Edits from Gelman and Granick; Compile Documents for Filing
4/14/06	4	Formatting and Compiling Documents; File all MSJ Pleadings
4/17/06	5	Read Motion to Continue Hearing; Meet with Gelman and Olson; Draft Opposition
4/18/06	8	Draft Opposition; Call Court
4/19/06	3	Input Edits from Gelman and Granick; Prepare Doc for Filing
4/20/06	2	File Opposition to Motion for Continuance
4/21/06	1	Review Order; Comments from Sobel
4/25/06	2	Meet with Gelman and Granick re: Case Schedule
5/8/06	4	Read Opposition and Declarations from CBP; Research Law Enforcement Exemption
5/9/06	3	Research; Call to Gelman re: Reply;
5/11/06	3	Review and Edit Reply
5/16/06	3	Call to Gelman re: Oral Argument; Review Documents; Strategize for Oral Argument
5/18/06	1	Call to Gelman
<b>Total Hours:</b>	<b>191</b>	

**Jeff Laretto**

<b>DATE</b>	<b>HOURS</b>	<b>ACTIVITY</b>
10/5/06	1.1	Draft Initial Stipulation for Time Extension
10/6/06	3	Review Initial Batch of Documents Produced Subject to Order
10/17/06	1.6	Review Additional Documents Turned Over (1.1 hours) ;Prepare Activities Log
10/18/06	1.3	Draft Letter to Cheng re Attorney's Fees
10/21/06	1.2	Research re Motion for Fees
12/22/06	3	Research re Motion for Fees
10/23/06	2	Draft Formal Settlement Request
10/24/06	1	Prepare for Negotiation with Cheng re Atty's fees
10/25/06	4.1	Drafting re Second Stipulation; Drafting re Motion for Fees
10/26/06	3.2	Drafting re Motion for Fees; Research re Fees
10/27/06	4	Drafting re Motion for Fees
10/28/06	4	Drafting re Motion for Fees
10/29/06	3.3	Drafting re Motion for Fees
10/30/06	1.5	Revise Motion with Gelman and Discuss Strategy
10/31/06	3.5	Meet with Client re Produced Information; Discuss Strategy with Gelman; Revision re Motion for Fees
11/1/06	6	Revision re Motion for Fees (7); Draft Declarations
11/2/06	3	Finalize Motion
<b>Total Hours:</b>	<b>46.8</b>	

# **EXHIBIT C**

**Itemized Costs**

<b>DATE</b>	<b>COST</b>	<b>DESCRIPTION</b>
3/7/06	250.00	Filing Fee Receipt: 3382788
3/8/06	6.32	Summons Postage: Kevin V. Ryan
3/8/06	6.32	Summons Postage: Alberto Gonzales
<b>Total Costs:</b>	<b>262.64</b>	