

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK AMNESTY INTERNATIONAL USA; GLOBAL FUND FOR WOMEN; GLOBAL RIGHTS; HUMAN RIGHTS WATCH; INTERNATIONAL CRIMINAL DEFENSE ATTORNEYS ASSOCIATION; THE NATION MAGAZINE; PEN AMERICAN CENTER; SERVICE EMPLOYEES INTERNATIONAL UNION; WASHINGTON OFFICE ON LATIN AMERICA; DANIEL N. ARSHACK; DAVID NEVIN; SCOTT MCKAY; and SYLVIA ROYCE,

Plaintiffs,

v.

JOHN M. McCONNELL, in his official capacity as Director of National Intelligence; LT. GEN. KEITH B. ALEXANDER, in his official capacity as Director of the National Security Agency and Chief of the Central Security Service; and MICHAEL B. MUKASEY, in his official capacity as Attorney General of the United States,

Defendants.

**DECLARATION OF
NAOMI KLEIN**

Case No. 08 Civ. 6259 (JGK)

ECF CASE

DECLARATION OF NAOMI KLEIN

I, Naomi Klein, declare:

1. I am a resident of Toronto, Canada, over the age of 18, and a citizen of the United States as well as Canada. I have personal knowledge of the facts stated in this declaration.

2. I am a journalist and syndicated columnist who contributes regularly to The Nation Magazine (“*The Nation*”) as well as other publications. In addition, I have authored three books, *The Shock Doctrine: The Rise of Disaster Capitalism* (Metropolitan Books 2007), *No Logo* (Picador 2000), and *Fences and Windows: Dispatches from the Front Lines of the*

Globalization Debate (Picador 2002). In 2004, my reporting from Iraq for *Harper's Magazine* won the James Aronson Award for Social Justice Journalism. In that same year I also released *The Take*, a feature documentary about Argentina's occupied factories that I co-produced with director Avi Lewis. This film was an official selection of the Venice Biennale and won the Best Documentary Jury Prize at the American Film Institute's Film Festival in Los Angeles. I am a former Miliband Fellow at the London School of Economics and I hold an honorary Doctor of Civil Laws from the University of King's College, Nova Scotia.

3. I have written dozens of articles for *The Nation*. Among the articles I have written for the magazine are *Bringing Najaf to New York*, Sept. 13, 2004 (about public debate in the U.S. relating to the war in Iraq); *The Threat of Hope in Latin America*, Nov. 2, 2005 (about the rising strength of indigenous movements in South America); and *Mutiny in Manila*, Aug. 14, 2003 (about how governments are using the war on terror to target peaceful protesters). Over the last few years, I have written articles about, among other topics, social movements, indigenous rights, the wars in Afghanistan and Iraq, torture, surveillance in China, and the course and impact of globalization. I have written articles from Argentina, China, Sri Lanka, South Africa, Mexico, and Iraq.

4. My reporting is based largely on direct conversations with people who live or work in the places I write about. Many of these conversations are in-person; as an investigative reporter, I travel frequently to the places I write about. Often, however, these conversations are conducted by telephone or e-mail. Through telephone and e-mail communications, I develop sources, gather information, and check facts. When I reported on an increase in Mexican military activity in Chiapas, Mexico, for example, my U.S.-based research assistant and I made frequent telephone calls to Mexico in order to collect accurate and up-to-date information about

what was taking place on the ground. Based in part on these telephone calls and e-mails, I ultimately published *Zapatista Code Red*, Dec. 20, 2007.

5. I understand that the FISA Amendments Act allows the U.S. government to acquire my international communications without a warrant so long as the surveillance is directed at people outside the United States. My understanding is that the new law permits the government to acquire my international communications even if there is no reason to believe that I or the people with whom I communicate are engaged in criminal activity or espionage. I also understand that the law permits the government to engage in “dragnet” surveillance – that is, to conduct surveillance that is directed not at specific individuals or telephone numbers or e-mail addresses but at specific regions or countries.

6. I believe that at least some of my international communications are likely to be collected by the government under the new law. Because of the nature of my work, I communicate frequently with foreign political activists and political groups that are outspoken in their criticism of the U.S. government and its allies around the world and that engage in social protest to effect change. For example, I communicate with advocates for indigenous rights in Argentina. I also communicate with indigenous groups in Colombia that are working for agrarian reform. These groups, though opposed to the FARC guerrillas that are fighting against the U.S.-backed national government, have been outspoken in their criticism of U.S. policies and in particular of its trade policies and its provision of military assistance to the Colombian government.

7. My ability to gather information from political activists and others in countries like Mexico, Colombia, Ecuador, and the Philippines often depends on my ability to assure the people with whom I speak that I will be able to keep the content of our conversations, and in

some cases their identities, confidential. Some of the people I speak to believe that the exposure of their political activities would make them vulnerable to retaliation by their own governments. Others fear that exposure would make them vulnerable to violence by non-state actors. These fears are not speculative. Many of the people with whom I speak live in countries that have criminalized peaceful social protest and dissent. Some have been persecuted, imprisoned, and even physically attacked for their political activities in the past.

8. Some of my sources will decline to share information with me if they believe that their communications are being monitored by the United States. In some cases they fear that the United States itself will retaliate against them for their political activities – for example, by placing them on “watch lists” and refusing them visas should they try to visit the United States. More often, though, they fear that the United States will share information about them with their own governments, and that their own governments will retaliate against them as a result. Many of my sources live under repressive governments that the United States supports economically and militarily.

9. The new surveillance law compromises my ability to gather information and therefore compromises my ability to do my job. As a result of the new law, some people who otherwise would have shared information with me will decline to do so. Some political activists may even see me as an extension of the U.S. government’s intelligence community, since any information they share with me can be collected, retained, and analyzed by the U.S. government. Because I do not want to place my sources at risk, the new law will also force me to take measures to ensure that my sensitive communications remain confidential. For example, I will have to travel to gather information that I previously might have gathered by telephone or e-mail.

I declare under penalty of perjury under the laws of the United States and of the District of Columbia that the foregoing is true and correct.

NAOMI KLEIN

Executed at Washington, D.C., on September ____, 2008.