

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
HAMID HASSAN RAZA; MASJID AL-ANSAR; ASAD  
DANDIA; MUSLIMS GIVING BACK; MASJID AT-  
TAQWA; MOHAMMAD ELSHINAWY

Plaintiffs,

-against-

CITY OF NEW YORK; MICHAEL R. BLOOMBERG, in  
his official capacity as Mayor of the City of New York;  
RAYMOND W. KELLY, in his official capacity as Police  
Commissioner for the City of New York; DAVID COHEN,  
in his official capacity as Deputy Commissioner of  
Intelligence for the City of New York,

Defendants.

**DECLARATION OF ALEXIS  
L. LEIST IN SUPPORT OF  
DEFENDANTS'  
OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
EXPEDITED DISCOVERY**

X 13-CV-3448 (PKC)(JMA)

-----  
**ALEXIS L. LEIST**, declares pursuant to § 28 U.S.C. 1746, under penalty of  
perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendants City of New York, Michael R. Bloomberg, Raymond W. Kelly, and David Cohen. As such, I am familiar with the facts herein, and submit this declaration to place on the record the relevant documents and information in support of defendants' opposition to plaintiffs' motion for expedited discovery.

2. Annexed hereto as **Exhibit A** is a true and accurate copy of the transcript from the pre-motion conference before the Honorable Pamela K. Chen dated October 7, 2013.

3. Annexed hereto as **Exhibit B** is a true and accurate copy of the transcript from the initial conference before the Honorable Joan M. Azrack dated September 12, 2013.

Dated:  
New York, New York  
October 30, 2013



---

Alexis L. Leist  
Assistant Corporation Counsel

# Exhibit A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

HAMID RAZA, et al. : 13-CV-3448

Plaintiff, :

v. : United States Courthouse

CITY OF NEW YORK, et al., : Brooklyn, New York

Defendant. : October 7, 2013

: 1:00 o'clock p.m.

- - - - - X

TRANSCRIPT OF CONFERENCE  
BEFORE THE HONORABLE PAMELA CHEN  
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Plaintiffs: HINA SHAMSI, ESQ.  
CHRISTOPHER DUNN, ESQ.  
PATRICK TOOMEY, ESQ.  
ASHLEY GORSKI, ESQ.  
RAMZI KASSEM, ESQ

For the Defendants: PETER FARRELL, ACC  
ALEXIS LEIST, ACC

Court Reporter: Anthony M. Mancuso  
225 Cadman Plaza East  
Brooklyn, New York 11201  
(718) 613-2419

Proceedings recorded by mechanical stenography, transcript produced by CAT.



1 (Case called; both sides ready.)

2 MS. SHAMSI: Good afternoon, your Honor. I'm Hina  
3 Shamsi. I am with the American Civil Liberties Union  
4 appearing for the plaintiffs. I can introduce all my  
5 colleagues or just have them do so.

6 THE COURT: Why don't you do that to save time.

7 MS. SHAMSI: I'm joined by my cocounsel, my  
8 cocounsel from New York Civil Liberties Union and my cocounsel  
9 from the ALCU -- who is regularly Arthur Eisenberg who has  
10 been taken away on an emergency matter -- and I'm joined by my  
11 colleague Chris Dunn, with your permission. He's not made an  
12 appearance in the case.

13 THE COURT: Thank you. Good afternoon.

14 MS. SHAMSI: That covers everyone. Unless you like  
15 us all to state your names. We have provided them.

16 THE COURT: That's fine.

17 MR. FARRELL: Good afternoon, your Honor. Peter  
18 Farrell of the New York City Law Department on behalf of  
19 defendants. I'm joined by Alexis Leist who is also with the  
20 New York City Law Department.

21 THE COURT: Good afternoon to both of you.

22 One question Ms. Shamsi: Does the court reporter  
23 has everyone's name, in case they speak up?

24 MS. SHAMSI: Yes, your Honor.

25 THE COURT: So we are here today based on

1 plaintiffs' request for expedited discovery in connection with  
2 an anticipated preliminary injunction motion. I want to note  
3 for the record the brief procedural history insofar as it  
4 relates to pending discovery requests.

5           On September 10, in anticipation of the initial  
6 conference in this case, the city filed an a letter proposing  
7 bifurcated discovery and as part of that bifurcated discovery  
8 what would happen is the first part of discovery would be  
9 focused on standing and also on constitutional violation  
10 issues.

11           The conference itself happened on September 12 in  
12 front of Judge Azrack and at the conference my understanding  
13 is the parties set forth their positions on it. The  
14 plaintiffs opposed the proposal for a bifurcated discovery,  
15 but that Judge Azrack reserved decision on that and then the  
16 plaintiffs filed the pending motion seeking to have expedited  
17 discovery because of the preliminary injunction that they want  
18 to file.

19           I have read the submissions of both parties  
20 regarding the expedited discovery request. My understanding  
21 is -- and it was expressed either at the last conference or  
22 through the papers, I don't remember which -- but that the  
23 city is prepared as part of the bifurcated discovery to  
24 provide to the plaintiffs through all of the discovery  
25 mechanisms all of the information that the city has on the

1 named plaintiffs in this case.

2 Is that correct, Mr. Farrell?

3 MR. FARRELL: Your Honor, I agree with what you said  
4 about the position about bifurcated discovery. That  
5 opposition is to proceed with the underlying constitutional  
6 violations that are alleged by the six plaintiffs and we are  
7 prepared to engage in discovery on that topic. There may be  
8 some law enforcement privilege issues on some of the  
9 information. We have raised the issue about entering into a  
10 protective order first before any discovery takes place and we  
11 raised that in front of Judge Azrack on the date that you had  
12 referenced and we were in the process of having discussions  
13 with plaintiffs' counsel over the terms of that protective  
14 order.

15 I can say, based on some of the initial feedback  
16 that we have exchanged, there may be some terms or  
17 disagreements over coming to an agreement of what the terms of  
18 the protective order should be. Too early to say that for  
19 sure. We are still engaging in conversations. So I would put  
20 that qualifier on your statement that we are prepared to turn  
21 over all the information. In that context as I have explained  
22 it, I think that's accurate.

23 THE COURT: I'm aware of the ongoing negotiations  
24 over the confidentiality order. My question though: I know  
25 that the city is opposing to some extent the preliminary

1 injunction motion itself. That's how I read your submission  
2 in response to what the plaintiffs filed and then you are  
3 opposing it sounds like any expedited discovery schedule  
4 because you think in part that the proposed preliminary  
5 injunction motion would be futile and you made a couple of  
6 arguments. I want to let you know I'm not intending to  
7 preclude the plaintiffs from filing that. I don't agree that  
8 it would be futile. I don't think at this point in time I can  
9 say that with some discovery being obtained and both parties  
10 fully briefing their respective positions on it, it is not  
11 obvious to me in any way that that would be a futile effort.

12           With that in mind, I am trying to figure out whether  
13 or not we have a real dispute about the scope of discovery  
14 that would be appropriate either for the proposed preliminary  
15 injunction or through the bifurcated discovery process you  
16 mentioned. When I said all discovery, I guess I mean more  
17 specifically all discovery that would relate to these  
18 plaintiffs, not only based on some of the criminal  
19 investigations that you mentioned but also all information  
20 about the application of the Muslim surveillance program --  
21 I'm going to use the shorthand that's been used throughout the  
22 litigation -- and how that might have been applied, if it was,  
23 to these particular plaintiffs. That is my question more  
24 specifically.

25           MR. FARRELL: Your Honor, defendants had proposed at



1 the initial conference in front of Judge Azrack that in order  
2 to address or even get to the question of Monell claims,  
3 Monell claims against the city, plaintiffs first have to prove  
4 that they suffered individually a constitutional violation and  
5 that the Second Circuit has articulated that principle, which  
6 has been around for quite sometime, recently a couple of  
7 months ago.

8 Monell discovery would involve widespread,  
9 broad-based discovery that involved a lot different  
10 investigations and confidential materials, investigations that  
11 involve counter terrorism or terrorism related investigations.  
12 That type of information is extremely sensitive and  
13 confidential and certainly is subject to privilege.

14 Our position, which we thought was the most  
15 reasonable way to proceed in light of the claims, was rather  
16 than putting that cart before the horse and getting into that  
17 what I would call the broad-brush discovery, that defendants'  
18 proposal was to engage in discovery with plaintiffs, providing  
19 the information related to them proving that they  
20 individually, the six, have in fact suffered a constitutional  
21 violation. They claim that they have been basically  
22 surveilled without a legitimate law enforcement purpose.  
23 Specifically, their claim is that the police department's  
24 action, if any, towards them, i.e., the surveillance, was  
25 driven solely by their Muslim faith, their Muslim religion.

1 Defendants' position -- and we have articulated this  
2 in the letter that we submitted to Judge Azrack and which we  
3 included copy to you on -- is that the police department had  
4 information that showed that the reasons any actions or any  
5 surveillance with respect to these six plaintiffs was taken  
6 was for legitimate law enforcement concerns.

7 And that's really the crux and the heart of where  
8 this case is and needs to start. Because unless they can show  
9 that there was not a legitimate law enforcement basis for any  
10 actions that were taken by the New York City Police Department  
11 you never get to a question whether there was a policy on  
12 behalf of the department.

13 Because this information is very sensitive and it  
14 could be very cumbersome and time consuming to start with the  
15 Monell type of discovery, it's our position and the position  
16 we urge upon the court that discovery should start with these  
17 six plaintiffs and the information about those six plaintiffs  
18 which as we said, defendants said in their letter to Judge  
19 Azrack, we intend, after that information is exchanged and  
20 discovery is had, and we take discovery of the six plaintiffs  
21 on their claims, that the defendants intend to move for  
22 summary judgment at that point in time.

23 We feel strongly that we will be able to show the  
24 court that the actions taken by the police department were for  
25 legitimate law enforcement purposes and not on the basis

1 solely because these six plaintiffs are Muslim.

2 For the reasons that are set forth in our papers I  
3 disagree with your Honor's position. I don't believe they  
4 have made the warranted showing of injunctive relief. The one  
5 thing that really highlights that, your Honor, is the complete  
6 lack of urgency on their part. They are coming to court now  
7 and they are asking you to bring a motion for preliminary  
8 injunction and what they are asking you to do is to give them  
9 expedited discovery to support that motion.

10 The allegations that are at issue and at the heart  
11 of this case were reported on by the Associated Press in 2011.  
12 It's over two years ago. In 2011 those allegations came out  
13 in a pending matter in the Southern District of New York that  
14 is called Handschu vs. Special Services. Because the city,  
15 the police department, is governed by a consent decree when it  
16 investigates political activity and that's a class action  
17 certified and that class, in fact, covers these five  
18 plaintiffs or six plaintiffs, covers them, and in 2011,  
19 October, the New York Civil Liberties Union who is cocounsel  
20 not only in this case but is cocounsel in the Handschu case,  
21 the Southern District case, brought a motion to conduct some  
22 discovery which they did and then they brought a motion for an  
23 injunction to enjoin the police department from the same,  
24 basically what's requested in their injunction, the B, to stop  
25 investigations based solely upon one's religion.



1           In fact we had an argument in front of Judge Haight  
2 in the Southern District last week on this matter. That's all  
3 been going on now for over two years. In plaintiffs'  
4 complaint -- and we pointed to the specific paragraphs in  
5 their complaint -- they tell the court and they tell everyone  
6 that they have had knowledge or beliefs that they have been  
7 under surveillance as far back as 2006 and 2008. They give  
8 specific examples, depending upon which plaintiff you look at  
9 the allegation in the complaint for.

10           One example is the lead plaintiff, Hamid Raza, in  
11 his complaint at paragraph 48 he has asserted, he alleges,  
12 that he was aware of the surveillance since 2008 and then he  
13 says that, in paragraph 50, something else confirmed that to  
14 him later on, again in 2008, and then in 2010 there was yet  
15 something else that confirmed it further.

16           I would suggest to the court that the complete lack  
17 of urgency over the past several years on the part of  
18 plaintiffs, the fact that it's undisputed that they themselves  
19 admit that they allegedly knew of this surveillance, the fact  
20 that cocounsel in this case was involved in the case in the  
21 Southern District involving the same type of issues back in  
22 2011 and most importantly or equally important is that their  
23 own complaint doesn't say that they were going as to seek a  
24 preliminary injunction. So in light of all those things I  
25 think that's very strong evidence that there is not an urgency

1 to have a motion for a preliminary injunction.

2 THE COURT: Let me say this, Mr. Farrell: I don't  
3 disagree with about 80 percent of what you just said and I  
4 certainly appreciate the sensitivity of the information that  
5 could be sought, if I was going to allow wide-ranging  
6 discovery of the program, of the Muslim surveillance program,  
7 overall. But what I am suggesting to you and I guess the  
8 reason I don't see a significant difference between the  
9 bifurcated discovery you propose and the expedited discovery  
10 that the plaintiffs propose is because either scope is fairly  
11 coextensive.

12 What I asked you before -- and I'm not sure you and  
13 I are disagreeing quite honestly -- I was not suggesting that  
14 you have to turn over all the information about how the  
15 program has been functioning since the beginning of time as to  
16 every single person that it's been applied to. But the  
17 question is if it was ever applied to these plaintiffs they  
18 are entitled to get that information.

19 I understand what you are saying about being able to  
20 prove perhaps at the end of the day that the surveillance that  
21 was conducted of these plaintiffs was legitimate because it  
22 furthered a law enforcement purpose. But that doesn't  
23 necessarily answer the whole question because it could well be  
24 -- and the plaintiffs are entitled to find out whether or not  
25 those criminal investigations were brought about because of

1 some application of the program -- some other surveillance  
2 that was conducted that wasn't criminal necessarily in nature  
3 at the beginning or even if there was a criminal predication,  
4 if you will, for the start of the investigation, let's say a  
5 tip in a reliable informant, there could be simultaneous  
6 surveillance of these individuals, the plaintiffs, that has  
7 nothing to do with any criminal activity but rather was  
8 undertaken as part of an overall program.

9           So all I am saying is that my view is that the  
10 plaintiffs are entitled to get any discovery about the  
11 application of the Muslim surveillance program, however you  
12 want to define that, as to them, not overall, but as to them  
13 and that the mere fact that there might also have been  
14 criminal suspicion that justified the surveillance of them  
15 isn't enough to preclude them from getting that other  
16 information.

17           So is it a question that you are and I are  
18 misunderstanding or is it your position that they are not  
19 entitled to any way in which this program -- and I'm not  
20 presuming it was applied to them -- was applied to these  
21 plaintiffs?

22           MR. FARRELL: There is throw Muslim surveillance  
23 program. So to the extent that that term is being used, I 100  
24 percent disagree that there was ever a Muslim surveillance  
25 program. Plaintiffs characterize it that way because part of

1 their allegation is that the police department goes out and  
2 surveils all Muslims just because they are Muslims. That's  
3 absolutely not the case. The police department follows leads  
4 and investigates information where they come into information  
5 that there's a possibility of unlawful activity. And that's  
6 set out in the Handschu guidelines which is what is at issue  
7 in the other case. Essentially, it's on the same footing.  
8 There's a legitimate reason to be doing what the police  
9 department is doing. I would start out by saying that and I  
10 would not want to be in any way, shape or form saying that  
11 there's a Muslim surveillance program.

12 To the extent that your Honor is saying that we  
13 should all start with the information that the police  
14 department had about these six plaintiffs, if any, we're on  
15 the exact same footing.

16 THE COURT: You're going to turn over everything  
17 that the city and NYPD has about these plaintiffs, the mosque,  
18 the organization Giving Back and also the individuals,  
19 correct?

20 MR. FARRELL: The six plaintiffs, if there were  
21 investigations about those six plaintiffs, that would be  
22 information that defendants intend to provide in discovery.  
23 That's the very information upon which we intend to rely upon  
24 to show that there was a legitimate law enforcement concern  
25 and not some nefarious only because they are Muslim.



1           In our letter to the Magistrate Judge defendants  
2 laid out some of the reasons why there were legitimate  
3 concerns about the six plaintiffs. And that would be the type  
4 of discovery that we are prepared to produce and we actually  
5 want to do that.

6           That's the best approach.

7           THE COURT: Let me ask a more specific question.  
8 Again, I won't refer to it as a Muslim surveillance program.  
9 There have been newspaper accounts about certain techniques  
10 used. They have been talked about in the complaint and in  
11 other cases. They use rakers or crawlers. If there was  
12 information -- again I'm not assuming any of this to be true  
13 -- if there were information a raker or crawler or somebody  
14 like that was used with respect to these mosques or  
15 individuals, would that be the information that you would  
16 provide to the plaintiffs during discovery in this phase?

17           MR. FARRELL: Your Honor, I think the best I can say  
18 -- I think what you are saying is -- information about these  
19 six plaintiffs, the defendants are prepared to have that be  
20 the first step of discovery that should take place and if  
21 there should be a summary judgment motion or as part of their,  
22 if you are going to allow them to move for preliminary  
23 injunction, we do it at the same time and we would say here is  
24 the information. Here is the information the police  
25 department had. They were doing it for legitimate concerns.

1           Yes. That's what we want to do. We want to turn  
2 over and engage in discovery focused on and that relates to  
3 these six plaintiffs.

4           THE COURT: Would that information explain how it is  
5 that these plaintiffs were investigated in the first place or  
6 why the investigation was undertaken in the first place as to  
7 each of these six plaintiffs?

8           MR. FARRELL: I'm not saying that each of these six  
9 plaintiffs was investigated. I want to be clear about that.  
10 The answer would be, yes, that would be the information to  
11 show whatever actions the police department took, if any,  
12 related to these six plaintiffs. The information that the  
13 defendants intend to provide would be the information that  
14 caused those actions to take place.

15           THE COURT: Let me turn to you Ms. Shamsi. What is  
16 it that you are you are seeking in terms of your motion as to  
17 the preliminary injunction other than what the city is willing  
18 to provide you?

19           MS. SHAMSI: A couple of major things are different.  
20 If I can just step back. What we are alleging and seeking to  
21 show in our preliminary injunction motion is three things:  
22 That the defendants carried out intentionally discriminatory  
23 classifications on the basis of religion by singling out  
24 Muslims, including our clients, for a program of adverse law  
25 enforcement scrutiny.

1           Two, that to the extent that there were  
2 investigations -- I'll come back to this --to the extent there  
3 were investigations, the investigations -- including of our  
4 clients -- had a scope, duration and invasiveness that was  
5 different for Muslims than it was for people of other  
6 religious backgrounds or secular classifications.

7           And, three, that the defendants were recording and  
8 retaining information unrelated to legitimate criminal  
9 investigations or criminal activity but full of information  
10 about Muslims and our clients' religious speech, beliefs and  
11 activities.

12           Now, we asked for a pre-motion conference to talk  
13 about these kinds of issues and we said in our letter, which  
14 we sent the day after we received the September 10 letter from  
15 defendants, that we would provide an order to show cause which  
16 we thought would be the most expeditious way of moving forward  
17 and I can address concerns or questions about why we are  
18 moving forward this way.

19           When defendants answered, it's clear that there's  
20 going to be discovery and I think the real question before you  
21 now is what is the schedule for discovery and what is the  
22 scope for the discovery, we think it needs to proceed a lot  
23 more quickly. We have good reason to think so and I can  
24 expand on that and we think we have good reason for discovery  
25 which goes beyond the limited scope of what the defendants



1 have proposed in their bifurcation.

2 THE COURT: I understand the timing will be  
3 different. I want to understand why the scope should be any  
4 different than what Mr. Farrell just laid out.

5 MS. SHAMSI: As we said in our letter, we came  
6 prepared to file an order to show cause. It includes a  
7 memorandum that sets out why we think the discovery should be  
8 broader. It includes a discovery request, an interrogatory  
9 that is targeted at obtaining a fuller record than currently  
10 exists through disclosure of information by the AP that you  
11 are referring to and that seeks information that the  
12 defendants have sought to refer to or sought as to justify  
13 their surveillance of our clients in their September 10  
14 letter.

15 Essentially, our view, and what we have set out here  
16 in our memorandum to show cause -- and we'll file it and give  
17 you more time to look at it and be happy to answer any  
18 questions or come back before you -- is that as part of this  
19 pattern and practice of surveillance of Muslims, which ranged  
20 from identifying only Muslim mosques, community organizations  
21 and individuals, focusing on certain of those as a result of  
22 the defendants' real or perceived beliefs about the strength  
23 of their devotion to their faith, individuals and community  
24 organizations have been singled out across the city. We  
25 attach documents showing you that how broad that surveillance

1 has been, including of our clients, including at least a  
2 couple of our clients starting at least back in 2006.

3           What defendants have done now -- and we've got other  
4 documents that show you the kinds of information that we are  
5 looking for, in order to provide a fully-fleshed record to you  
6 about the inextricably linked nature of our claims, which are  
7 that there are equal protection and first amendment religious  
8 clause violations that have taken place as a result of this  
9 surveillance program from mapping, to the use of informants  
10 and undercover operators to record perfectly innocent first  
11 amendment religious speech even if when there was no suspicion  
12 of wrongdoing.

13           In their September 10 letter, the defendants did  
14 something that troubled our clients greatly, which is why  
15 we're here before you on a preliminary injunction motion and  
16 why we are seeking expedited discovery. As a result of the --  
17 there are allegations in that letter, your Honor, that are out  
18 and out incorrect as we would seek to show you as a result of  
19 discovery -- and we highlight some of those issues in our  
20 order to show cause -- there are allegations in that letter  
21 that are based on decades old assertions that have no  
22 substantiation.

23           We would show you that, to the contrary, that the  
24 allegations against our clients, against whom they are made,  
25 were engaged in open and innocent and lawful activity. There

1 are allegations in that letter that are based on our clients'  
2 attenuated associations, even unwitting associations.

3           So, for example, the idea that individuals who might  
4 not have been known to our clients attended religious lectures  
5 or passed through the door of a house of worship, that kind of  
6 information, kind of information I've just talked about,  
7 cannot be used to justify the kind of intrusive surveillance  
8 that our clients were subjected to.

9           And so what we're saying, through our order to show  
10 cause and the memo in support of it, is those three things  
11 that we are providing to you documents that show the invasive  
12 nature of the surveillance that has been carried out.  
13 Information has come to light since the filing of our  
14 complaint that defendants were designating entire mosques as  
15 terrorism enterprise units.

16           It's like saying that, you know, because someone  
17 that the NYPD suspects of criminal activity goes to St.  
18 Patrick Cathedral or even joins the board of St. Patrick  
19 Cathedral can be treated as a criminal enterprise. That's not  
20 permissible under the equal protection clause or the first  
21 amendment religion clauses. That is similar or exactly the  
22 same as what is being argued here.

23           And for that reason we are asking for discovery that  
24 is as targeted as we can make it, but takes into account both  
25 what defendants have alleged about our clients and the

1 stigmatizing effects of that continue to this day. That's why  
2 we are here today, as well as showing how that was part and  
3 parcel of a broader program.

4 Now, we have narrowed down our document request in  
5 some significant ways. We are seeking information solely from  
6 the intelligence division, not the NYPD as a whole. We are  
7 limiting our requests not from the inception of the program  
8 that we have alleged from 2001 onwards, but from 2004 through  
9 the present. We think that provides context for what  
10 allegations might have been made against our clients, even  
11 assuming that any of them are justified, which we don't  
12 concede.

13 And in order to help the court have a full record in  
14 order to apply the constitutional standards which are at issue  
15 here both under the equal protection clause and the religion  
16 clauses, we are seeking some limited information about the use  
17 of these invasive techniques against nonMuslim religious  
18 organizations.

19 Finally, we are seeking statistics about the  
20 criminal charges that might have resulted from the activities  
21 of the intelligence division and criminal charges that were  
22 brought against Muslims versus people of other religions or  
23 other religious institutions. So we've been as targeted as we  
24 can make this. We're happy to file it with the court, provide  
25 you and opposing counsel with a copy now. But we don't think



1 -- bifurcation would have worked as we argued to Judge Azrack  
2 before.

3 Bifurcation might make sense in a different kind of  
4 Monell action, for example, one in which a plaintiff alleges a  
5 wrongful arrest in violation of the Fourth Amendment. Then it  
6 might make sense, whether there are standing and other issues,  
7 to see if the Fourth Amendment issue actually occurred before  
8 moving on to determine whether this was a part of a Monell  
9 pattern or practice. That is illogical and unnecessary here  
10 in this context where our claims are so intertwined, where we  
11 are and have laid out extensively in our complaint a program  
12 that began with a set of activities going from mapping to the  
13 use of undercover agents and informants including against our  
14 clients and that, to permit bifurcation or limit discovery in  
15 that way, would really cripple not only our arguments but also  
16 the record before the court.

17 THE COURT: Let me ask you a question before you get  
18 too far along.

19 You keep saying including our clients, as well as  
20 our clients, inextricably intertwined with our clients.  
21 You're obviously talking about a much broader program as you  
22 see it. What I can't figure out -- and, obviously, I have not  
23 had the benefit of looking at your questions -- aren't you  
24 going to get information that would illuminate that issue if  
25 the NYPD does give you everything they have on your clients?

1           In other words, if they are willing to give you,  
2 here are all the times that we sent an undercover into the  
3 At-Taqwa mosque or here is every time we had a conversation  
4 with Hamid Raza. Aren't you going to get the information that  
5 you're looking for? I don't understand what more you're  
6 looking for that is necessary to make all the arguments that  
7 you want to make about the unlawful nature of the activity  
8 that the defendants you allege are doing.

9           MS. SHAMSI: So there are two answers to that. One  
10 is to have comparator evidence to put before your Honor.

11           THE COURT: That would be the part where you want to  
12 know how some of these techniques are used against nonMuslims.

13           MS. SHAMSI: That's right.

14           THE COURT: That's one of the four categories you  
15 are talking about?

16           MS. SHAMSI: That's right.

17           THE COURT: Okay.

18           MS. SHAMSI: And then also to flesh out the extent  
19 to which the investigations, assuming that there were  
20 investigations -- the September 10 letter causes us to believe  
21 there were. Now defense counsel is admitting there might not  
22 have been. We need information to show the extent to which  
23 the scope, potentially limited, reaching decades back in time,  
24 with respect to specifically our clients and the duration and  
25 invasiveness that was applied to the Muslim community as

1 opposed as to any other community, which is at the heart of  
2 this equal protection claim and specifically applied, yes, to  
3 our clients. It is comparator evidence that would flesh out  
4 this record before the court.

5 THE COURT: That's the part I'm having a little  
6 trouble with, too. How do you get comparator information, if  
7 it turns out, as the defendants are claiming, all the  
8 investigative measures that were taken with respect to them  
9 were predicated on some unique criminal suspicion, unique  
10 information? When I say unique, unique to those particular  
11 targets of the investigation.

12 Even if I were to say, yes, you can go ahead and ask  
13 for that information, isn't that going to be a futile gesture?  
14 In other words, the city is going to come back and say there's  
15 nothing that compares, because we didn't do this with respect  
16 to anyone else, because there was specific criminal  
17 information.

18 The problem I am having it's hard to get away from  
19 what the defendants claim and obviously the proof will be in  
20 the pudding. It all depends on what they produce during  
21 discovery, that these six plaintiffs were not like everybody  
22 else because there was specific information about alleged  
23 criminality.

24 MS. SHAMSI: Sure. I understand, your Honor.

25 So, first of all, we have said in our complaint and



1 laid out in detail that there actually is a program in which  
2 Muslims have been singled out for classification and unlawful  
3 scrutiny. Defendants have just said there is no such program.  
4 So it would be important to flesh out the record to show that  
5 that program exists.

6 THE COURT: Let me stop you there. That's the part  
7 I'm having trouble with. Let's accept for purposes of our  
8 argument that such a program exists, notwithstanding what  
9 Mr. Farrell said, just for the sake of making your argument.  
10 Even so, don't you have to show that that program was applied  
11 to your clients? If the defendants are going to say, here's  
12 how we investigate your clients, here is why we investigate  
13 them, here is all the information we have on them, if that  
14 excludes any connection or doesn't involve any connection to  
15 this purported program, you have gotten all the information  
16 you want and you shouldn't be entitled to the bigger picture  
17 investigation, not that there are individuals out there who  
18 could legitimately ask those questions. But it may not be  
19 those plaintiffs. Isn't that the problem?

20 MS. SHAMSI: I understand the difficulty you are  
21 having, your Honor. To make it more concrete, what we are  
22 looking for is what the documents look like that have been  
23 disclosed out there about the surveillance program and its  
24 inclusion of our clients within it. And the kinds of  
25 documents that we are requesting in our document request flesh

1 out just a little bit more to add to the record of what exists  
2 out there that has been released by the AP.

3 THE COURT: Giving you an example of a document that  
4 includes your client, what does that, mean includes?

5 MS. SHAMSI: In October 2006 there was, as you may  
6 remember, a plane crash in New York. The city's top officials  
7 went on the record to say this is not a terrorist action,  
8 right. We have a document -- it's one of the examples of the  
9 documents that we would like to get more of -- that shows that  
10 the city sent either an undercover or an informant to  
11 nevertheless surveil five mosques to gauge their reaction.  
12 These are only Muslims, obviously.

13 THE COURT: Including the two mosques who are  
14 plaintiffs?

15 MS. SHAMSI: One of our clients. And we have  
16 examples of other documents that apply to some of our other  
17 clients.

18 What we are looking for is to see what other  
19 documents are in the possession of defendants that include our  
20 clients as part of this broader program. So this specific  
21 document, for example, even though there's no terrorism  
22 threat, indicates that the assistant imam of Masjid At-Taqwa  
23 was monitored to see what his response was even though his  
24 response, was according to whoever documented this, that there  
25 was concern, no interaction. The document indicates that a

1 phone dump was going to be conducted of his cell phone.

2 THE COURT: Let me stop you there.

3 You would get that information. Mr. Farrell, back  
4 me up on this. She would get that information, right, about  
5 the visit to At-Taqwa, the plans to do a phone dump on his  
6 phones, correct?

7 MR. FARRELL: Your Honor, in short, I know the  
8 answer is yes. Because the investigation into Masjid At-Taqwa  
9 -- a couple of things.

10 THE COURT: Just answer that. Would she get it?

11 MR. FARRELL: The answer is yes. Defendants would  
12 produce information about the investigation that was taking  
13 place within which that information came from, as to the  
14 extent that it applied to plaintiffs' client.

15 THE COURT: If that happened she would get that  
16 information. What we're talking about, there may be a  
17 document that contains that information that would be redacted  
18 so that all of the other individuals or mosques that may have  
19 also been visited or in some way investigated, that  
20 information would not go to the plaintiffs, correct?

21 MR. FARRELL: That would be correct. The examples  
22 you are giving, yes.

23 THE COURT: That's the information you want?

24 MS. SHAMSI: That is right. We're bringing a  
25 discrimination claim and we're saying that our clients were

1 unlawfully surveilled and investigated apparently on the basis  
2 of this discriminatory program that exists in order to be able  
3 to make our case and to provide you with the fullest record on  
4 which you can rule we need more than information simply about  
5 our clients.

6 THE COURT: Here is the problem: If you accept the  
7 premise that bifurcation may be appropriate -- and in that  
8 regard I tend to think the defendants have a good argument  
9 here -- you are right. The case is different in that it is  
10 not single incident of a false arrest or excessive force case.  
11 It is also different, that makes your argument a little  
12 harder, the potential to, A, bog down the process with a lot  
13 of very complicated motions over sensitive information and, B,  
14 the real potential for releasing information that is  
15 sensitive, in fact, to law enforcement.

16 So, I think bifurcation has some purpose in this  
17 case because of the nature of it. And so even, in the  
18 hypothetical that we're talking about, you would get  
19 discovery, albeit perhaps redacted, for the other names, which  
20 is the part that you would like. But for purposes of some  
21 preliminary relief, either you're injunctive relief or their  
22 moving for summary judgment, that would be the information  
23 that is needed.

24 So the question I have for you is why isn't that  
25 enough for both sides to be able too seek preliminarily what



1 they want, which is not to say you won't get to the second  
2 stage of it at some point, depending on how those pleadings  
3 are resolved. Why isn't that enough to pursue your  
4 preliminary injunction?

5 MS. SHAMSI: Because the heart of our claim is that  
6 there is a discriminatory program that treated Muslims  
7 differently. In order to show that Muslims and yes, I seep  
8 saying including, because this is who are clients are.

9 THE COURT: I agree.

10 MS. SHAMSI: To show that Muslims were treated  
11 differently, we need more information than simply specific to  
12 our clients. Your Honor, I'm not going to minimize that there  
13 might be issues of law enforcement privilege or sensitive  
14 information. But those are the kinds of issues that this  
15 court deals with every day and courts are able to determine  
16 through the use of protective orders which we are negotiating  
17 through adjudicating privilege, whatever privileged claims  
18 might be brought, how those issues will arise and be applied.

19 So, I think limiting the scope doesn't do away with  
20 the fact that those issues will arise. I expect they will  
21 arise anyway. I do think that it is important for the court  
22 to have information that is not just specific to our clients,  
23 especially, when we're talking about, A, a broader program,  
24 and to the extent that defendants are claiming that our  
25 clients -- investigations that they may have conducted into

1 our clients, were legitimate, our response, as we put out in  
2 our memorandum in support of our order to he show cause is, is  
3 that those allegations are based on innuendo and unwitting  
4 associations and we would like to be able to show to you, your  
5 Honor, the extent to which that is part of a program that  
6 targeted our clients and singled our clients out and not only  
7 to limit this to the artificial universe that defendants are  
8 trying to create. It shouldn't be that the motions that go  
9 forward either on summary judgment or their response to a  
10 preliminary injunction, just like their September letter to  
11 you. We need something broader than that.

12 MR. DUNN: Your Honor, to call this a bifurcation is  
13 a misnomer. We have an equal protection claim. If you  
14 imagine this being an employment discrimination claim and we  
15 are challenging promotional practices with respect to Muslims,  
16 we would look at what happened to promotion of Muslims in the  
17 workplace and we would look at what happened as to promotions  
18 of nonMuslims in the workplace. We could determine from that  
19 whether or not there was discrimination against Muslims  
20 because similarly-situated people are being treated  
21 differently. The central point in the complaint is the Muslim  
22 community in New York City has been treated differently by the  
23 NYPD and there's no way on summary judgment or a preliminary  
24 injunction for a court to adjudicate that unless we can look  
25 at how nonMuslims are treated by the defendants. That's the

1 essence of the equal protection law.

2 So you are absolutely right. It is going to get us  
3 into some discovery about the surveillance practices of the  
4 NYPD. But we're going to go there anyhow. And you cannot  
5 determine whether or not, for instance, when they say we have  
6 only done it for some people because of this. Maybe the same  
7 things applied to other people and they chose not to engage in  
8 any surveillance of them or the sort of surveillance that took  
9 place here.

10 THE COURT: How do you frame that question in your  
11 discovery then? How do you ask that in a way that gets around  
12 the idea that these cases are unique, that these individuals,  
13 in theory or according to what the defendants say, have a  
14 unique situation?

15 MR. DUNN: They can say they are unique. The only  
16 way that you and I would know if they are unique, you say  
17 okay, let's look at the universe and see if there's something  
18 unique about them that distinguishes them from the rest of the  
19 relevant universe.

20 THE COURT: There's some allegations that the  
21 defendants have put in their papers there may have been mosque  
22 security forces that were involved in jihad training. That's  
23 just the allegation. What question could you ask to say: And  
24 how do you treat others who are similarly situated? In other  
25 words, did you use the same level of scrutiny? Again I'm



1 struggling with the idea that it's hard to draw a comparison,  
2 right.

3 MR. DUNN: Let's take the St. Patrick's example.  
4 There are people who allegedly walk into these mosques would  
5 the department thinks are suspicious and, therefore, they  
6 treat the entire mosque as a terrorist enterprise. If there  
7 are people walking into St. Patrick's with the exact same sort  
8 of characteristics that allegedly made the person going into  
9 the mosque suspicious, and St. Patrick's doesn't get a moment  
10 of scrutiny, then you would say to yourself, well, what was it  
11 about the guy walking into the mosque that made it different  
12 from the same guy, in essence, walking into St. Patrick's.

13 THE COURT: Is your question: Is there anyone who  
14 similarly was involved in jihad activities who went into some  
15 other religious institution and wasn't surveilled?

16 MS. SHAMSI: Yes. We are asking something similar  
17 along those lines. We have tried to get at this question the  
18 best way we can, which is we're defining surveillance to talk  
19 about the kind of practices that we have alleged in our  
20 complaint and we're saying documents used in the surveillance  
21 of Muslim and nonMuslim organizations and nonMuslim  
22 individuals who are surveilled on the basis of their religious  
23 beliefs and practices, trying to get at the heart of the both  
24 what the defendants have claimed they are doing with respect  
25 to our clients and then use comparator information based on

1 others who might be similarly situated.

2 THE COURT: I think I know what Mr. Farrell is going  
3 to say. Unfortunately, you are setting up a false comparison.  
4 They are going to say that there's nobody that they surveilled  
5 on the basis of religion or ethnicity or any of the protected  
6 classes alone. So you are not going to get any information.  
7 I can almost predict that.

8 How can you get this information? In other words, I  
9 don't think -- putting aside for a moment even the issues I  
10 have with whether or not you should be allowed to get it. I  
11 understand at some level what it is you are trying to achieve.  
12 I don't know if there's something that you can ask that  
13 justifies getting a lot of other information, other than the  
14 information about your clients, that would achieve that. I  
15 don't think that question would.

16 MS. SHAMSI: In a sense it does. Because what we're  
17 talking about here is people who have been singled out for  
18 surveillance investigation solely or predominantly on the  
19 basis of their religious beliefs, speech and otherwise  
20 protected activities. We're saying documents that you have  
21 that show that with respect to Muslims, right, and with  
22 respect to nonMuslims. They may come back and say we have  
23 nothing with respect to nonMuslims that we have done this with  
24 and that is also information that we would then put forward to  
25 you in our motion for a preliminary injunction which goes to

1 showing the extent to which that classification applied to  
2 Muslims alone.

3           In fact, there was no one, even though there might  
4 be Catholics out there engaging in criminal activity, St.  
5 Patrick's Cathedral was not treated in the same kind of was as  
6 Masjid At-Taqwa or one of our client mosques. Being able to  
7 seek the kinds of statistics, as well as the intelligence  
8 division's reports in substance, and this is one of the things  
9 that we are trying to get at, is where the following, for  
10 example, are the basis for or factors relevant to the decision  
11 to engage in surveillance of Muslims, Islam, its adherence,  
12 its school of thought, nonIslamic religions, their adherence  
13 or school of thought. That gets to singling people out on the  
14 basis or solely with religion as a factors which is  
15 essentially what the equal protection cases are about.

16           If you look at what the Second Circuit has said  
17 about the use of suspect classification like race, for  
18 example, in the Brown case -- and I can get you the citation.  
19 I don't have it straight away. -- race may be considered if  
20 it is a descriptor of an actual suspect in an actual  
21 investigation. That's very different from what we're talking  
22 about here which is suspicionless surveillance and invasive  
23 surveillance based on attenuated categories of suspicion that  
24 are applied to Muslims alone.

25           So, with a document request that is targeted at,

1 yes, our plaintiffs, but also how are you applying this to  
2 Muslims and how are you applying it to people who are not  
3 Muslim, that we think on a limited basis can get you the kind  
4 of information that we would seek to put before you which is  
5 not as broad as what might be sought in a case were we not  
6 seeking to limit discovery in this way.

7 THE COURT: I think the fundamental problem though  
8 is one of causation. Ultimately, everything you are saying  
9 about some disparate treatment or unequal treatment has to  
10 have caused the injury that your clients suffered, because  
11 this is not a class action.

12 So my concern is that opening up broad discovery,  
13 broader discovery -- and I appreciate the fact that you are  
14 trying to fine tune it to some extent -- is not really going  
15 to address that issue because it's going to require an  
16 inferential link for which there is not going to be evidence.

17 Even if you could show statistically or some other  
18 way that Muslims were more likely to be surveilled or  
19 subjected to scrutiny by authorities, you still have to prove  
20 causation with respect to your clients. I think that's where  
21 getting the information that you are going to get is really  
22 more critical than everything else and I ultimately think is  
23 the only information that is going to show that.

24 I appreciate what you are saying about the  
25 comparison because I understand that part of your argument is



1 going to be that they, these six individuals, not all Muslims,  
2 but these six individuals were treated differently. For that  
3 I think you are going to have a question that doesn't simply  
4 ask how many nonMuslims have you surveilled based solely on  
5 religion. That is not going to be a fair comparison. You can  
6 ask that question, obviously. I don't think that's going to  
7 prove your point.

8           What I think you can't get away from is certain  
9 facts, whether you think they are wholly inaccurate or not.  
10 The police are going to claim what motivated the  
11 investigation. That's why I think not focusing on the  
12 causation or at this stage not requiring to you focus on  
13 causation is not appropriate because I think you're going to  
14 get the information that you need to make the arguments that  
15 you want to make and I also think there's a legitimate concern  
16 of opening it up too broadly to let in extraneous information  
17 that is not going to prove this causation that I'm talking  
18 about that you need in order to get the relief that you want  
19 for your clients.

20           Let me ask you to hold your thought for a second. I  
21 want to ask Mr. Farrell: With respect to the information that  
22 you would provide, the organizational defendants, the two  
23 mosques and then the charity, would you be giving information  
24 that relates to any kind of investigation conducted at those  
25 locations as well as about individuals associated with those

1 organizations?

2           Because what I envision, for example, potential  
3 dispute being you have obviously as Ms. Shamsi said a lot of  
4 individuals who go to the mosque, who may not be the  
5 individuals that you are investigating or you have criminal  
6 suspicion about. A mosque is a large place where people  
7 congregate. It may be the informants talked to a number of  
8 individuals in that mosque. If you are providing discovery,  
9 are you producing reports about all contacts or information  
10 gathered at the mosque about the mosque, about individuals who  
11 go to the mosque? How far reaching would that discovery be?

12           MR. FARRELL: Your Honor, I have a couple of points  
13 I want to address. But with respect to that point I would  
14 need to consult with my client specifically to respond. I can  
15 tell you that to the extent that their six plaintiffs, if  
16 there were investigations -- and I was not backing away from  
17 anything we said in our letter -- there's substantial  
18 discovery. We're not talking about a couple of documents.  
19 There's substantial discovery related to the six plaintiffs,  
20 whether it's all or some. It includes substantial discovery.  
21 We're not backing away from anything we said. It does involve  
22 a fair amount of material.

23           Your question is a little more difficult to answer.  
24 I would have to know every investigation within the New York  
25 City Police Department to figure out whether the New York City

1 Police Department was investigating somebody who happened to  
2 walk into one of the particular mosques. I can't do that. I  
3 don't think what's at issue. What's at issue, their six  
4 clients have claimed you have surveilled me unlawfully without  
5 any reason.

6 THE COURT: Bear in mind some of these are  
7 organizations. How do you construe the surveillance of the  
8 mosque, if not the people who go to it? I think part of the  
9 plaintiffs' claim is the overbreadth. You may have criminal  
10 predication for a particular individual who goes to that  
11 mosque. But then I think the argument the plaintiffs would  
12 make is that with respect to the mosque's interest and the  
13 mosque actually can represent the interest of their  
14 congregants, it was overly broad in terms of the surveillance  
15 of everybody there. And the question becomes: Did the NYPD  
16 undertake active investigations or collecting of data about  
17 people who went to the mosque?

18 MR. FARRELL: I understand the question. I can tell  
19 your Honor it's the intent of the defendants' to produce  
20 information about investigations that involve let's say the  
21 plaintiff Masjid At-Taqwa. I can't say whether every  
22 investigation that may have tangentially touched on somebody  
23 who may have been a congregant or who had walked in or walked  
24 by that place is something that's in the purview. As a matter  
25 of fact I think it would be impossible. What plaintiffs

1 offered and is interesting it is clear from what plaintiffs'  
2 counsel says, they say see the problem. What they said is we  
3 have this policy claim. We're going to narrow it down as to  
4 intelligence division. Their claim is against the New York  
5 City Police Department and you're making a Monell claim  
6 against the New York City Police Department and the City of  
7 New York you have to show it's a policy of the entire police  
8 department. They would have to get discovery related to every  
9 gang investigation, may have led somebody into a particular --

10 THE COURT: There I think you are confusing two  
11 things. At least this is my take on it. It may be the NYPD  
12 has a policy that relates -- that they implement through the  
13 intelligence division and not the entire police force. It  
14 could still be a policy of the organization as a whole. But  
15 the information is going to reside with one particular  
16 division whose obligation and duty is to carry out that  
17 policy. I don't think that they are necessarily conceding  
18 that it's not still a policy-based Monell claim. Do you see  
19 what I am saying?

20 MR. FARRELL: I see what you are saying.

21 I would respectfully disagree with the court. The  
22 intelligence division does particular types of information  
23 gathering. There are many other divisions and bureaus within  
24 the police department that may have investigations that  
25 involve Muslims. Their point is you are investigating Muslims



1 solely on the basis of religion. So they are trying to narrow  
2 it to the intelligence division. They are claiming it's a  
3 policy of the NYPD. The complaint isn't about a policy within  
4 the intelligence division. The complaint is there's a policy  
5 by the City of New York. That's who is in the caption of the  
6 complaint. There are thousands. I can't even tell you how  
7 many investigations there may or may not be that somehow touch  
8 on somebody who happens to be Muslim that is not within the  
9 intelligence division.

10 THE COURT: I'm not sure this is an argument you  
11 want to be making. I think you are trying to say it is not a  
12 policy. That I don't agree with. I'm not saying there is a  
13 policy. Their point is the policy may be confined to a  
14 particular division. It may not be a broad-based policy.  
15 Nonetheless, if it is endorsed at the highest divisions of the  
16 NYPD -- not that every single officer is tasked with -- how is  
17 not a policy?

18 MR. FARRELL: The predicate they are trying to say  
19 is this, that the police department is conducting  
20 investigations solely upon one's religion is a false  
21 presumption and it doesn't work as a practical matter in  
22 trying to address what type of discovery. As your Honor said,  
23 the position of the police department is with respect to the  
24 information they collect there is a legitimate reason. Their  
25 proposed injunctive relief is unworkable. It requires you to

1 look on a document by document basis. Okay, is this document  
2 the result of a legitimate law enforcement concern? Or is  
3 this document done solely on the basis of investigating  
4 someone's religion? That requires subjective judgments.  
5 That's what this fight is about. That's why we are here.

6 It's our position we do it, the defendants do it,  
7 for legitimate law enforcement reasons. Their position is,  
8 New York City, you do it only because they are Muslims. The  
9 types of discovery that would be involved, if it was as broad  
10 based as they want, certainly would exceed the intelligence  
11 division. It would create a host of issues about law  
12 enforcement privilege and confidentiality and in fact this was  
13 an issue that I recently litigated with the New York Civil  
14 Liberties Union in the litigation in the Southern District  
15 where they sought the very type of field intelligence reports  
16 that are at issue.

17 We are prepared in this case to provide that type of  
18 information, with the requisite protective order, to them  
19 about their six clients. But those types of reports, as the  
20 Southern District had initially ordered us to disclose in a  
21 litigation arising out of the Republican National Convention,  
22 initially the district court said yes, the New York Civil  
23 Liberties Union, you are entitled to get that discovery.

24 We took it up on a sort of writ of mandamus and the  
25 Second Circuit granted that request. The name of the case is

1 In Re: City of New York, 2010 circuit decision. It lays out  
2 all the issues. The importance of New York City Police  
3 Department intelligence division. It goes through the balance  
4 of need, the types of sources and confidential informants and  
5 undercovers that could be revealed.

6 What I hear them saying is they want open,  
7 broad-based discovery about every type of investigation  
8 regardless of whether it's related to their clients. That is  
9 going to trigger all the very concerns that the Second Circuit  
10 said on balance you are not entitled to that type of  
11 information here.

12 So, again, as a practical matter, to avoid that type  
13 of fighting which in that case turned out to be about five  
14 years. The reasonable way is let's get down to whether their  
15 six clients have suffered a constitutional violation. As we  
16 have said all along, we said let's put forward discovery on  
17 their six clients and we can proceed with that and address the  
18 merits of those claims.

19 THE COURT: We obviously have two proposals here.  
20 One is for bifurcated discovery and the other is for discovery  
21 more geared towards the plaintiffs filing a preliminary  
22 injunction motion. When I came in here I said the needs are  
23 coextensive.

24 I'm interested in what you would say to this,  
25 Mr. Farrell. Let's take that hypothetical document we were

1 talking about, the one that reflects the interviews that were  
2 done after the plane crash in 2006 I think it was. So let's  
3 assume for the moment there were like six different mosques  
4 visited or imams spoken to.

5 And your proposal would be you would turn over the  
6 discovery that relates directly to the plaintiffs, whether it  
7 was the mosque or the individual that were spoken to, you  
8 would redact everything else. At least you would say that  
9 preliminarily without knowing more.

10 Would that be a correct statement?

11 MR. FARRELL: Yes.

12 THE COURT: Obviously, for plaintiffs to make the  
13 best argument they can for their preliminary injunction they  
14 want to be able to argue that the reason that this particular  
15 imam was spoken to was not just that the imam had some  
16 criminal suspicion before, so, therefore, the police thought a  
17 that this might be somebody who could be involved in this,  
18 again, hypothetically.

19 Also because the people they decided to look at were  
20 all Muslim and really that was a factor. Obviously, it's the  
21 not going to be on the document. It's perhaps a legitimate  
22 inquiry they can make of somebody who wrote the document or  
23 somebody who is going to be deposed on this.

24 Isn't that an appropriate piece of information that  
25 the plaintiff should get in order to discuss, fully brief it



1 and fully argue the issue that it is criminal suspicion plus,  
2 plus a biased against Muslims or an assumption that Muslims  
3 may be more involved in acts like flying a plane into a  
4 building.

5 MR. FARRELL: I would not necessarily agree with  
6 that. The deity with their equal protection claim, the  
7 comparison group, we didn't take an investigation into  
8 somebody for the very same reason, which you did with respect  
9 to the group that you were investigating. It turns out with  
10 that plane crash example that plaintiffs used, there were  
11 investigations that were already in place and something  
12 happened and you wanted to find out, hey, was there a cause  
13 behind this that you could task and find out what has been  
14 heard and what has been said about that plane crash. So  
15 that's one difficulty.

16 It's recognized that since 2001 the terrorist threat  
17 against New York City has been caused by Islamists who have  
18 been radicalized to violence. That is the threat that the  
19 city has faced as evidenced on September 11 and since then.

20 We, in fact, in the Handschu litigation submitted a  
21 lengthy declaration laying out the various threats that the  
22 city has faced by Islamists who have been radicalized for  
23 violence. Working in this vacuum, it fails to recognize that.  
24 You can't have the apples to apples comparison they are  
25 seeking for the reasons that I had articulated and I think

1 that your Honor had articulated earlier.

2           While I have it, the case of In Re: City of New York  
3 about the law enforcement privilege, we had cited in the  
4 attachment to the letter to the court. The cite is 607 F.3d,  
5 923. That's a 2010 Second Circuit case. I think, if nothing  
6 else, to proceed the way plaintiffs are proceeding would  
7 ground this litigation to a halt and we would be in a fight  
8 over law enforcement privilege and discovery battles. It  
9 would take many times longer than if we proceeded the way  
10 defendants had suggested and that was the reason behind our  
11 proposal with those two combination of factors.

12           MS. SHAMSI: If I can respond to that?

13           THE COURT: Yes.

14           MS. SHAMSI: In In Re: City of New York the Second  
15 Circuit sets out the process by which and the standard by  
16 which law enforcement privileges would be adjudicated. It's a  
17 qualified privilege. Defendants would have a burden of  
18 asserting it. If we chose to contest, if we chose to raise  
19 issues, we would be able to respond and it would be for this  
20 court to adjudicate. I doubt limiting discovery in the way  
21 defendants propose is going to do away with the need to deal  
22 with the law enforcement privilege as this might come up.

23           More broadly, your Honor, we have alleged in our  
24 complaint that the surveillance program, and we have alleged  
25 that it is a program, has been carried out by the intelligence

1 division and as your Honor was indicating it is perfectly  
2 appropriate for us to be able to limit our discovery requests  
3 to get at where we think the documents most likely would lie.  
4 That's one of the ways we're trying to limit what we are  
5 seeking to do at this preliminary injunction stage.

6           It's not the case that it is unworkable. It is very  
7 much the case that a particular division can carry out a  
8 policy and pattern that is subject to a Monell claim.

9           What we have alleged very much contests one of the  
10 premises of what defendants have said in terms of the  
11 radicalization theory. As we have alleged in our complaint,  
12 this is a theory that is represented in publication put out by  
13 the intelligence division. It provides certain indicators,  
14 categories and the broad indicators and categories that it  
15 uses are indicia of first amendment protected activity that  
16 millions of innocent people pass through without engaging in  
17 any kind of violence and that Muslims do without engaging in  
18 any kind of violence as well.

19           But at the heart of this lawsuit is this view that  
20 because admittedly, you know, some Muslims committed some  
21 terrible wrongs and heinous crimes that other Muslims might be  
22 subject to, in the view of the NYPD, pervasive discriminatory  
23 surveillance for their propensity to commit that crime.

24           That's exactly the sort of reasoning the courts have  
25 rejected when applied, for example to African Americans. Just

1 because some African Americans have committed crimes, indeed,  
2 including heinous crimes, does that mean that the law and the  
3 constitution of the courts allow African Americans to be  
4 subjected to a pervasive program of adverse law enforcement  
5 scrutiny.

6 That is at the heart of what our case is about. And  
7 what we're seeking to do through our discovery request is to  
8 make out our equal protection claim.

9 If I can return to the law a little bit here, your  
10 Honor. When a plaintiff has shown that race, for example, in  
11 the African American context, or religion here, is a  
12 substantially motivating factor, that's when the burden shifts  
13 to the defendant to say, no, what we were doing is legitimate  
14 and that it satisfies strict scrutiny standard as required  
15 when you are defending a policy in which the allegation is  
16 classification based on the suspect category.

17 It's at that point where defendants can say,  
18 actually, this was a legitimate investigation carried out for  
19 legitimate law enforcement purposes and it meets the strict  
20 scrutiny, compelling need, narrowly-tailored standard. For  
21 discovery to go forward with a bifurcated narrowly viewed  
22 point would hamper our ability to meet our burden of making  
23 that equal protection claim, as well as the religion claims,  
24 while solely bolsters defendants' ability to respond and say  
25 it meets strict scrutiny. I don't think that's fair or



1    equitability.

2                   I would suggest to your Honor -- it seems to me we  
3    can keep going -- let us serve our order to show cause. Let  
4    us serve our discovery request and the one interrogatory that  
5    we have. And let defendants respond and if you need to hear  
6    more from us we're happy to come back to you. But I think  
7    having something more concrete to respond to in this way,  
8    including the arguments that we make in our memo to show  
9    cause, will aid the court in resolving this issue.

10                  THE COURT: I am fine with that suggestion.

11                  Let me ask one question before I let you both go. I  
12    want to make sure that I understand what your argument would  
13    be. If the defense is able to produce a fair amount of  
14    information suggesting that the investigation into each of  
15    these plaintiffs had some criminal component, some grounds for  
16    investigating, how would this other information that you want  
17    to bring in at this point in discovery factor in? You talk  
18    about substantially motivating factor. Is it your contention  
19    that all of this other discovery that you want to do -- and  
20    it's hard to say sitting here today how broad that is -- both  
21    sides say it's narrow, you say it's narrow and you say it's  
22    extremely broad -- how does that factor into the mix if, in  
23    fact, the police do have some criminal suspicion information?

24                  MS. SHAMSI: So we don't think that they have  
25    legitimate information. But for the sake of argument let's

1 assume that they might. Our argument would be that that  
2 doesn't mean that we don't have a claim. Our claim is that to  
3 the extent that there might have been some legitimate  
4 suspicion, the investigations that were carried out went far  
5 beyond the scope, duration and intensity that the NYPD would  
6 apply to other groups. So taking that example of St.  
7 Patrick's Cathedral --

8 THE COURT: That's the exact part of it, the  
9 overextension of religious profiling that you are talking  
10 about.

11 MS. SHAMSI: That's right.

12 THE COURT: The way you would prove that is how?

13 MS. SHAMSI: The way to prove that is not to be able  
14 to just have the information that I think your Honor is  
15 agreeing that we should have, which is what is the basis for  
16 the investigation of our clients, but also to be able to have  
17 some of the comparator information that we are asking for to  
18 show that investigations are not so broadly brought against  
19 people of other religions and we're trying to limit it to  
20 religions so we're not going to be getting a huge amount of  
21 information. Solely the intelligence division.

22 It's the intelligence division that is carrying this  
23 program out against Muslims. Did the intelligence division  
24 carry this program out against nonMuslim religions? That is  
25 the prima facie evidence to put before the court.

1 THE COURT: Go ahead, Mr. Farrell.

2 MR. FARRELL: Your Honor, first, there is no  
3 surveillance of all Muslims. I hear plaintiffs say that. To  
4 the extent they are saying that, somehow that's been said by  
5 the defendants or otherwise, the police department follows  
6 leads. The threshold to investigate to surveil is you have a  
7 legitimate interest. This is a supreme court precedent of  
8 Laird v. Tatum and this has gone on for the past 40 something  
9 years. The circuit has followed it. There is no prohibition  
10 against a police department for legitimate reasons going out  
11 and collecting information that takes place in a public forum.

12 Two things. The police department defendants are  
13 not surveilling every Muslim. That's not true. And, two,  
14 they put this sinister take on the fact that you go out and  
15 collect information where you have leads. But the supreme  
16 court has found you're able to do that. You're able to go  
17 out, take surveillance, collect the information and keep it.  
18 That's legal. It's been legal for the past 40 some odd years.

19 I think the key admission that just came out of  
20 plaintiffs' counsel was they said in response to your  
21 question, your Honor, "Plaintiffs don't think defendants have  
22 legitimate information to support our position."

23 That's why we should start there. Let's look at the  
24 information that the police department has and that the city  
25 has. Let's get the answer to that question. Their whole

1 argument is built upon this foundation block. Was there a  
2 legitimate reason for doing what you did? They are assuming  
3 it's not. Let's start here. Address that question.

4           Finally, there's no prejudice to the plaintiffs in  
5 this case. What we're offering is a reasonable approach. We  
6 conduct this discovery as we've suggested. We do the briefing  
7 and if at that point they are successful they can go on and  
8 get the additional discovery. If we're successful, it shows  
9 they don't need the discovery. If there is a question of some  
10 discovery they need, it can be addressed. That's the most  
11 practical way. Rather than having them serve this order to  
12 show cause and get into a whole mountain of issues and  
13 fighting. There's simply no prejudice and I would urge the  
14 court to adopt defendants' proposal.

15           THE COURT: I anticipate what you are going to say.  
16 The two points that you make I'm not sure are quite what the  
17 plaintiffs are arguing. I understand the plaintiffs'  
18 argument. It's something beyond the criminal investigation  
19 you are talking about. It's the overextension of that. I'm  
20 not endorsing it. I'm saying it's their argument. The  
21 question is whether or not that's an argument that's worthy of  
22 having discovery about now versus later and obviously it's  
23 important for the plaintiffs to obtain a preliminary  
24 injunction.

25           MR. FARRELL: Their statement in front of Magistrate



1 Judge Azrack, their complaint was the police department's  
2 motivations were based solely on religion. I'm hearing a  
3 twist from that now based on some continuing investigation.  
4 If the investigation has shown when it was commenced and  
5 taking place that there was a legitimate reason to do that, I  
6 think that resolves the question. As plaintiffs' counsel has  
7 said, the issue is was the action taken for the sole purpose  
8 because of plaintiffs' religion. That's the issue that's on  
9 the table that plaintiffs' counsel said the other day at the  
10 conference in front of Magistrate Judge Azrack. That's what a  
11 fair reading of their complaint says.

12 THE COURT: I read the transcript. There was a hint  
13 of this or a preview of this argument about the overextension,  
14 which is part of the reason I was curious on what the exact  
15 argument is. I understand it better now. I think it was only  
16 referenced in passing or more briefly there. I understand the  
17 argument.

18 What I want to do is this: I think it makes sense  
19 to take a look at what the plaintiffs are offering because we  
20 have some time in which the plaintiffs still need to work out  
21 the terms of the confidentiality agreement. I don't feel that  
22 we're going to lose any time in particular, except for the  
23 fact that I would like to get the defense to respond to the  
24 proposal that they are making about questions as to why you  
25 think they are inappropriate. You don't have to do a lengthy

1 submission. You can do it in letter form. I'm going to take  
2 a look at the questions they are going to ask and figure out  
3 how we move forward from there. I'll do it quickly.

4 I appreciate the parties want to get on with  
5 discovery. I assume you are going to keep Magistrate Judge  
6 Azrack apprised of the status of the confidentiality  
7 agreement. So it will hopefully be within that same time  
8 frame that we can resolve this issue, so at the point that you  
9 are starting discovery you will know what the parameters are.

10 MS. SHAMSI: Your Honor, so what we propose then to  
11 do is to file by ECF our order to show cause which attaches  
12 our discovery requests and it sets out a schedule because we  
13 kept trying to figure out and set a schedule to follow in  
14 this.

15 I was prepared to file it this afternoon. But I  
16 would like to consult with my cocounsel to see whether we  
17 might be able to tailor the discovery request a little bit  
18 more in light of the conversation we have now had with you and  
19 if we can file it by tomorrow.

20 THE COURT: That's fine with me. How much time do  
21 you want to respond, Mr. Farrell?

22 MR. FARRELL: I would like to have the ability to  
23 review it. I don't know how much time it would take.

24 To file an order to show cause is improper  
25 procedurally for a discovery issue. I think we cited to the

1 local rule. I don't remember the number. It's in our letter.  
2 I would ask if you are going to allow this to happen, and  
3 since they are going to go back and look at the discovery  
4 request, that it be brought under the normal notice of motion.

5 THE COURT: That's fine. I have no problem with the  
6 form of it. You don't have to file the order to show cause or  
7 the show cause request. Go ahead and file it and I'll take a  
8 look at it.

9 MS. SHAMSI: We had sought to do an order to show  
10 cause because we wanted to move more expeditiously. It makes  
11 sense. We'll do this.

12 MR. FARRELL: Your Honor, after we get served with  
13 it, we'll take a look at it and then we can work out a  
14 schedule with plaintiffs' counsel for us do respond or advise  
15 the court.

16 THE COURT: Yes. Why don't you do that. Advise me  
17 as to something you work out. If you can't work out  
18 something, let us know.

19 Thank you everyone. Appreciate it.

20 oooooo0oooooo

21  
22  
23  
24  
25



**1**

10 - 3:5, 15:14, 16:13, 17:13, 21:20  
100 - 11:23  
11 - 42:19  
11201 - 1:23  
12 - 3:11  
13-cv-3448 - 1:4  
1:00 - 1:8

**2**

2001 - 19:8, 42:16  
2004 - 19:8  
2006 - 9:7, 17:2, 24:5, 41:2  
2008 - 9:7, 9:12, 9:14  
2010 - 9:14, 40:1, 43:5  
2011 - 8:11, 8:12, 8:18, 9:22  
2013 - 1:7  
225 - 1:23

**4**

40 - 48:8, 48:18  
48 - 9:11

**5**

50 - 9:13

**6**

607 - 43:4  
613-2419 - 1:24

**7**

7 - 1:7  
718 - 1:24

**8**

80 - 10:3

**9**

923 - 43:5

**A**

ability - 45:22, 45:24, 51:22  
able - 7:23, 10:19, 26:2, 26:25, 27:15,  
28:4, 32:6, 41:14, 43:19, 44:2, 46:13,  
47:13, 47:16, 48:16, 51:17  
absolutely - 12:3, 29:2  
Acc - 1:19  
accept - 23:7, 26:6  
according - 24:24, 29:13  
account - 18:24  
accounts - 13:9  
accurate - 4:22  
achieve - 31:11, 31:14  
action - 6:24, 8:16, 20:4, 24:7, 33:11,  
50:7  
actions - 7:4, 7:10, 7:24, 14:11, 14:14  
active - 36:16  
activities - 15:11, 19:20, 20:12,  
30:14, 31:20  
activity - 8:16, 11:7, 12:5, 15:9,  
17:25, 18:17, 21:7, 32:4, 44:15  
acts - 42:3  
actual - 32:20  
add - 24:1  
additional - 49:8  
address - 6:2, 15:17, 33:15, 35:13,  
38:22, 40:17  
Address - 49:3  
addressed - 49:10  
adherence - 32:11, 32:12

adjudicate - 28:24, 43:20  
adjudicated - 43:16  
adjudicating - 27:17  
admission - 48:19  
admit - 9:19  
admittedly - 44:20  
admitting - 21:21  
adopt - 49:14  
adverse - 14:24, 45:4  
Advise - 52:16  
advise - 52:14  
African - 44:25, 45:1, 45:3, 45:11  
afternoon - 2:2, 2:13, 2:17, 2:21,  
51:15  
agents - 20:13  
ago - 6:7, 8:12  
agree - 4:3, 5:7, 27:9, 38:12, 42:5  
agreeing - 47:15  
agreement - 4:17, 50:21, 51:7  
ahead - 22:12, 48:1, 52:7  
aid - 46:9  
al - 1:4, 1:7  
albeit - 26:19  
Alcu - 2:9  
Alexis - 1:19, 2:19  
allegation - 9:9, 12:1, 29:23, 45:15  
allegations - 8:10, 8:12, 17:17, 17:20,  
17:24, 18:1, 19:10, 28:3, 29:20  
allege - 21:8  
alleged - 4:6, 18:25, 19:8, 22:22,  
30:19, 43:23, 43:24, 44:9, 44:11  
allegedly - 9:19, 30:4, 30:8  
alleges - 9:11, 20:4  
alleging - 14:20  
allow - 10:5, 13:22, 45:3, 52:2  
allowed - 31:10  
almost - 31:7  
alone - 31:6, 32:2, 32:24  
amendment - 17:7, 17:11, 18:21,  
44:15  
Amendment - 20:5, 20:7  
American - 2:3, 45:11  
Americans - 44:25, 45:1, 45:3  
amount - 35:22, 46:13, 47:20  
answer - 10:23, 14:10, 16:17, 25:8,  
25:10, 25:11, 35:23, 48:25  
answered - 15:19  
answers - 21:9  
Anthony - 1:22  
anticipate - 49:15  
anticipated - 3:2  
anticipation - 3:5  
anyhow - 29:4  
anyway - 27:21  
Ap - 16:10, 24:2  
appearance - 2:12  
Appearances - 1:13  
appearing - 2:4  
apples - 42:24  
application - 5:20, 11:1, 11:11  
applied - 5:22, 10:16, 10:17, 11:20,  
21:25, 22:2, 23:10, 25:14, 27:18, 29:7,  
32:1, 32:24, 44:25  
apply - 19:14, 24:16, 47:6  
applying - 33:1, 33:2  
Appreciate - 52:19  
appreciate - 10:4, 33:13, 33:24, 51:4  
apprised - 51:6  
approach - 13:6, 49:5  
appropriate - 5:14, 26:7, 34:13,  
41:24, 44:2  
argue - 41:14, 42:1  
argued - 18:22, 20:1  
arguing - 49:17  
argument - 9:1, 23:8, 23:9, 26:8,  
26:11, 33:25, 36:11, 38:10, 41:13,  
46:12, 46:25, 47:1, 49:1, 49:18, 49:20,  
49:21, 50:13, 50:15, 50:17  
arguments - 5:6, 20:15, 21:6, 34:14,  
46:8

arise - 27:18, 27:20, 27:21  
arising - 39:21  
arrest - 20:5, 26:10  
Arthur - 2:9  
articulated - 6:5, 7:1, 42:25, 43:1  
artificial - 28:7  
Ashley - 1:16  
aside - 31:9  
asserted - 9:11  
asserting - 43:18  
assertions - 17:21  
assistant - 24:22  
associated - 34:25  
Associated - 8:11  
associations - 18:2, 28:4  
assume - 41:3, 47:1, 51:5  
assuming - 13:12, 19:11, 21:19, 49:2  
assumption - 42:2  
At-taqwa - 21:3, 24:22, 25:5, 25:8,  
32:6, 36:21  
attach - 16:25  
attaches - 51:11  
attachment - 43:4  
attended - 18:4  
attenuated - 18:2, 32:23  
authorities - 33:19  
avoid - 40:12  
aware - 4:23, 9:12  
Azrack - 3:12, 3:15, 4:11, 6:1, 7:2,  
7:19, 20:1, 50:1, 50:10, 51:6

**B**

backgrounds - 15:6  
backing - 35:16, 35:21  
balance - 40:3, 40:10  
based - 2:25, 4:15, 5:18, 6:9, 8:25,  
17:21, 18:1, 28:3, 30:25, 32:23, 34:4,  
37:18, 38:14, 39:10, 40:7, 45:16, 50:2,  
50:3  
basis - 7:9, 7:25, 14:23, 26:1, 30:22,  
31:5, 31:19, 32:10, 32:14, 33:3, 38:1,  
39:1, 39:3, 47:15  
battles - 43:8  
Bear - 36:6  
becomes - 36:15  
began - 20:12  
beginning - 10:15, 11:3  
behalf - 2:18, 7:12  
behind - 42:13, 43:10  
beliefs - 9:6, 15:10, 16:22, 30:23,  
31:19  
benefit - 20:23  
best - 13:6, 13:17, 30:18, 41:13  
better - 50:15  
between - 10:8  
beyond - 15:25, 47:5, 49:18  
biased - 42:2  
bifurcated - 3:7, 3:14, 3:23, 4:4, 5:15,  
10:9, 40:20, 45:21  
Bifurcation - 20:3  
bifurcation - 16:1, 20:1, 20:14, 26:7,  
26:16, 28:12  
bigger - 23:16  
bit - 24:1, 45:9, 51:17  
block - 49:1  
board - 18:18  
bog - 26:12  
bolsters - 45:24  
brief - 3:3, 41:25  
briefing - 5:10, 49:6  
briefly - 50:16  
bring - 8:7, 46:17  
bringing - 25:24  
broad - 6:9, 6:17, 16:25, 33:5, 33:12,  
36:14, 38:14, 39:9, 40:7, 44:14, 46:20,  
46:22  
broad-based - 6:9, 38:14, 40:7  
broad-brush - 6:17  
broader - 16:8, 19:3, 20:21, 24:20,



27:23, 28:11, 33:13  
 broadly - 34:16, 43:23, 47:18  
 Brooklyn - 1:6, 1:23  
 brought - 8:21, 8:22, 10:25, 19:22,  
 27:18, 47:18, 52:4  
 Brown - 32:18  
 brush - 6:17  
 building - 42:4  
 built - 49:1  
 burden - 43:17, 45:12, 45:22  
 bureaus - 37:23

---

## C

---

Cadman - 1:23  
 cannot - 18:7, 29:4  
 caption - 38:5  
 carried - 14:22, 18:12, 43:25, 45:18,  
 47:4  
 carry - 37:16, 44:7, 47:24  
 carrying - 47:22  
 cart - 6:16  
 Case - 2:1  
 case - 2:12, 2:23, 3:6, 4:1, 7:8, 8:11,  
 8:20, 8:21, 9:20, 12:3, 12:7, 26:3, 26:9,  
 26:10, 26:17, 32:18, 33:5, 39:17, 39:25,  
 40:13, 43:2, 43:5, 44:6, 44:7, 45:6, 49:5  
 cases - 13:11, 29:12, 32:15  
 Cat - 1:25  
 categories - 21:14, 32:23, 44:14  
 category - 45:16  
 Cathedral - 18:18, 18:19, 32:5, 47:7  
 Catholics - 32:4  
 causation - 33:8, 33:20, 34:12, 34:13,  
 34:17  
 caused - 14:14, 33:10, 42:17  
 causes - 21:20  
 cell - 25:1  
 central - 28:21  
 certain - 13:9, 16:21, 34:8, 44:13  
 certainly - 6:13, 10:4, 39:10  
 certified - 8:17  
 challenging - 28:15  
 characteristics - 30:8  
 characterize - 11:25  
 charges - 19:20, 19:21  
 charity - 34:23  
 Chen - 1:11  
 chose - 29:7, 43:18  
 Chris - 2:11  
 Christopher - 1:15  
 Circuit - 6:5, 32:16, 39:25, 40:9, 43:5,  
 43:15  
 circuit - 40:1, 48:9  
 citation - 32:18  
 cite - 43:4  
 cited - 43:3, 51:25  
 city - 3:6, 3:23, 3:25, 4:25, 6:3, 8:14,  
 12:17, 14:17, 16:24, 22:14, 24:10,  
 42:19, 42:22, 48:24  
 City - 1:7, 2:18, 2:20, 7:10, 28:22,  
 35:25, 37:5, 37:6, 38:5, 39:8, 40:1,  
 40:2, 42:17, 43:2, 43:14  
 city's - 24:6  
 Civil - 2:3, 2:8, 8:19, 39:13, 39:22  
 claim - 6:21, 6:23, 22:2, 22:19, 25:25,  
 27:5, 28:13, 28:14, 34:10, 36:9, 37:3,  
 37:4, 37:5, 37:18, 42:6, 44:8, 45:8,  
 45:23, 47:2  
 claimed - 30:24, 36:4  
 claiming - 22:7, 27:24, 38:2  
 claims - 6:2, 6:3, 6:15, 7:21, 17:6,  
 20:10, 27:17, 40:18, 45:23  
 class - 8:16, 8:17, 33:11  
 classes - 31:6  
 classification - 23:2, 32:1, 32:17,  
 45:16  
 classifications - 14:23, 15:6  
 clause - 17:8, 18:20, 19:15  
 clauses - 18:21, 19:16

clear - 14:9, 15:19, 37:1  
 client - 24:4, 25:14, 32:6, 35:14  
 clients - 14:24, 15:4, 16:13, 17:1,  
 17:2, 17:14, 17:24, 18:4, 18:8, 18:25,  
 19:10, 20:14, 20:19, 20:20, 20:25,  
 21:24, 22:3, 23:11, 23:12, 23:24, 24:15,  
 24:17, 24:20, 25:25, 26:5, 27:8, 27:12,  
 27:22, 27:25, 28:1, 28:6, 30:25, 31:14,  
 33:10, 33:20, 34:19, 36:4, 39:19, 40:8,  
 40:15, 40:17, 47:16  
 clients' - 15:10, 18:1  
 cocounsel - 2:7, 2:8, 8:19, 8:20, 9:20,  
 51:16  
 coextensive - 10:11, 40:23  
 colleague - 2:11  
 colleagues - 2:5  
 collect - 38:24, 48:15, 48:17  
 collecting - 36:16, 48:11  
 combination - 43:11  
 coming - 4:17, 8:6  
 commenced - 50:4  
 commit - 44:23  
 committed - 44:20, 45:1  
 community - 16:20, 16:23, 21:25,  
 22:1, 28:22  
 comparator - 21:10, 22:3, 22:6,  
 30:25, 47:17  
 compares - 22:15  
 comparison - 30:1, 31:3, 33:25, 34:5,  
 42:7, 42:24  
 compelling - 45:20  
 complaint - 9:4, 9:5, 9:9, 9:11, 9:23,  
 13:10, 18:14, 20:11, 22:25, 28:21,  
 30:20, 38:3, 38:4, 38:6, 43:24, 44:11,  
 50:1, 50:11  
 complete - 8:5, 9:16  
 complicated - 26:13  
 component - 46:15  
 concede - 19:12  
 conceding - 37:17  
 concern - 12:24, 24:25, 33:12, 34:15,  
 39:2  
 concerns - 7:6, 13:3, 13:25, 15:17,  
 40:9  
 concrete - 23:21, 46:7  
 conduct - 8:21, 49:6  
 conducted - 10:21, 11:2, 25:1, 27:25,  
 34:24  
 conducting - 38:19  
 Conference - 1:11  
 conference - 3:6, 3:11, 3:12, 3:21,  
 6:1, 15:12, 50:10  
 confidential - 6:10, 6:13, 40:4  
 confidentiality - 4:24, 39:12, 50:21,  
 51:6  
 confined - 38:13  
 confirmed - 9:13, 9:15  
 confusing - 37:10  
 congregant - 36:23  
 congregants - 36:14  
 congregate - 35:7  
 connection - 3:1, 23:14  
 consent - 8:15  
 considered - 32:19  
 constitution - 45:3  
 constitutional - 3:9, 4:5, 6:4, 6:20,  
 19:14, 40:15  
 construe - 36:7  
 consult - 35:14, 51:16  
 consuming - 7:14  
 contacts - 35:9  
 contains - 25:17  
 contention - 46:18  
 contest - 43:18  
 contests - 44:9  
 context - 4:21, 19:9, 20:10, 45:11  
 continue - 19:1  
 continuing - 50:3  
 contrary - 17:23  
 Convention - 39:21

conversation - 21:3, 51:18  
 conversations - 4:19  
 copy - 7:3, 19:25  
 correct - 4:2, 12:19, 25:6, 25:20,  
 25:21, 41:10  
 counsel - 4:13, 19:25, 21:21, 37:2,  
 48:20, 50:6, 50:9, 52:14  
 counter - 6:11  
 couple - 5:5, 6:6, 14:19, 17:2, 25:9,  
 35:12, 35:18  
 court - 2:22, 7:16, 7:24, 8:6, 9:5, 9:16,  
 19:13, 19:24, 20:16, 22:4, 27:15, 27:21,  
 28:24, 37:21, 39:22, 43:4, 43:20, 46:9,  
 47:25, 48:7, 48:16, 49:14, 52:15  
 Court - 1:1, 1:22, 2:6, 2:13, 2:16, 2:21,  
 2:25, 4:23, 10:2, 12:16, 13:7, 14:4,  
 14:15, 16:2, 20:17, 21:11, 21:14, 21:17,  
 22:5, 23:6, 24:3, 24:13, 25:2, 25:10,  
 25:15, 25:23, 26:6, 27:9, 29:10, 29:20,  
 30:13, 31:2, 33:7, 36:6, 37:10, 38:10,  
 40:19, 41:12, 43:13, 46:10, 47:8, 47:12,  
 48:1, 49:15, 50:12, 51:20, 52:5, 52:16  
 Courthouse - 1:6  
 courts - 27:15, 44:24, 45:3  
 covers - 2:14, 8:17, 8:18  
 crash - 24:6, 41:2, 42:10, 42:14  
 crawler - 13:13  
 crawlers - 13:11  
 create - 28:8, 39:11  
 crime - 44:23  
 crimes - 44:21, 45:1, 45:2  
 criminal - 5:18, 10:25, 11:2, 11:3,  
 11:7, 11:14, 15:8, 15:9, 18:17, 18:19,  
 19:20, 19:21, 22:9, 22:16, 32:4, 35:5,  
 36:9, 41:16, 42:1, 46:15, 46:23, 49:18  
 criminality - 22:23  
 cripple - 20:15  
 critical - 33:22  
 crux - 7:7  
 cumbersome - 7:14  
 curious - 50:14

---

## D

---

data - 36:16  
 date - 4:11  
 deal - 43:21  
 deals - 27:15  
 decades - 17:21, 21:23  
 decided - 41:19  
 decision - 3:15, 32:10, 40:1  
 declaration - 42:21  
 decree - 8:15  
 defendant - 45:13  
 Defendant - 1:8  
 defendants - 2:19, 5:25, 7:18, 7:21,  
 12:22, 13:1, 13:19, 14:13, 14:22, 15:7,  
 15:15, 15:19, 15:25, 16:12, 17:3, 17:13,  
 18:14, 18:25, 21:8, 22:7, 22:19, 23:11,  
 24:19, 26:8, 27:24, 28:7, 28:25, 29:13,  
 29:21, 30:24, 34:22, 36:19, 39:6, 43:10,  
 43:21, 44:10, 45:17, 46:5, 48:5, 48:12,  
 48:21  
 Defendants - 1:19, 23:3, 25:11, 43:17  
 defendants' - 6:17, 16:22, 45:24,  
 49:14  
 Defendants' - 7:1  
 defending - 45:15  
 defense - 21:21, 46:13, 50:23  
 define - 11:12  
 defining - 30:18  
 deity - 42:6  
 department - 7:3, 7:12, 7:24, 8:15,  
 8:23, 12:1, 12:3, 12:9, 12:14, 13:25,  
 14:11, 30:5, 37:8, 37:24, 38:19, 38:23,  
 48:5, 48:10, 48:12, 48:24  
 Department - 2:18, 2:20, 7:10, 35:25,  
 36:1, 37:5, 37:6, 40:3  
 department's - 6:23, 50:1  
 deposed - 41:23

descriptor - 32:20  
 designating - 18:14  
 detail - 23:1  
 determine - 20:8, 27:15, 28:18, 29:5  
 devotion - 16:23  
 difference - 10:8  
 different - 6:9, 14:19, 15:5, 16:3, 16:4, 20:3, 26:9, 26:11, 30:11, 32:21, 41:3  
 differently - 27:7, 27:11, 28:21, 28:22, 34:2  
 difficult - 35:23  
 difficulty - 23:20, 42:15  
 directly - 41:6  
 disagree - 8:3, 10:3, 11:24, 37:21  
 disagreeing - 10:13  
 disagreements - 4:17  
 disclose - 39:20  
 disclosed - 23:23  
 disclosure - 16:10  
 discovery - 3:1, 3:4, 3:7, 3:8, 3:14, 3:17, 3:20, 3:23, 3:24, 4:4, 4:7, 4:10, 5:3, 5:9, 5:13, 5:15, 5:16, 5:17, 6:8, 6:9, 6:17, 6:18, 7:15, 7:16, 7:20, 8:9, 8:22, 10:6, 10:9, 11:10, 12:22, 13:4, 13:16, 13:20, 14:2, 15:20, 15:21, 15:22, 15:24, 16:7, 16:8, 17:16, 17:19, 18:23, 20:14, 22:21, 26:19, 29:3, 29:11, 33:6, 33:12, 33:13, 35:8, 35:11, 35:18, 35:19, 35:20, 37:8, 38:22, 39:9, 39:23, 40:7, 40:16, 40:20, 41:6, 43:8, 43:20, 44:2, 45:7, 45:21, 46:4, 46:17, 46:19, 49:6, 49:8, 49:9, 49:10, 49:22, 51:5, 51:9, 51:12, 51:17, 51:25, 52:3  
 discrimination - 25:25, 28:14, 28:19  
 discriminatory - 14:22, 26:2, 27:6, 44:22  
 discuss - 41:25  
 discussions - 4:12  
 disparate - 33:9  
 dispute - 5:13, 35:3  
 distinguishes - 29:18  
 district - 39:22  
 District - 1:1, 1:12, 8:13, 8:21, 9:2, 9:21, 39:14, 39:20  
 division - 19:6, 19:21, 37:4, 37:13, 37:16, 37:22, 38:2, 38:4, 38:9, 38:14, 39:11, 40:3, 44:1, 44:7, 44:13, 47:21, 47:22, 47:23  
 division's - 32:8  
 divisions - 37:23, 38:15  
 document - 19:4, 23:25, 24:3, 24:8, 24:21, 24:25, 25:17, 32:25, 39:1, 39:3, 40:25, 41:21, 41:22  
 documented - 24:24  
 documents - 16:25, 17:4, 18:11, 23:22, 23:25, 24:9, 24:16, 24:19, 30:20, 31:20, 35:18, 44:3  
 done - 17:3, 29:6, 31:23, 39:3, 41:2  
 door - 18:5  
 doubt - 43:20  
 down - 19:4, 26:12, 37:3, 40:14  
 draw - 30:1  
 driven - 6:25  
 dump - 25:1, 25:5  
 Dunn - 1:15, 2:11, 28:12, 29:15, 30:3  
 duration - 15:4, 21:24, 47:5  
 during - 13:16, 22:20  
 duty - 37:16

**E**

early - 4:18  
 East - 1:23  
 Eastern - 1:1  
 Ecf - 51:11  
 effects - 19:1  
 effort - 5:11  
 Eisenberg - 2:9  
 either - 3:21, 5:14, 10:10, 24:10,

26:21, 28:9  
 emergency - 2:10  
 employment - 28:14  
 end - 10:20  
 endorsed - 38:15  
 endorsing - 49:20  
 enforcement - 4:8, 6:22, 7:6, 7:9, 7:25, 10:22, 12:24, 14:25, 26:15, 27:13, 39:2, 39:7, 39:12, 43:3, 43:8, 43:16, 43:22, 45:4, 45:19  
 engage - 4:7, 6:18, 14:2, 29:7, 32:11  
 engaged - 17:25  
 engaging - 4:19, 32:4, 44:16, 44:17  
 enjoin - 8:23  
 entering - 4:9  
 enterprise - 18:15, 18:19, 30:6  
 entire - 18:14, 30:6, 37:7, 37:13  
 entitled - 10:18, 10:24, 11:10, 11:19, 23:16, 39:23, 40:10  
 envision - 35:2  
 equal - 17:7, 18:20, 19:15, 22:2, 28:13, 29:1, 32:15, 42:6, 45:8, 45:23  
 equally - 9:22  
 equitability - 46:1  
 especially - 27:23  
 Esq - 1:14, 1:15, 1:16  
 essence - 29:1, 30:12  
 essentially - 32:15  
 Essentially - 12:7, 16:15  
 et - 1:4, 1:7  
 ethnicity - 31:5  
 evidence - 9:25, 21:10, 22:3, 33:16, 47:25  
 evidenced - 42:19  
 exact - 12:15, 30:7, 47:8, 50:14  
 exactly - 18:21, 44:24  
 example - 9:10, 18:3, 20:4, 24:3, 24:21, 30:3, 32:10, 32:18, 35:2, 42:10, 44:25, 45:10, 47:6  
 examples - 9:8, 24:8, 24:16, 25:21  
 exceed - 39:10  
 except - 50:22  
 excessive - 26:10  
 exchanged - 4:16, 7:19  
 excludes - 23:14  
 exists - 16:10, 23:5, 23:8, 24:1, 26:2  
 expand - 15:24  
 expect - 27:20  
 expedited - 3:1, 3:16, 3:20, 5:3, 8:9, 10:9, 17:16  
 expeditious - 15:16  
 expeditiously - 52:10  
 explain - 14:4  
 explained - 4:21  
 expressed - 3:21  
 extensively - 20:11  
 extent - 4:25, 11:23, 12:12, 15:1, 15:2, 21:18, 21:22, 25:14, 27:24, 28:5, 32:1, 33:14, 35:15, 47:3, 48:4  
 extraneous - 34:16  
 extremely - 6:12, 46:22

**F**

F.3d - 43:4  
 faced - 42:19, 42:22  
 facade - 47:25  
 fact - 6:20, 8:17, 9:1, 9:18, 9:19, 11:13, 26:15, 27:20, 32:3, 33:13, 36:25, 39:12, 42:20, 46:23, 48:14, 50:23  
 factor - 41:20, 45:12, 46:17, 46:18, 46:22  
 factors - 32:10, 32:14, 43:11  
 facts - 34:9  
 fails - 42:23  
 fair - 34:5, 35:22, 45:25, 46:13, 50:11  
 fairly - 10:10  
 faith - 6:25, 16:23  
 false - 26:10, 31:3, 38:20  
 far - 9:7, 20:18, 35:11, 47:4

Farrell - 1:19, 2:17, 2:18, 4:2, 4:3, 5:25, 10:2, 11:22, 12:20, 13:17, 14:8, 16:4, 23:9, 25:3, 25:7, 25:11, 25:21, 31:2, 34:21, 35:12, 36:18, 37:20, 38:18, 40:25, 41:11, 42:5, 48:1, 48:2, 49:25, 51:21, 51:22, 52:12  
 feedback - 4:15  
 field - 39:15  
 fight - 39:5, 43:7  
 fighting - 40:13, 49:13  
 figure - 5:12, 20:22, 35:25, 51:2, 51:13  
 file - 3:18, 16:6, 16:16, 19:24, 51:11, 51:15, 51:19, 51:24, 52:6, 52:7  
 filed - 3:6, 3:16, 5:2  
 filing - 5:7, 18:13, 40:21  
 Finally - 19:19, 49:4  
 fine - 2:16, 33:14, 46:10, 51:20, 52:5  
 first - 3:8, 4:10, 6:3, 13:20, 14:5, 14:6, 17:7, 17:10, 18:20, 22:25, 44:15, 48:2  
 five - 8:17, 24:11, 40:13  
 flesh - 21:18, 22:3, 23:4, 23:25  
 fleshed - 17:5  
 flying - 42:3  
 focus - 34:12  
 focused - 3:9, 14:2  
 focusing - 16:21, 34:11  
 follow - 51:13  
 followed - 48:9  
 following - 32:9  
 follows - 12:3, 48:5  
 footing - 12:7, 12:15  
 force - 26:10, 37:13  
 forces - 29:22  
 form - 12:10, 51:1, 52:6  
 forth - 3:13, 8:2  
 forum - 48:11  
 forward - 15:16, 15:18, 28:9, 31:24, 40:16, 45:21, 51:3  
 foundation - 49:1  
 four - 21:14  
 Fourth - 20:5, 20:7  
 frame - 29:10, 51:8  
 front - 3:12, 4:11, 6:1, 9:1, 49:25, 50:10  
 full - 15:9, 19:13  
 fuller - 16:9  
 fullest - 26:3  
 fully - 5:10, 17:5, 41:25, 42:1  
 fully-fleshed - 17:5  
 functioning - 10:15  
 fundamental - 33:7  
 furthered - 10:22  
 futile - 5:5, 5:8, 5:11, 22:13

**G**

gang - 37:9  
 gathered - 35:10  
 gathering - 37:23  
 gauge - 24:11  
 geared - 40:21  
 gesture - 22:13  
 Gorski - 1:16  
 governed - 8:15  
 granted - 39:25  
 greatly - 17:14  
 ground - 43:7  
 grounds - 46:15  
 group - 42:7, 42:9  
 groups - 47:6  
 guess - 5:16, 10:7  
 guidelines - 12:6  
 guy - 30:11, 30:12

**H**

Haight - 9:1  
 halt - 43:7  
 Hamid - 1:4, 9:10, 21:4



hamper - 45:22  
 Handschu - 8:14, 8:20, 12:6, 42:20  
 happy - 16:17, 19:24, 46:6  
 hard - 22:18, 30:1, 46:20  
 harder - 26:12  
 hear - 40:6, 46:5, 48:3  
 heard - 42:14  
 hearing - 50:2  
 heart - 7:7, 8:10, 22:1, 27:5, 30:23,  
 44:19, 45:6  
 heinous - 44:21, 45:2  
 help - 19:13  
 highest - 38:15  
 highlight - 17:19  
 highlights - 8:5  
 Hina - 1:14, 2:2  
 hint - 50:12  
 history - 3:3  
 hold - 34:20  
 honestly - 10:13  
 Honor - 2:2, 2:17, 2:24, 4:3, 5:25, 8:5,  
 12:12, 13:17, 17:17, 21:10, 22:24,  
 23:21, 25:7, 27:12, 28:5, 28:12, 35:12,  
 36:19, 38:22, 43:1, 43:23, 44:1, 45:10,  
 46:2, 47:14, 48:2, 48:21, 51:10, 52:12  
 Honor's - 8:3  
 Honorable - 1:11  
 hopefully - 51:7  
 horse - 6:16  
 host - 39:11  
 house - 18:5  
 huge - 47:20  
 hypothetical - 26:18, 40:25  
 hypothetically - 41:18

## I

idea - 18:3, 29:12, 30:1  
 identifying - 16:20  
 illogical - 20:9  
 illuminate - 20:24  
 imagine - 28:14  
 imam - 24:22, 41:15  
 imams - 41:4  
 implement - 37:12  
 importance - 40:2  
 important - 9:22, 23:4, 27:21, 49:23  
 importantly - 9:22  
 impossible - 36:25  
 improper - 51:24  
 inaccurate - 34:9  
 inappropriate - 50:25  
 inception - 19:7  
 incident - 26:10  
 include - 24:19  
 included - 7:3  
 includes - 16:6, 16:8, 24:4, 35:20  
 Including - 24:13  
 including - 14:24, 15:3, 17:1, 20:13,  
 20:19, 27:8, 45:2, 46:8  
 inclusion - 23:24  
 incorrect - 17:18  
 indeed - 45:1  
 indicates - 24:22, 24:25  
 indicating - 44:1  
 indicators - 44:13, 44:14  
 indicia - 44:15  
 individual - 36:10, 41:7  
 individually - 6:4, 6:20  
 individuals - 11:6, 12:18, 13:15,  
 16:21, 16:23, 18:3, 23:17, 25:18, 29:12,  
 30:22, 34:1, 34:2, 34:25, 35:4, 35:5,  
 35:8, 35:10  
 inextricably - 17:6, 20:20  
 inferential - 33:16  
 informant - 11:5, 24:10  
 informants - 17:9, 20:13, 35:7, 40:4  
 Information - 18:13  
 information - 3:25, 4:9, 4:21, 5:19,  
 6:12, 6:19, 7:4, 7:13, 7:17, 7:19, 10:4,

10:14, 10:18, 11:16, 12:4, 12:13, 12:22,  
 12:23, 13:12, 13:13, 13:15, 13:18,  
 13:24, 14:4, 14:10, 14:12, 14:13, 15:8,  
 15:9, 16:10, 16:11, 17:4, 18:6, 19:5,  
 19:16, 20:24, 21:4, 21:22, 22:6, 22:10,  
 22:13, 22:17, 22:22, 23:13, 23:15, 25:3,  
 25:4, 25:12, 25:13, 25:16, 25:17, 25:20,  
 25:23, 26:4, 26:13, 26:14, 26:22, 27:11,  
 27:14, 27:22, 30:25, 31:6, 31:8, 31:13,  
 31:14, 31:24, 33:4, 33:21, 33:23, 34:14,  
 34:16, 34:21, 34:23, 35:9, 36:20, 37:15,  
 37:22, 38:24, 39:18, 40:11, 41:24,  
 46:14, 46:16, 46:23, 46:25, 47:14,  
 47:17, 47:21, 48:11, 48:15, 48:17,  
 48:22, 48:24  
 initial - 3:5, 4:15, 6:1  
 injunction - 3:2, 3:17, 5:1, 5:5, 5:15,  
 8:8, 8:23, 8:24, 9:24, 10:1, 13:23,  
 14:17, 14:21, 17:15, 27:4, 28:10, 28:24,  
 31:25, 40:22, 41:13, 44:5, 49:24  
 injunctive - 8:4, 26:21, 38:25  
 injury - 33:10  
 innocent - 17:10, 17:25, 44:16  
 innuendo - 28:3  
 inquiry - 41:22  
 insofar - 3:3  
 instance - 29:5  
 institution - 30:15  
 institutions - 19:23  
 intelligence - 19:6, 19:21, 32:7, 37:4,  
 37:13, 37:22, 38:2, 38:4, 38:9, 39:10,  
 39:15, 40:3, 43:25, 44:13, 47:21, 47:22,  
 47:23  
 intend - 7:19, 7:21, 12:22, 12:23,  
 14:13  
 intending - 5:6  
 intensity - 47:5  
 intent - 36:19  
 intentionally - 14:22  
 interaction - 24:25  
 interest - 36:12, 36:13, 48:7  
 interested - 40:24  
 interesting - 37:1  
 interrogatory - 16:8, 46:4  
 intertwined - 20:10, 20:20  
 interviews - 41:1  
 introduce - 2:4  
 intrusive - 18:7  
 invasive - 18:11, 19:17, 32:22  
 invasiveness - 15:4, 21:25  
 investigate - 23:12, 48:6  
 investigated - 14:5, 14:9, 25:19, 26:1  
 investigates - 8:16, 12:4  
 investigating - 35:5, 36:1, 37:25,  
 39:3, 42:9, 46:16  
 investigation - 11:4, 14:6, 22:11,  
 23:17, 25:8, 25:12, 31:18, 32:21, 34:11,  
 34:24, 35:24, 36:22, 37:9, 40:7, 42:7,  
 45:18, 46:14, 47:16, 49:18, 50:3, 50:4  
 investigations - 5:19, 6:10, 6:11,  
 8:25, 10:25, 12:21, 15:2, 15:3, 15:9,  
 21:19, 21:20, 27:25, 35:16, 36:16,  
 36:20, 37:24, 38:7, 38:20, 42:11, 47:4,  
 47:18  
 investigative - 22:8  
 involve - 6:8, 6:11, 23:14, 35:21,  
 36:20, 37:25  
 involved - 6:9, 9:20, 29:22, 30:14,  
 39:9, 41:17, 42:3  
 involving - 9:21  
 Islam - 32:11  
 Islamists - 42:17, 42:22  
 issue - 4:9, 8:10, 12:6, 19:14, 20:7,  
 20:24, 33:15, 36:3, 39:13, 39:16, 42:1,  
 46:9, 50:7, 50:8, 51:8, 51:25  
 issues - 3:10, 4:8, 9:21, 15:13, 17:19,  
 20:6, 27:13, 27:14, 27:18, 27:20, 31:9,  
 39:11, 40:2, 43:19, 49:12  
 itself - 3:11, 5:1

## J

jihad - 29:22, 30:14  
 joined - 2:7, 2:10, 2:19  
 joins - 18:18  
 Judge - 1:12, 3:12, 3:15, 4:11, 6:1,  
 7:2, 7:18, 9:1, 13:1, 20:1, 50:1, 50:10,  
 51:5  
 judgment - 7:22, 13:21, 26:22, 28:9,  
 28:23  
 judgments - 39:4  
 justified - 11:14, 19:11  
 justifies - 31:13  
 justify - 16:12, 18:7

## K

Kassem - 1:16  
 keep - 20:19, 46:3, 48:17, 51:5  
 kept - 51:13  
 key - 48:19  
 kind - 18:5, 18:6, 18:7, 20:3, 30:19,  
 32:5, 33:3, 34:24, 44:17, 44:18  
 kinds - 15:13, 17:4, 23:24, 27:14,  
 32:7  
 knowing - 41:9  
 knowledge - 9:6  
 known - 18:4

## L

lack - 8:6, 9:16  
 laid - 13:2, 16:4, 20:11, 23:1  
 Laird - 48:8  
 large - 35:6  
 last - 3:21, 9:2  
 Law - 2:18, 2:20  
 law - 4:8, 6:22, 7:6, 7:9, 7:25, 10:22,  
 12:24, 14:24, 26:15, 27:13, 29:1, 39:2,  
 39:7, 39:11, 43:3, 43:8, 43:16, 43:22,  
 45:2, 45:4, 45:9, 45:19  
 lawful - 17:25  
 lawsuit - 44:19  
 laying - 42:21  
 lays - 40:1  
 lead - 9:10  
 leads - 12:3, 48:6, 48:15  
 least - 17:1, 17:2, 37:11, 41:8  
 lectures - 18:4  
 led - 37:9  
 legal - 48:18  
 legitimate - 6:22, 7:6, 7:9, 7:25,  
 10:21, 12:8, 12:24, 13:2, 13:25, 15:8,  
 28:1, 34:15, 38:24, 39:2, 39:7, 41:21,  
 45:13, 45:18, 45:19, 46:25, 47:3, 48:7,  
 48:10, 48:22, 49:2, 50:5  
 legitimately - 23:18  
 Leist - 1:19, 2:19  
 lengthy - 42:21, 50:25  
 letter - 3:6, 7:2, 7:18, 13:1, 15:13,  
 15:14, 16:5, 16:14, 17:13, 17:17, 17:20,  
 18:1, 21:20, 28:10, 35:17, 43:4, 51:1,  
 52:1  
 level - 29:25, 31:11  
 Liberties - 2:3, 2:8, 8:19, 39:14, 39:23  
 lie - 44:3  
 light - 6:15, 9:24, 18:13, 51:18  
 likely - 33:18, 44:3  
 limit - 20:14, 28:7, 33:6, 44:2, 44:4,  
 47:19  
 limited - 15:25, 19:16, 21:23, 33:3  
 limiting - 19:7, 27:19, 43:20  
 lines - 30:17  
 link - 33:16  
 linked - 17:6  
 litigated - 39:13  
 litigation - 5:22, 39:14, 39:21, 42:20,  
 43:7  
 local - 52:1

locations - 34:25  
 look - 9:8, 16:17, 23:22, 28:16, 28:17,  
 28:24, 29:17, 32:16, 39:1, 41:19, 48:23,  
 50:19, 51:2, 52:3, 52:8, 52:13  
 looking - 17:5, 20:23, 21:5, 21:6,  
 23:22, 24:18  
 lose - 50:22

---

## M

---

Magistrate - 13:1, 49:25, 50:10, 51:5  
 major - 14:19  
 Mancuso - 1:22  
 mandamus - 39:24  
 mapping - 17:9, 20:12  
 Masjid - 24:22, 25:8, 32:6, 36:21  
 material - 35:22  
 materials - 6:10  
 matter - 2:10, 8:13, 9:2, 36:24, 38:21,  
 40:12  
 mean - 5:16, 24:4, 45:2, 47:2  
 measures - 22:8  
 mechanical - 1:24  
 mechanisms - 3:25  
 meet - 45:22  
 meets - 45:19, 45:25  
 memo - 18:10, 46:8  
 memorandum - 16:7, 16:16, 28:2  
 mentioned - 5:16, 5:19  
 mere - 11:13  
 merits - 40:18  
 might - 5:22, 11:13, 18:3, 19:10,  
 19:20, 20:3, 20:6, 21:21, 27:13, 27:18,  
 31:1, 32:3, 33:5, 41:17, 43:22, 44:21,  
 47:1, 47:3, 51:17  
 millions - 44:16  
 mind - 5:12, 36:6  
 minimize - 27:12  
 misnomer - 28:13  
 misunderstanding - 11:18  
 mix - 46:22  
 moment - 30:9, 31:9, 41:3  
 Monell - 6:2, 6:3, 6:8, 7:15, 20:4,  
 20:8, 37:5, 37:18, 44:8  
 monitored - 24:23  
 months - 6:7  
 mosque - 12:17, 21:3, 29:21, 30:6,  
 30:9, 30:11, 35:4, 35:6, 35:8, 35:10,  
 35:11, 36:8, 36:11, 36:13, 36:17, 41:7  
 mosque's - 36:12  
 mosques - 13:14, 16:20, 18:14,  
 24:11, 24:13, 25:18, 30:4, 32:6, 34:23,  
 36:2, 41:3  
 most - 6:14, 9:22, 15:16, 44:3, 49:10  
 motion - 3:2, 3:16, 5:1, 5:5, 8:7, 8:9,  
 8:21, 8:22, 10:1, 13:21, 14:16, 14:21,  
 17:15, 31:25, 40:22, 52:4  
 motions - 26:13, 28:8  
 motivated - 34:10  
 motivating - 45:12, 46:18  
 motivations - 50:2  
 mountain - 49:12  
 move - 7:21, 13:22, 51:3, 52:10  
 moving - 15:16, 15:18, 20:8, 26:22  
 Muslim - 5:20, 6:25, 8:1, 10:6, 11:11,  
 11:22, 11:24, 12:11, 12:25, 13:8, 16:20,  
 21:25, 28:21, 30:21, 33:3, 38:8, 41:20,  
 48:13  
 Muslims - 12:2, 14:24, 15:5, 15:10,  
 16:19, 19:22, 23:2, 24:12, 27:6, 27:7,  
 27:10, 28:15, 28:16, 28:19, 31:21, 32:2,  
 32:11, 32:24, 33:2, 33:18, 34:1, 37:25,  
 39:8, 42:2, 44:17, 44:20, 44:21, 47:23,  
 48:3

---

## N

---

name - 2:23, 39:25  
 named - 4:1  
 names - 2:15, 26:19

narrow - 37:3, 38:1, 46:21  
 narrowed - 19:4  
 narrowly - 45:20, 45:21  
 narrowly-tailored - 45:20  
 National - 39:21  
 nature - 11:2, 17:6, 18:12, 21:7, 26:17  
 necessarily - 10:23, 11:2, 37:17, 42:5  
 necessary - 21:6  
 need - 21:22, 26:4, 27:11, 28:11,  
 34:14, 34:18, 35:14, 40:4, 43:21, 45:20,  
 46:5, 49:9, 49:10, 50:20  
 needed - 26:23  
 needs - 7:8, 15:22, 40:22  
 nefarious - 12:25  
 negotiating - 27:16  
 negotiations - 4:23  
 never - 7:11  
 nevertheless - 24:11  
 New - 1:1, 1:6, 1:7, 1:23, 2:8, 2:18,  
 2:20, 7:10, 8:13, 8:19, 24:6, 28:22,  
 35:24, 35:25, 37:4, 37:6, 37:7, 38:5,  
 39:8, 39:13, 39:22, 40:1, 40:2, 42:17,  
 43:2, 43:14  
 newspaper - 13:9  
 nobody - 31:4  
 Nonetheless - 38:15  
 nonislamic - 32:12  
 nonmuslim - 19:17, 30:21, 47:24  
 nonmuslims - 21:12, 28:18, 28:25,  
 31:22, 31:23, 34:4  
 normal - 52:4  
 note - 3:2  
 nothing - 11:7, 22:15, 31:23, 43:5  
 notice - 52:4  
 notwithstanding - 23:8  
 number - 35:7, 52:1  
 Nypd - 12:17, 18:17, 19:6, 20:25,  
 28:23, 29:4, 36:15, 37:11, 38:3, 38:16,  
 44:22, 47:5

---

## O

---

o'clock - 1:8  
 obligation - 37:16  
 obtain - 49:23  
 obtained - 5:9  
 obtaining - 16:9  
 obvious - 5:11  
 Obviously - 41:12, 41:20  
 obviously - 20:21, 20:22, 22:19,  
 24:12, 34:6, 35:3, 40:19, 49:22  
 occurred - 20:7  
 October - 1:7, 8:19, 24:5  
 odd - 48:18  
 offered - 37:1  
 offering - 49:5, 50:19  
 officer - 38:16  
 officials - 24:6  
 old - 17:21  
 one - 8:4, 20:4, 21:14, 24:8, 32:3,  
 32:6, 32:8, 33:8, 36:2, 37:15, 41:1,  
 42:15, 44:4, 44:9, 46:4, 46:11  
 One - 2:22, 9:10, 21:9, 24:15, 40:20  
 one's - 8:25, 38:20  
 ongoing - 4:23  
 onwards - 19:8  
 oooooooooooooo - 52:20  
 open - 17:25, 40:6  
 opening - 33:12, 34:16  
 operators - 17:10  
 opposed - 3:14, 22:1  
 opposing - 4:25, 5:3, 19:25  
 opposition - 4:5  
 order - 4:10, 4:14, 4:18, 4:24, 6:1,  
 15:15, 16:6, 17:5, 17:20, 18:9, 19:13,  
 19:14, 26:2, 27:7, 28:2, 34:18, 39:18,  
 41:25, 46:3, 49:11, 51:11, 51:24, 52:6,  
 52:9  
 ordered - 39:20  
 orders - 27:16

organization - 12:18, 37:14  
 organizational - 34:22  
 organizations - 16:20, 16:24, 19:18,  
 30:21, 35:1, 36:7  
 otherwise - 31:19, 48:5  
 overall - 10:7, 11:8, 11:12  
 overbreadth - 36:9  
 overextension - 47:9, 49:19, 50:13  
 overly - 36:14  
 own - 9:23

---

## P

---

Pamela - 1:11  
 papers - 3:22, 8:2, 29:21  
 paragraph - 9:11, 9:13  
 paragraphs - 9:4  
 parameters - 51:9  
 parcel - 19:3  
 part - 3:7, 3:8, 3:23, 5:4, 8:6, 9:17,  
 11:8, 11:25, 13:21, 16:18, 19:2, 20:8,  
 21:11, 22:5, 23:6, 24:20, 26:20, 28:5,  
 33:25, 36:8, 47:8, 50:14  
 particular - 5:23, 22:10, 36:2, 36:10,  
 37:9, 37:15, 37:22, 38:14, 41:14, 44:7,  
 50:22  
 parties - 3:13, 3:19, 5:9, 51:4  
 pass - 44:16  
 passed - 18:5  
 passing - 50:16  
 past - 9:17, 48:8, 48:18  
 Patrick - 1:15, 18:18  
 Patrick's - 30:3, 30:7, 30:9, 30:12,  
 32:5, 47:7  
 pattern - 16:19, 20:9, 44:8  
 pending - 3:4, 3:16, 8:13  
 people - 15:5, 19:22, 28:20, 29:6,  
 29:7, 30:4, 30:7, 31:17, 32:13, 33:2,  
 35:6, 36:8, 36:17, 41:19, 44:16, 47:19  
 perceived - 16:22  
 percent - 10:3, 11:24  
 perfectly - 17:10, 44:1  
 perhaps - 10:20, 26:19, 41:21  
 permissible - 18:20  
 permission - 2:11  
 permit - 20:14  
 person - 10:16, 30:8  
 pervasive - 44:22, 45:4  
 Peter - 1:19, 2:17  
 phase - 13:16  
 phone - 25:1, 25:5  
 phones - 25:6  
 picture - 23:16  
 piece - 41:24  
 place - 4:10, 13:20, 14:5, 14:6, 14:14,  
 17:8, 25:13, 29:9, 35:6, 36:24, 42:11,  
 48:11, 50:5  
 plaintiff - 9:8, 9:10, 20:4, 36:21,  
 41:25, 45:10  
 Plaintiff - 1:5  
 plaintiffs - 2:4, 3:14, 3:16, 3:24, 4:1,  
 4:6, 5:2, 5:7, 5:18, 5:23, 6:3, 6:18, 7:5,  
 7:17, 7:20, 8:1, 8:18, 9:18, 10:10,  
 10:17, 10:21, 10:24, 11:6, 11:10, 11:21,  
 12:14, 12:17, 12:20, 12:21, 13:3, 13:16,  
 13:19, 14:3, 14:5, 14:7, 14:9, 14:12,  
 22:21, 23:19, 24:14, 25:20, 33:1, 35:15,  
 35:19, 36:11, 36:25, 40:21, 41:6, 41:12,  
 42:10, 43:6, 46:15, 48:3, 49:4, 49:17,  
 49:23, 50:19, 50:20  
 Plaintiffs - 1:14, 11:25, 48:21  
 plaintiffs' - 3:1, 4:13, 9:3, 25:14, 36:9,  
 37:1, 48:20, 49:17, 50:6, 50:8, 50:9,  
 52:14  
 plane - 24:6, 41:2, 42:3, 42:10, 42:14  
 plans - 25:5  
 Plaza - 1:23  
 pleadings - 27:2  
 plus - 42:1, 42:2  
 Pm - 1:8



point - 5:8, 7:22, 27:2, 28:21, 34:7, 35:13, 37:25, 38:13, 45:17, 45:22, 46:17, 49:7, 51:8  
 pointed - 9:4  
 points - 35:12, 49:16  
 police - 6:23, 7:3, 7:24, 8:15, 8:23, 12:1, 12:3, 12:8, 12:13, 13:24, 14:11, 34:10, 37:7, 37:13, 37:24, 38:19, 38:23, 41:16, 46:23, 48:5, 48:10, 48:12, 48:24, 50:1  
 Police - 7:10, 35:25, 36:1, 37:5, 37:6, 40:2  
 policy - 7:11, 37:3, 37:7, 37:12, 37:14, 37:17, 37:18, 38:3, 38:4, 38:12, 38:13, 38:14, 38:17, 44:8, 45:15  
 polcy-based - 37:18  
 political - 8:16  
 position - 4:4, 6:14, 7:1, 7:15, 8:3, 11:18, 38:23, 39:6, 39:7, 48:22  
 positions - 3:13, 5:10  
 possession - 24:19  
 possibility - 12:5  
 potential - 26:12, 26:14, 35:2  
 potentially - 21:23  
 practical - 38:21, 40:12, 49:11  
 practice - 16:19, 20:9  
 practices - 28:15, 29:3, 30:19, 30:23  
 precedent - 48:7  
 preclude - 5:7, 11:15  
 predicate - 38:18  
 predicated - 22:9  
 predication - 11:3, 36:10  
 predict - 31:7  
 predominantly - 31:18  
 prejudice - 49:4, 49:13  
 preliminarily - 26:25, 41:9  
 preliminary - 3:2, 3:17, 4:25, 5:4, 5:14, 8:7, 9:24, 10:1, 13:22, 14:17, 14:21, 17:15, 26:21, 27:4, 28:10, 28:23, 31:25, 40:21, 41:13, 44:5, 49:23  
 premise - 26:7  
 premises - 44:10  
 promotion - 15:12  
 prepared - 3:23, 4:7, 4:20, 13:4, 13:19, 16:6, 39:17, 51:15  
 present - 19:9  
 Press - 8:11  
 presuming - 11:20  
 presumption - 38:21  
 preview - 50:13  
 prima - 47:25  
 principle - 6:5  
 privilege - 4:8, 6:13, 27:13, 27:17, 39:12, 43:3, 43:8, 43:17, 43:22  
 privileged - 27:17  
 privileges - 43:16  
 problem - 22:18, 23:19, 26:6, 33:7, 37:2, 52:5  
 procedural - 3:3  
 procedurally - 51:25  
 proceed - 4:5, 6:15, 15:22, 40:17, 43:6  
 proceeded - 43:9  
 proceeding - 43:6  
 Proceedings - 1:24  
 process - 4:12, 5:15, 26:12, 43:15  
 produce - 13:4, 22:20, 25:12, 36:19, 46:13  
 produced - 1:25  
 producing - 35:9  
 profiling - 47:9  
 program - 5:20, 10:6, 10:15, 11:1, 11:8, 11:11, 11:19, 11:23, 11:25, 12:11, 13:8, 14:24, 17:9, 19:3, 19:7, 20:11, 20:21, 23:1, 23:3, 23:5, 23:8, 23:10, 23:15, 23:23, 24:20, 26:2, 27:6, 27:23, 28:5, 43:24, 43:25, 45:4, 47:23, 47:24  
 prohibition - 48:9  
 promotion - 28:16  
 promotional - 28:15

promotions - 28:17  
 proof - 22:19  
 propensity - 44:23  
 proposal - 3:14, 6:18, 41:5, 43:11, 49:14, 50:24  
 proposals - 40:19  
 propose - 10:9, 10:10, 43:21, 51:10  
 proposed - 5:4, 5:14, 5:25, 16:1, 38:25  
 proposing - 3:6  
 protected - 31:5, 31:20, 44:15  
 protection - 17:7, 18:20, 19:15, 22:2, 28:13, 29:1, 32:15, 42:6, 45:8, 45:23  
 protective - 4:10, 4:13, 4:18, 27:16, 39:18  
 prove - 6:3, 10:20, 33:19, 34:7, 34:17, 47:12, 47:13  
 provide - 3:24, 12:22, 13:16, 14:13, 14:18, 15:15, 17:5, 19:24, 26:3, 34:22, 39:17  
 provided - 2:15  
 provides - 19:9, 44:13  
 providing - 6:18, 18:11, 35:8  
 proving - 6:19  
 public - 48:11  
 publication - 44:12  
 pudding - 22:20  
 purported - 23:15  
 purpose - 6:22, 10:22, 26:16, 50:7  
 purposes - 7:25, 23:7, 26:20, 45:19  
 pursue - 27:3  
 purview - 36:24  
 put - 4:19, 21:10, 28:1, 29:21, 31:24, 33:4, 40:16, 44:12, 47:25, 48:14  
 putting - 6:16, 31:9

---

## Q

---

qualified - 43:17  
 qualifier - 4:20  
 questions - 15:17, 16:18, 20:23, 23:18, 50:24, 51:2  
 quickly - 15:23, 51:3  
 quite - 6:6, 10:13, 49:16

---

## R

---

race - 32:17, 32:19, 45:10  
 radicalization - 44:11  
 radicalized - 42:18, 42:22  
 raise - 43:18  
 raised - 4:9, 4:11  
 raker - 13:13  
 rakers - 13:11  
 Ramz - 1:16  
 ranged - 16:19  
 ranging - 10:5  
 Rather - 49:11  
 rather - 6:15, 11:7  
 Raza - 1:4, 9:10, 21:4  
 Re - 40:1, 43:2, 43:14  
 reaching - 21:23, 35:11  
 reaction - 24:11  
 read - 3:19, 5:1, 50:12  
 reading - 50:11  
 ready - 2:1  
 real - 5:13, 15:20, 16:22, 26:14  
 really - 7:7, 8:5, 20:15, 33:14, 33:21, 41:20  
 reason - 10:8, 12:8, 15:23, 15:24, 18:23, 36:5, 38:24, 41:14, 42:8, 43:10, 49:2, 50:5, 50:14  
 reasonable - 6:15, 40:14, 49:5  
 reasoning - 44:24  
 reasons - 7:4, 8:2, 13:2, 39:7, 42:25, 48:10  
 received - 15:14  
 recently - 6:6, 39:13  
 recognize - 42:23  
 recognized - 42:16

record - 3:3, 16:9, 17:5, 17:10, 19:13, 20:16, 22:4, 23:4, 24:1, 24:7, 26:3  
 recorded - 1:24  
 recording - 15:7  
 redact - 41:8  
 redacted - 25:17, 26:19  
 refer - 13:8, 16:12  
 referenced - 4:12, 50:16  
 referring - 16:11  
 reflects - 41:1  
 regard - 26:8  
 regarding - 3:20  
 regardless - 40:8  
 regularly - 2:9  
 rejected - 44:25  
 relate - 5:17  
 related - 6:11, 6:19, 14:12, 35:19, 37:8, 40:8  
 relates - 3:4, 14:2, 34:24, 37:12, 41:6  
 released - 24:2  
 releasing - 26:14  
 relevant - 29:19, 32:10  
 reliable - 11:5  
 relief - 8:4, 26:21, 34:18, 38:25  
 religion - 6:25, 8:25, 14:23, 18:21, 19:15, 31:5, 32:14, 34:5, 38:1, 38:20, 39:4, 45:11, 45:23, 50:2, 50:8  
 religions - 19:22, 32:12, 47:19, 47:20, 47:24  
 religious - 15:6, 15:10, 17:7, 17:11, 18:4, 19:17, 19:23, 30:15, 30:22, 31:19, 47:9  
 rely - 12:23  
 remember - 3:22, 24:6, 52:1  
 reported - 8:11  
 Reporter - 1:22  
 reporter - 2:22  
 reports - 32:8, 35:9, 39:15, 39:19  
 represent - 36:13  
 represented - 44:12  
 Republican - 39:21  
 request - 3:1, 3:20, 16:8, 19:4, 23:25, 32:25, 39:25, 45:7, 46:4, 51:17, 52:4, 52:7  
 requested - 8:24  
 requesting - 23:25  
 requests - 3:4, 19:7, 44:2, 51:12  
 require - 33:15  
 required - 45:14  
 requires - 38:25, 39:4  
 requiring - 34:12  
 requlsite - 39:18  
 reserved - 3:15  
 reside - 37:15  
 resolve - 51:8  
 resolved - 27:3  
 resolves - 50:6  
 resolving - 46:9  
 respect - 7:5, 13:14, 21:24, 22:8, 22:15, 28:15, 30:24, 31:21, 31:22, 31:23, 33:20, 34:21, 35:13, 36:12, 38:23, 42:8  
 respectfully - 37:21  
 respective - 5:10  
 respond - 35:14, 43:12, 43:19, 45:24, 46:5, 46:7, 50:23, 51:21, 52:14  
 response - 5:2, 24:23, 24:24, 28:1, 28:9, 48:20  
 rest - 29:18  
 result - 16:21, 17:8, 17:16, 17:18, 39:2  
 resulted - 19:20  
 retaining - 15:8  
 return - 45:9  
 revealed - 40:5  
 review - 51:23  
 rule - 26:4, 52:1

---

## S

---

sake - 23:9, 46:25  
 satisfies - 45:14  
 save - 2:6  
 schedule - 5:3, 15:21, 51:12, 51:13, 52:14  
 school - 32:12, 32:13  
 scope - 5:13, 10:10, 15:4, 15:22, 15:25, 16:3, 21:23, 27:19, 47:5  
 scrutiny - 14:25, 23:3, 29:25, 30:10, 33:19, 45:5, 45:14, 45:20, 45:25  
 second - 27:1, 34:20  
 Second - 6:5, 32:16, 39:25, 40:9, 43:5, 43:14  
 secular - 15:6  
 security - 29:22  
 see - 10:8, 20:7, 20:22, 24:18, 24:23, 29:17, 37:2, 37:18, 37:20, 51:16  
 seek - 9:23, 17:18, 26:25, 32:7, 33:4  
 seeking - 3:16, 14:16, 14:20, 17:16, 19:5, 19:16, 19:19, 33:6, 42:25, 44:5, 45:7  
 seeks - 16:11  
 seep - 27:7  
 sense - 20:3, 20:6, 31:16, 50:18, 52:11  
 sensitive - 6:12, 7:13, 26:13, 26:15, 27:13  
 sensitivity - 10:4  
 sent - 15:14, 21:2, 24:10  
 September - 3:5, 3:11, 15:14, 16:13, 17:13, 21:20, 28:10, 42:19  
 serve - 46:3, 46:4, 49:11  
 served - 52:12  
 Services - 8:14  
 set - 3:13, 8:2, 12:6, 16:15, 20:12, 51:13  
 sets - 16:7, 43:15, 51:12  
 setting - 31:3  
 several - 9:17  
 Shamsi - 1:14, 2:2, 2:3, 2:7, 2:14, 2:22, 2:24, 14:15, 14:19, 16:5, 21:9, 21:13, 21:16, 21:18, 22:24, 23:20, 24:5, 24:15, 25:24, 27:5, 27:10, 30:16, 31:16, 35:3, 43:12, 43:14, 46:24, 47:11, 47:13, 51:10, 52:9  
 shape - 12:10  
 shifts - 45:12  
 short - 25:7  
 shorthand - 5:21  
 show - 7:8, 7:23, 12:24, 14:11, 14:21, 15:15, 16:6, 16:16, 17:4, 17:18, 17:20, 17:23, 18:9, 18:11, 21:22, 23:4, 23:10, 27:7, 27:10, 28:2, 28:4, 31:21, 33:17, 33:23, 37:7, 46:3, 46:8, 47:18, 49:12, 51:11, 51:24, 52:6, 52:7, 52:9  
 showed - 7:4  
 showing - 8:4, 16:25, 19:2, 32:1  
 shown - 45:10, 50:4  
 shows - 24:9, 49:8  
 sides - 2:1, 26:25, 46:21  
 significant - 10:8, 19:5  
 similar - 18:21, 30:16  
 similarly - 28:20, 29:24, 30:14, 31:1  
 similarly-situated - 28:20  
 simply - 26:4, 27:11, 34:3, 49:13  
 simultaneous - 11:5  
 single - 10:16, 26:10, 38:16  
 singled - 16:24, 23:2, 28:6, 31:17  
 singling - 14:23, 32:13  
 sinister - 48:14  
 sitting - 46:20  
 situated - 28:20, 29:24, 31:1  
 situation - 29:14  
 six - 4:6, 6:20, 7:5, 7:17, 7:20, 8:1, 8:18, 12:14, 12:20, 12:21, 13:3, 13:19, 14:3, 14:7, 14:8, 14:12, 22:21, 34:1, 34:2, 35:15, 35:19, 36:3, 39:19, 40:15, 40:17, 41:3  
 sole - 50:7  
 solely - 6:25, 8:1, 8:25, 19:5, 31:18,

32:14, 34:4, 38:1, 38:20, 39:3, 45:24, 50:2  
 Solely - 47:21  
 someone - 18:16  
 sometime - 6:6  
 sort - 29:8, 30:7, 39:24, 44:24  
 sought - 10:5, 16:12, 33:5, 39:15, 52:9  
 sounds - 5:3  
 sources - 40:4  
 Southern - 8:13, 8:21, 9:2, 9:21, 39:14, 39:20  
 Special - 8:14  
 specific - 9:4, 9:8, 13:7, 22:16, 22:22, 24:20, 27:11, 27:22  
 specifically - 5:17, 5:24, 21:24, 22:2, 35:14  
 Specifically - 6:23  
 speech - 15:10, 17:11, 31:19  
 spoken - 41:4, 41:7, 41:15  
 St - 18:17, 18:18, 30:3, 30:7, 30:9, 30:12, 32:4, 47:6  
 stage - 27:2, 34:12, 44:5  
 standard - 43:15, 45:14, 45:20  
 standards - 19:14  
 standing - 3:9, 20:6  
 start - 7:8, 7:14, 7:16, 11:4, 12:9, 12:13, 48:23, 49:3  
 startling - 17:2, 51:9  
 state - 2:15  
 statement - 4:20, 41:10, 49:25  
 States - 1:1, 1:6, 1:12  
 statistically - 33:17  
 statistics - 19:19, 32:7  
 status - 51:6  
 stenography - 1:24  
 step - 13:20, 14:20  
 stigmatizing - 19:1  
 still - 4:19, 33:19, 37:14, 37:18, 50:20  
 stop - 8:24, 23:6, 25:2  
 straight - 32:19  
 strength - 16:22  
 strict - 45:14, 45:19, 45:25  
 strong - 9:25  
 strongly - 7:23  
 struggling - 30:1  
 subject - 6:13, 44:8, 44:22  
 subjected - 18:8, 33:19, 45:4  
 subjective - 39:4  
 submission - 5:1, 51:1  
 submissions - 3:19  
 submitted - 7:2, 42:20  
 substance - 32:8  
 substantial - 35:17, 35:19, 35:20  
 substantially - 45:12, 46:18  
 substantiation - 17:22  
 successful - 49:7, 49:8  
 suffered - 6:4, 6:20, 33:10, 40:15  
 suggest - 9:16, 46:2  
 suggested - 43:10, 49:6  
 suggesting - 10:7, 10:13, 46:14  
 suggestion - 46:10  
 summary - 7:22, 13:21, 26:22, 28:9, 28:23  
 support - 8:9, 18:10, 28:2, 48:22  
 supreme - 48:7, 48:15  
 surveil - 24:11, 48:6  
 surveillance - 5:20, 6:24, 7:5, 9:7, 9:12, 9:19, 10:6, 10:20, 11:1, 11:6, 11:11, 11:14, 11:22, 11:24, 12:11, 13:8, 16:13, 16:19, 16:25, 17:9, 18:7, 18:12, 23:23, 29:3, 29:8, 30:18, 30:20, 31:18, 32:11, 32:22, 32:23, 36:7, 36:14, 43:24, 44:23, 48:3, 48:17  
 surveilled - 6:22, 26:1, 30:15, 30:22, 31:4, 33:18, 34:4, 36:4  
 surveilling - 48:13  
 surveils - 12:2  
 suspect - 32:17, 32:20, 45:16  
 suspects - 18:17

suspicion - 11:14, 17:11, 22:9, 32:23, 35:6, 41:16, 42:1, 46:23, 47:4  
 suspicionless - 32:22  
 suspicious - 30:5, 30:9

---

**T**


---

table - 50:9  
 tailor - 51:17  
 tailored - 45:20  
 tangentially - 36:22  
 taqwa - 21:3, 24:22, 25:5, 25:8, 32:6, 36:21  
 targeted - 16:9, 18:24, 19:23, 28:6, 32:25  
 targets - 22:11  
 task - 42:13  
 tasked - 38:16  
 Tatum - 48:8  
 techniques - 13:9, 19:17, 21:12  
 tend - 26:8  
 term - 11:23  
 terms - 4:13, 4:16, 4:17, 14:16, 36:14, 44:10, 50:21  
 terrible - 44:21  
 terrorism - 6:11, 18:15, 24:21  
 terrorist - 24:7, 30:6, 42:16  
 themselves - 9:18  
 theory - 29:13, 44:11, 44:12  
 therefore - 30:5, 41:16  
 thinks - 30:5  
 thousands - 38:6  
 threat - 24:22, 42:16, 42:18  
 threats - 42:21  
 three - 14:21, 15:7, 18:10  
 threshold - 48:6  
 throughout - 5:21  
 throw - 11:22  
 timing - 16:2  
 tip - 11:5  
 today - 2:25, 19:2, 46:20  
 tomorrow - 51:19  
 took - 14:11, 29:8, 39:24  
 Toomey - 1:15  
 top - 24:6  
 topic - 4:7  
 touch - 38:7  
 touched - 36:22  
 towards - 6:24, 40:21  
 training - 29:22  
 Transcript - 1:11  
 transcript - 1:24, 50:12  
 treat - 29:24, 30:6  
 treated - 18:19, 27:6, 27:10, 28:20, 28:22, 28:25, 32:5, 34:2  
 treatment - 33:9  
 tried - 30:17  
 trigger - 40:9  
 trouble - 22:6, 23:7  
 troubled - 17:14  
 true - 13:12, 48:13  
 trying - 5:12, 28:8, 30:23, 31:11, 32:9, 33:14, 38:1, 38:11, 38:18, 38:22, 44:4, 47:19, 51:13  
 tune - 33:14  
 turn - 4:20, 10:14, 12:16, 14:1, 14:15, 41:5  
 turned - 40:13  
 turns - 22:7, 42:9  
 twist - 50:3  
 Two - 15:1, 48:12  
 two - 8:12, 9:3, 21:9, 24:13, 34:22, 37:10, 40:19, 43:11, 48:13, 49:16  
 type - 6:12, 7:15, 9:21, 13:3, 38:22, 39:15, 39:17, 40:7, 40:10, 40:12  
 types - 37:22, 39:9, 39:19, 40:4

---

**U**


---

Ultimately - 33:8



ultimately - 33:22  
 under - 9:7, 18:20, 19:15, 52:4  
 undercover - 17:10, 20:13, 21:2,  
 24:10  
 undercovers - 40:5  
 underlying - 4:5  
 undertake - 36:16  
 undertaken - 11:8, 14:6  
 undisputed - 9:18  
 unequal - 33:9  
 Unfortunately - 31:3  
 Union - 2:3, 2:8, 8:19, 39:14, 39:23  
 unique - 22:9, 22:10, 29:12, 29:14,  
 29:15, 29:16, 29:18  
 United - 1:1, 1:6, 1:12  
 units - 18:15  
 universe - 28:7, 29:17, 29:19  
 unlawful - 12:5, 21:7, 23:2  
 unlawfully - 26:1, 36:4  
 unless - 7:8, 28:24  
 Unless - 2:14  
 unnecessary - 20:9  
 unrelated - 15:8  
 unwitting - 18:2, 28:3  
 unworkable - 38:25, 44:6  
 up - 2:23, 25:4, 31:3, 33:12, 34:16,  
 39:24, 43:22  
 urge - 7:16, 49:13  
 urgency - 8:6, 9:17, 9:25  
 uses - 44:15

---

**V**

---

vacuum - 42:23  
 various - 42:21  
 versus - 19:22, 49:22  
 view - 11:9, 16:15, 44:19, 44:22  
 viewed - 45:21  
 violation - 3:9, 6:4, 6:21, 20:5, 40:15  
 violations - 4:6, 17:8  
 violence - 42:18, 42:23, 44:17, 44:18  
 visit - 25:5  
 visited - 25:19, 41:4  
 vs - 8:14

---

**W**

---

walk - 30:4, 36:2  
 walked - 36:23  
 walking - 30:7, 30:11, 30:12  
 warranted - 8:4  
 ways - 19:5, 44:4  
 week - 9:2  
 whole - 10:23, 19:6, 37:14, 48:25,  
 49:12  
 wholly - 34:9  
 wide - 10:5  
 wide-ranging - 10:5  
 widespread - 6:8  
 willing - 14:17, 21:1  
 words - 21:1, 22:14, 29:25, 31:8  
 workplace - 28:17, 28:18  
 worship - 18:5  
 worthy - 49:21  
 writ - 39:24  
 wrongdoing - 17:12  
 wrongful - 20:5  
 wrongs - 44:21  
 wrote - 41:22

---

**Y**

---

years - 8:12, 9:3, 9:17, 40:14, 48:9,  
 48:18  
 York - 1:1, 1:6, 1:7, 1:23, 2:8, 2:18,  
 2:20, 7:10, 8:13, 8:19, 24:6, 28:22,  
 35:24, 35:25, 37:4, 37:6, 37:7, 38:5,  
 39:8, 39:13, 39:22, 40:1, 40:2, 42:17,  
 43:2, 43:14  
 yourself - 30:10

# Exhibit B



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

|                           |   |                            |
|---------------------------|---|----------------------------|
| HAMID RAZA, et al.,       | * | Case No. 13-CV-03448 (PKC) |
|                           | * |                            |
| Plaintiffs,               | * | Brooklyn, New York         |
|                           | * | September 12, 2013         |
| v.                        | * |                            |
|                           | * |                            |
| CITY OF NEW YORK, et al., | * |                            |
|                           | * |                            |
| Defendants.               | * |                            |
|                           | * |                            |
| * * * * *                 |   |                            |

TRANSCRIPT OF CIVIL CAUSE FOR INITIAL CONFERENCE  
BEFORE THE HONORABLE JOAN M. AZRACK  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

|                     |   |
|---------------------|---|
| For the Plaintiffs: | HINA SHAMSI, ESQ.<br>American Civil Liberties Union<br>125 Broad Street<br>19th floor<br>New York, NY 10004 |
|---------------------|---|

|                     |  |
|---------------------|--|
| For the Defendants: | PETER G. FARRELL, ESQ.<br>ALEXIS L. LEIST, ESQ.<br>New York City Law Department<br>Special Federal Litigation<br>Division<br>100 Church Street<br>New York, NY 10007 |
|---------------------|--|

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

**Fiore Reporting and Transcription Service, Inc.**  
4 Research Drive, Suite 402  
Shelton, Connecticut 06484 (203)929-9992

1 (Proceedings commenced at 1:40 p.m.)

2 THE COURT: Good afternoon. Please be seated.

3 THE CLERK: Civil cause for initial conference in  
4 13-CV-3448, Raza vs. City of New York.

5 Counsel, would you please state your appearances for  
6 the record.

7 MS. SHAMSI: Good afternoon, Your Honor. Hina  
8 Shamsi of the ACLU for plaintiffs. I'm here with my co-  
9 counsel from the American Civil Liberties Union, the New York  
10 Civil Liberties Union and the CLEAR Project of CUNY Law  
11 School.

12 We also have some of our clients who were able to  
13 take time off work in the courtroom today.

14 THE COURT: Great. Thank you for coming.

15 MR. FARRELL: Your Honor, Peter Farrell from the New  
16 York City Law Department, representing defendants. I'm joined  
17 by my co-counsel, Alexis Leist.

18 THE COURT: Great. Thank you. All right.

19 This is our initial conference and at the initial  
20 conference we normally discuss a discovery schedule. And  
21 normally at the initial conference counsel has conferred with  
22 each other and come up with a plan.

23 I guess my question to both of you is have you  
24 conferred and does the plan really depend on my ruling on the  
25 bifurcation? So the first question. Did you confer?

1 MS. SHAMSI: If I may?

2 THE COURT: Yes.

3 MS. SHAMSI: We reached out to defendant's counsel  
4 on August 22nd asking to confer -- asking how they planned to  
5 proceed. It was to no avail. We got no response.

6 I reached out again the Friday before the answer was  
7 due to say you know, we should talk through Rule 16 issues, if  
8 that's how you plan to proceed, but we were told that there  
9 was really nothing to talk about. So we haven't been able to  
10 confer.

11 And, Your Honor, if I may, we sent to you a letter,  
12 and I know that you disfavor letters, but --

13 THE COURT: No, no. I was actually -- if you had  
14 called I would have said yes, send me a letter on these  
15 issues. So you're fine. Yes.

16 MS. SHAMSI: And we appreciate that.

17 So we asked you to reject on the merits defendant's  
18 bifurcation --

19 THE COURT: Well, we'll get to that in a minute.  
20 But --

21 MS. SHAMSI: If I may also, that you may have seen -  
22 - we sent a copy to your chambers. We have asked Judge Chen  
23 so set a date for an order to show cause for expedited  
24 discovery in support of a preliminary injunction here.

25 So what we would ask you to do, and perhaps we can

1 get to this, is to reject the bifurcation motion, for reasons  
2 that I'd be happy to discuss on the merits, and to hold these  
3 proceedings in abeyance, pending the outcome of the proceeding  
4 before Judge Chen.

5 THE COURT: Okay. Well, are you asking me as a  
6 procedural matter not to get to the bifurcation motion pending  
7 your application to Judge Chen?

8 MS. SHAMSI: Well, actually, we're asking him to  
9 reject the bifurcation motion and hold anything else in  
10 abeyance pending Judge Chen's decision, because I think we'll  
11 probably be coming back to you on discovery issues, but we  
12 will be before Judge Chen on that order to show cause, I  
13 expect.

14 THE COURT: Okay. Mr. Farrell. Yes.

15 MR. FARRELL: Your Honor --

16 THE COURT: You don't like to confer?

17 MR. FARRELL: I'm sorry?

18 THE COURT: You don't like to confer?

19 MR. FARRELL: No, I like to confer, Your Honor.

20 Our answer -- defendant's answer was due Monday,  
21 which is when we filed it, and plaintiff's counsel had called  
22 me on the dates that I believe that she said in August.

23 And at that time we hadn't filed our answer yet. We  
24 hadn't put our position in, and I knew we were going to be  
25 articulating that in its entirety on the 9th, and also putting



1 our position forward on what discovery should be.

2 So what I said to counsel was that once defendants  
3 had submitted that they should look at that. That would  
4 explain our position in full and then we could have a  
5 discussion about what we would -- how we would want to proceed  
6 with discovery.

7 And then once we did that, the next thing that I got  
8 back from counsel was their letter to Judge Chen, with this  
9 knee jerk reaction of trying to request preliminary injunction  
10 for the first time. That wasn't stated in the complaint,  
11 which was filed several months ago and now seeking application  
12 for expedited discovery.

13 THE COURT: All right. Well, let me ask you this.

14 Irrespective of what Judge Chen does with your  
15 application, aren't you going to have to come up with a  
16 confidentiality stipulation?

17 MR. FARRELL: Yes, Your Honor.

18 MS. SHAMSI: I expect so, yes.

19 THE COURT: So you could at least confer on that.  
20 And that -- you're going to have to do that no matter where  
21 you go from here, correct?

22 MS. SHAMSI: Yes, we're happy to do that, Your  
23 Honor.

24 THE COURT: So I'm going to expect that you're going  
25 to do that. How long do you think it will take you to come up

1 with one? Two weeks?

2 MS. SHAMSI: I think that would be fair, but  
3 hopefully before then, Your Honor, because we wanted to,  
4 obviously, move forward expeditiously.

5 THE COURT: Right. So in terms of your application  
6 for the bifurcation of discovery, do you want to add anything  
7 to your letter?

8 MR. FARRELL: Your Honor, I would -- in addition to  
9 what the -- without reiterating everything that's in the  
10 letter, I'd be happy to address any of those points if Your  
11 Honor would like me to expand on it further.

12 But in addition to that, plaintiff's application or  
13 letter to Judge Chen seeking to bring a motion for a  
14 preliminary injunction and for expedited discovery,  
15 essentially, the discovery that they're asking for before  
16 Judge Chen is the same discovery we're saying should proceed  
17 as a matter of course before Your Honor with the bifurcation.

18 What they're asking for before Judge Chen, pursuant  
19 to the letter that they just submitted today, is for -- to  
20 segregate records, essentially, related to the plaintiffs and  
21 then part two is to seek to enjoin the City from conducting  
22 unlawful surveillance.

23 Obviously, point two is a matter of law. I don't  
24 know why you would need an injunction for that.

25 But point one is they want to proceed with this --

1 what they call expedited discovery with respect to the  
2 plaintiffs, which is essentially -- it mirrors our request,  
3 which is that in this case the most prudent course is to  
4 address the underlying claims of these six plaintiffs.

5 It's black letter law that they have to show a  
6 constitutional injury themselves before they get to the policy  
7 question.

8 THE COURT: So you're agreeing to segregate  
9 documents, written discovery with respect to the individual  
10 plaintiffs.

11 MR. FARRELL: When you say segregate -- I mean, I  
12 think they're looking for an order that the police department  
13 needs to do something internally.

14 Defendant's position is we want to proceed with  
15 discovery, make discovery available under the appropriate  
16 confidentiality terms, regarding the activities of the  
17 defendants related to these six plaintiffs.

18 THE COURT: Okay.

19 MS. SHAMSI: Your Honor, if I may respond?

20 MR. FARRELL: And, Your Honor, I'll add that -- it  
21 will be substantial discovery.

22 THE COURT: Yes.

23 MR. FARRELL: This is not --

24 THE COURT: I understand that. Thank you.

25 Yes. Ms. Shamsi, yes.

1 MS. SHAMSI: Your Honor, I just want to clarify what  
2 the scope of the bifurcation request is as opposed to what we  
3 are seeking and would be seeking in a preliminary injunction.

4 So as I understand it, what defendants are seeking  
5 might work in the ordinary context, where you seek to resolve  
6 issues of standing and liability before moving onto the *Monell*  
7 issues.

8 That's not this case. Here there is no question of  
9 standing, giving the expungement claim that plaintiffs have  
10 with respect to the records and Second Circuit has explicitly  
11 said in *Toba vs. Chertoff* (ph) that standing exists when  
12 there is an expungement claim. We've independently met all of  
13 the other standing requirements.

14 I think what's at the heart of this is the -- this  
15 is a lawsuit that challenges the NYPD's discriminatory and  
16 suspicionist surveillance of Muslims based on religion and  
17 not based on any evidence of wrongdoing.

18 What our liability claims are are inextricably  
19 linked to the *Monell* claims. Discovery would be unworkable if  
20 you seek to segregate one from the other. Not only would it be  
21 unworkable, it would be unfair.

22 That's because the plaintiff's constitutional claims  
23 are that the NYPD's policy and practice was motivated by  
24 discriminatory purpose and intent in violation of the Equal  
25 Protection clause and excessive engagement and other tests in



1 violation of the religion clauses. It's simply not necessary,  
2 workable, practical or logical to bifurcate in that way.

3 THE COURT: But if you want to respond to the  
4 specific information that the defendant cited in their letter  
5 with respect to the plaintiffs, I mean, it's fairly  
6 particularized, and I mean, just hypothetically, even assuming  
7 the police department had an unlawful program of suspicion  
8 with surveillance of Muslims, isn't that irrelevant if the  
9 City has reasonable suspicion to investigate these particular  
10 plaintiffs, based on what is in this letter?

11 MS. SHAMSI: Not at all, Your Honor, and there are a  
12 couple of reasons why.

13 First of all, that letter is filled with  
14 inflammatory and stigmatizing innuendo and guilt by the most  
15 attenuated and even unwitting association. It just further  
16 confirms the experiences and fears of our clients.

17 That's why we're seeking a preliminary injunction  
18 that the police force is singling them out by using their  
19 religious speech, practices, unwitting associations as a proxy  
20 for criminal suspicion. Most important --

21 THE COURT: Is it your position that none of the  
22 facts recounted -- I guess you would just argue they're not  
23 facts -- recounted, could constitute reasonable suspicion to  
24 investigate these plaintiffs, or legitimate investigative  
25 purpose?

1 MS. SHAMSI: Your Honor, I think two responses to  
2 that.

3 One is that even if we were to take some of those  
4 facts as true, the defendants went far beyond what might be  
5 permissible in a genuine law enforcement investigation by  
6 subjecting our client's mosques to wholesale scrutiny of  
7 innocent congregants, innocent religious speech and treating  
8 them as terrorism enterprises in and of themselves.

9 Whatever legitimate purpose might have been is not  
10 shown by defendant's September 10th inflammatory letter and it  
11 merely reconfirms what is at the heart of our lawsuit, which  
12 is that this was a program that singled out our clients not on  
13 the basis of actual wrongdoing on their part at all. Far from  
14 it. But on their religious beliefs, innuendo and suspicion.

15 THE COURT: Okay. Thank you.

16 MR. FARRELL: Your Honor, you hit the part right on  
17 the head. They're making claims of suspicionless surveillance  
18 for their six clients.

19 The defendants took time to put before the court and  
20 to tell plaintiffs what the information was -- some of the  
21 information was that would support a legitimate law  
22 enforcement purpose of any of the activities that the police  
23 department did with respect to these six plaintiffs.

24 And their claim that there's a policy of  
25 suspicionless surveillance doesn't hold up. You have to start

1 with their six plaintiffs.

2 And when we're all prepared to move forward on the  
3 facts related to those plaintiffs and if it turns out, as we  
4 believe it will, that there is an adequate basis, a legitimate  
5 law enforcement purpose for what the police department  
6 activities are with respect to these six plaintiffs, then  
7 that's it. The case is over.

8 And that's what we're proposing. We think it's the  
9 reasonable way to go. We'd be prepared to make a summary  
10 judgment motion once that discovery is completed and address  
11 the issues.

12 And there's no prejudice to plaintiffs in this  
13 instance. If it turns out that they are successful and show  
14 that with respect to these six plaintiffs there wasn't a  
15 legitimate law enforcement purpose for being looked at, they  
16 can continue and then move onto their *Monell* discovery and  
17 their policy claim.

18 THE COURT: What is the prejudice of what -- if we  
19 bifurcate?

20 MS. SHAMSI: Your Honor, the prejudice is one that  
21 goes to the very heart of our case. We would be crippled in  
22 our ability to show that the actions of defendants had a  
23 discriminatory purpose, an intent in violation of the Equal  
24 Protection Clause, which is one of our three constitutional  
25 claims.

1           And Your Honor, I would just point out to you there  
2           is a great deal of public information now that shows the  
3           extent to which this was a suspicionless surveillance program,  
4           based on using religion as a proxy for criminal suspicion, and  
5           to artificially permit the defendants to use discovery as a  
6           sword and at the same time as a shield from the very basis and  
7           elements of the constitutional violations that we have alleged  
8           would be improper and it is unnecessary at this stage.

9           THE COURT: But is it your position that any law  
10          enforcement focus on your individual plaintiffs came simply as  
11          a result of their religious affiliation?

12          MS. SHAMSI: It is, Your Honor. And our complaint  
13          extensively lays out the reasons why.

14          THE COURT: No, I read your complaint, but I -- so  
15          you say it's purely because of their religious affiliation  
16          that New York City Police Department focused on them. The  
17          locations and the people.

18          MS. SHAMSI: Yes. And Your Honor if I may try and  
19          make this a little bit concrete without sort of adjudicating  
20          some of the defendant's claims in a very prejudicial  
21          environment right now.

22          You know, so if you take the idea that, for example,  
23          a suspected criminal regularly goes to or is part of the  
24          administration of St. Patrick's Cathedral.

25          That doesn't mean that St. Patrick's Cathedral can



1 be turned into a terrorism enterprise by which wholesale  
2 surveillance can be conducted of the religious speech that is  
3 there and of the congregants that are there.

4 That is exactly what the defendants have done with  
5 respect to the Muslim houses of worship who are our clients.  
6 The Muslim scholars and the contents of their lectures --

7 THE COURT: But you have -- we have five plaintiffs.

8 MS. SHAMSI: That's right, Your Honor.

9 THE COURT: Okay. Thank you. All right. I'll  
10 reserve decision. Thank you. But I would ask you to work on  
11 the protective order in two weeks and hopefully you'll have an  
12 order out by then.

13 Thank you.

14 (Proceedings concluded at 1:54 p.m.)

15 I, CHRISTINE FIORE, Certified Electronic Court Reporter  
16 and Transcriber and court-approved transcriber, certify that  
17 the foregoing is a correct transcript from the official  
18 electronic sound recording of the proceedings in the above-  
19 entitled matter.

20   
21

22 \_\_\_\_\_ September 15, 2013

23 Christine Fiore, CERT  
24  
25