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

11 JOHN DOE, *et al.*, on behalf of themselves and
others similarly situated,

12 Plaintiffs,

13 vs.

14 KAMALA D. HARRIS, *et al.*,

15 Defendants.
16

No.: C 12-5713 TEH

**DECLARATION OF SHARMIN BOCK
IN SUPPORT OF INTERVENERS'
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Hearing:

Date: December 17, 2012
Time: 10:00 a.m.
Crtrm.: 12

(The Honorable Thelton E. Henderson)

1 **DECLARATION OF SHARMIN BOCK**

2 I, Sharmin Bock, declare under penalty of perjury as follows:

3 1. I am an Assistant District Attorney, a senior prosecutor, for Alameda County.

4 2. I attended Occidental College, graduating Cum Laude with a degree in
5 Philosophy and Political Theory in 1984, and I obtained my law degree from Georgetown University
6 Law Center where I graduated Cum Laude in 1988.

7 3. I served as a Law Clerk for the Honorable D. Lowell Jensen in the United States
8 District Court of the Northern District of California, before joining the Alameda County District
9 Attorney's Office as an Assistant District Attorney in 1989.

10 4. Over the course of my 23-year career as a prosecutor, I have developed a
11 specialty in cases involving sexual assault and human exploitation and trafficking ("HEAT"). I started
12 prosecuting misdemeanor child molestation cases in 1989 and felony sexual assault cases in 1993. In
13 2008, I was tapped to lead the Unsolved Crimes/Cold Case Unit where I worked with law enforcement
14 to investigate and solve, with the use of forensic evidence, old and serious cases, often involving brutal
15 sexual assaults and murders by suspects with extensive criminal records or a history of committing
16 serial crimes. As the Assistant D.A. in charge of Special Operations, a position I held through 2011, I
17 was responsible for overseeing the Sexual Assault Unit, the Sexually Violent Predator Unit, the
18 Unsolved Crimes Unit, and the County-wide taskforce responsible for monitoring registered sex
19 offenders. As a result of the expertise I developed in prosecuting serious sexual assault cases, I
20 developed extensive familiarity with repeat offenders and sex offenders. I have conducted countless
21 trainings in the course of my career regarding the investigation, charging, and sentencing of sexual
22 assault cases.

23 5. In 2005, I helped create the first of its kind HEAT Unit in the U.S. dedicated to
24 rescuing victims and holding traffickers accountable. When it first began, I was the only prosecutor in
25 the HEAT unit and prosecuted the first human trafficking case under California's human trafficking
26 law. The HEAT Unit is now staffed by 14 employees, including prosecutors, investigators, and a
27 victim-witness advocate. I was the HEAT Unit supervisor through 2011. HEAT Unit statistics from
28 January 1, 2006, the effective date of California's human trafficking law, through October 31, 2012,

1 document that the HEAT Unit charged 276, and convicted 178 defendants, of felony human trafficking
2 related charges, with 49 cases pending, nine in warrant status, 30 dismissed, one not guilty, and eight
3 probation violations. In the vast majority of these cases, victims were either recruited and/or exploited
4 online, and offenders utilized legitimate and illegitimate websites to further their victimization.

5 6. I am a nationally recognized human trafficking expert. As a result of my work
6 experience, I have been asked to educate state and federal law enforcement, advocates, policy makers,
7 and legislators across the country about the reality, impact, and effective curtailment of HEAT in
8 America. Most recently, I helped organize, and lectured at, a federally-funded, national HEAT
9 conference with more than 400 attendees from the law enforcement and advocacy community. I have
10 been invited to testify before legislators in Georgia and Hawaii to help improve their laws, and at a
11 U.S. Senate hearing in Washington, D.C., to inform federal legislative efforts. I have conducted
12 numerous trainings throughout the state and online, from seminars to webinars, for organizations
13 ranging from law enforcement to the California District Attorneys Association to the California State
14 Bar.

15 7. In 2009, I was recognized for my work in the area of human trafficking as the
16 recipient of the Fay Stender Award, given by the California Women Lawyers, to the woman attorney
17 in the State of California “who has demonstrated her commitment to under represented or
18 disadvantaged people.”

19 8. Because the Internet has made human trafficking increasingly more virtual,
20 invisible, and difficult to prosecute, I helped create HEAT Watch, a multi-agency response to combat
21 HEAT by engaging all partners from police and prosecutors to advocates and community members.
22 Because the Internet has also fueled the transitory nature of HEAT and rendered geographical
23 boundaries meaningless, I helped create the Bay Area HEAT Coalition, a federally-funded, multi-
24 disciplinary, and collaborative response dedicated to combatting HEAT regionally with local, state,
25 and federal partners. I have also worked in the field with police to advise and guide HEAT
26 investigations, occurring locally and also throughout multiple counties.

27 9. As a result of working in the field for 23 years, I have a deep understanding of
28 how sexual assault and HEAT crimes occur and a full appreciation for how the Internet has changed

1 this dynamic and transformed the reality of how these crimes occur in the Internet era. My close
2 working relationship with law enforcement, advising and guiding sexual assault and HEAT
3 investigations, has enhanced my understanding of the ways in which law enforcement could use
4 Internet identifiers and information regarding offenders' Internet service providers to investigate
5 known sex offenders, to solve online sex crimes and human trafficking cases, and when possible, spare
6 other possible victims.

7 10. By requiring registered sex offenders to provide to law enforcement information
8 regarding their Internet identifiers and Internet service providers, Proposition 35 brings California into
9 the modern era. Before the advent of the Internet, sexual predators would prey on children in public
10 spaces, such as parks and schools. Today, a sexual predator need not even leave his house. For
11 example, I prosecuted a case where twin 13-year-old girls were initially recruited on a social
12 networking site, sold online, and eventually rescued by the Oakland Police Department after being
13 ordered online by a police officer posing as a customer at the behest of the girls' mother. Ultimately,
14 we were only able to apprehend the intermediary who brought the girls to the motel, not the trafficker
15 who recruited and sold the girls online. If Proposition 35 had been in effect, as an investigative tool,
16 we could have compared the trafficker's Internet identifier to the Internet identifiers of registered sex
17 offenders in the area in an effort to apprehend the trafficker.

18 11. Similarly, if the information required by Proposition 35 had been available, it
19 could have provided law enforcement with the tools needed to identify someone operating like the
20 "Craigslist Rapist." In that case, an Oregon man responded to advertisements placed on the Craigslist
21 "Casual Encounters" forum to meet four different women whom he later raped and assaulted. One of
22 the victims was a 15-year-old girl whose pimp had been trafficking her through Craigslist. Had the
23 offender been a Penal Code section 290 registrant and his Internet identifiers been available, this is the
24 first place law enforcement could have turned to catch him.

25 12. Internet identifiers and Internet service providers represent the cyber parallel of
26 name, alias, and home address required by existing law. For example, if there is a report of a rape in a
27 particular neighborhood, one of the first steps an investigator takes is to look at the listings of
28 registered sex offenders to determine whether any live or work in or near the neighborhood.

1 Information regarding registrants' Internet identifiers would allow us to use the same investigative
2 techniques in the virtual world. These days, people are seemingly present online far more than they
3 are at home. The extensive use of smart phone technology supports this conclusion.

4 13. The use of the Internet by sexual predators is constantly evolving. At first,
5 predators gravitated toward social networking sites to meet, recruit, and sell victims. Children, for
6 example, were routinely sold on Craigslist. As a result of efforts to curtail the exploitation of certain
7 high profile social networking sites, predators have simply moved elsewhere, such as to online gaming
8 sites, chat rooms, and other legitimate, as well as illegitimate, sites. Like a dam that diverts the flow of
9 water rather than stopping it, these efforts have unfortunately not stopped sex offenders from using the
10 Internet to lure and exploit victims. Instead, sex offenders have become more creative in their effort to
11 locate victims, further challenging law enforcement in their effort to locate predators. The exponential
12 use and growth of the Internet and its use by sex offenders would make it not only difficult, but
13 unwise, to craft a definition of "Internet identifier" narrower than that found in Proposition 35.

14 14. The use of technology is perhaps the single greatest factor contributing to the
15 proliferation of HEAT. The Internet has taken the hunt off the street and put it into the cyberworld,
16 which is shielded from plain view and thus invisible to law enforcement. Now with the mere push of a
17 button on a laptop or cell phone and with the aid of uber marketing on legitimate and illegitimate
18 online forums, traffickers can recruit and sell countless more children all over the country from the
19 comfort of their own living rooms. Because of the Internet, buyers also do not have to leave their
20 homes to locate and purchase children for sex. From the falsely perceived safety of their homes,
21 schools, libraries, youth centers, and smart phones, children are online and readily available to
22 traffickers and buyers. If law enforcement does not know who these offenders are in the cyberworld,
23 we cannot effectively investigate online crimes like human trafficking and other sexual assault crimes.
24 Because there are so many vulnerable people online, ranging from young children to unsuspecting
25 adults, the Internet has made victims more accessible to predators and thereby increased the magnitude
26 of the challenge law enforcement faces in keeping those who are at risk safe from registered sex
27 offenders as well as first-time predators.

28 15. It bears noting that the registration requirements apply only to individuals who

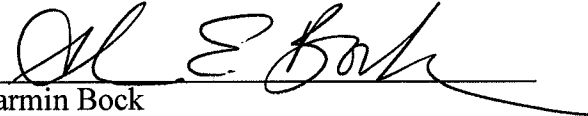
1 have already been convicted and who have either consented to the requirements of Penal Code
2 section 290 or been subjected to these requirements by a court of law. Because sex offenders present a
3 risk to society, existing law requires that they provide the law enforcement agencies with which they
4 are registered their name, address, a current photograph, and even a sample of their DNA. With this
5 information, law enforcement can monitor sex offenders' physical whereabouts. We can, and
6 sometimes do, watch registered sex offenders as they walk from their house to a local park, but this
7 information does not allow law enforcement to track their presence in the virtual world, where they are
8 not only invisible, but also anonymous, and therefore near impossible to monitor. By requiring sex
9 offenders to provide their Internet identifiers and their Internet service providers, Proposition 35
10 simply gives law enforcement the tool which they lack, but desperately need, to navigate the virtual
11 realm where predators can stalk unsuspecting victims with anonymity and therefore impunity.

12 16. Proposition 35 does not prohibit a registered sex offender from using the
13 Internet anonymously and for a lawful purpose. It does not regulate the content of any communication
14 and only permits law enforcement to view what is already accessible to the public. Because
15 Proposition 35 does not require the disclosure of passwords, law enforcement cannot access private
16 communications, such as a registered sex offender's e-mail account, without a further showing.
17 Because the cyber-realm is so vast and uncharted, law enforcement cannot investigate and solve
18 online sex crimes, where mere minutes can make a difference in saving lives, without the ability to
19 zero in on known predators, which the challenged provisions of Proposition 35 provide.

20 17. Although there is no way of knowing which sex offenders may re-offend, my
21 experience prosecuting sexual assault cases confirms that many if not most have previously committed
22 sex offenses. Evidence Code section 1108 recognizes that sex offenders have a predisposition and
23 propensity to re-offend. Because Evidence Code section 1108 permits an inference of guilt based on
24 evidence of prior sex offenses, it would defy logic and common sense to deprive law enforcement of
25 the ability to efficiently pursue leads and effectively locate known sex offenders online through the use
26 of their Internet identifiers and service providers. To limit law enforcement to just a name and home
27 address would result in a 21st Century game of hide-and-seek with a very real and unacceptable cost to
28 victims and their families.

1 I declare under penalty of perjury that the foregoing is true and correct. I have firsthand
2 knowledge of the same, and if called upon to do so I could and would testify competently thereto.

3 Executed this 25th day of November, 2012, in San Francisco California.

4 
5 Sharmin Bock

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