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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AMMON BUNDY *et al*,

Defendants.

Case No.: 3:16-CR-00051

**DECLARATION OF AMMON
BUNDY'S COUNSEL IN
SUPPORT OF HIS OBJECTION
TO SIGNED PROTECTIVE
ORDER**

I, Mike Arnold, declare and state that I am one of the attorneys' of record herein for the above-named defendant, and I make this Declaration in support of the Objection to Signed Protective Order filed herewith based on information and belief and my professional opinions, which when set forth herein are based on a reasonable degree of professional certainty.

Protective Order

1. This protective order has hampered our ability to defend Mr. Bundy in a way that ensures he receives a speedy and fair trial.

2. Since the protective order, one of our volunteer paralegals (hereinafter, “VO” to protect anonymity for work-product reasons) on Ammon’s team, whom we have a contract with, has been doing less productive work since receiving discovery. Before we contracted with VO, VO’s public online presence once encouraged people to come forward with vital information due to VO’s sharing of information that VO found online, through tips from others, and through public sources. Now, VO informs us that VO feels chilled by the protective order, afraid to disclose information for fear that if VO interprets the protective order differently than the ASUA’s, or in the event she gets information from public sources that also appears in the discovery, VO will find herself facing a contempt charge. VO now appears less productive in lead generating due to VO’s fears. This was obviously not our intended result when we brought VO onto the team in an official capacity.
3. With a blanket protective order, we are forced, while countless FBI agents work around the clock with virtually unlimited resources, to look into every lead ourselves, without the assistance of a network of thousands of people with information that could continue to contradict the government’s information, as we have already witnessed. Without this resource, in my professional opinion, we cannot defend a case that

the government and the court has deemed “complex” in the way that it needs to be defended and honor a presumed innocent but incarcerated defendant’s speedy trial rights. Complex cases require innovative and complex defense solutions, particularly when our defense is one of actual innocence, free speech, freedom of assembly, and other related defenses that will be disclosed to the court at a later date.

Public Leads

4. Ms. Casey and I have been a public presence since this case began for specific strategic work-product reasons. Because of the nature of this case and the evidence we need to present to defend Ammon Bundy, many leads have come forward that would not otherwise have been known to us due to our public presence. We often receive over 100 leads per day. Because of our public presence, the potential witnesses have grown to trust our discretion and use of information that they are scared to bring forward. We base this assessment on statements from witnesses and our own observations.
5. With the public’s help, we have been able to close out some leads in minutes via social media, text messages, emails, phone calls, and other forms communication, that would have taken days and considerable expense if we had enlisted an investigator to do so.

6. Mr. Bundy's defense is largely crowdfunded and Mr. Bundy considers these sacred funds. If we can avoid the expense of an investigator by asking the "crowd" to help figure something out, then everyone benefits, including the trial timeline. The attached scholarly article (Exhibit A) gives some background on the types of crowdsourcing and the value of crowdsourcing.
7. Another example from our firm tip line: Ammon's legal team received information about a public Facebook profile that allegedly belonged to a government agent. Within minutes of us asking the public to determine if the page was authentic, the page was hastily removed, and we received additional leads regarding what photographs may have been authentic and belonging to potentially what government agencies. We will now use this information to narrowly tailor our investigator's work on the lead at our client's direction, saving wasted time and funds, and ultimately, if appropriate, have a fact-based request for a Facebook subpoena.

Crowdsourcing

8. Crowdsourcing has become a critical tool in defending Ammon due to intense public interest, a group of loyal supporters of these defendants, and non-supporters who often tell us they feel compelled to speak the truth but are afraid of FBI retaliation given the alleged FBI cover-up,

perceived intimidation, and a purported police-state like atmosphere created by the government rather than the protesters. We have had numerous non-protesters tell us that they feared their time in Burns due to the FBI presence, rather than the protest.

9. Based on my review of the scientific literature, news stories, and anecdotes on the benefits of crowdsourcing, it is my professional opinion that for Mr. Bundy to receive effective assistance of counsel and a constitutionally minimally sufficient investigation, crowdsourcing must be employed. The publicity and notoriety of this case is a game changer in the legal world and new techniques must be utilized to keep up with or combat the awesome power of the federal government through citizen action via Crowdsourcing. Governments have been crowdsourcing for years with great results ranging from calls for witnesses to releasing a piece of evidence and asking for the public's help in identifying.
10. In addition to factual leads, crowdsourcing the publicly available information, such as the documents that the government released from the killing of LaVoy Finicum and the public records released by the Governor's office, has generated additional legal and factual theories and leads. We need to be able to do the same for portions of discovery.

11. These crowdsourced tasks are intended to help ensure that Mr. Bundy and the rest of the protestors will receive both a speedy and a fair trial. The government owes him both a speedy *and* a fair trial and they are not mutually exclusive. The fact that the Government may claim that their desire to keep documents secret slows down their production of discovery without a blanket, overly-broad protective order is the Government's problem and not Mr. Bundy's problem. They owe him the right to a speedy and fair trial even if it requires Main Justice to be involved to manage their discovery production issues in a more timely fashion while at the same time evaluating what needs to be proposed to the court as confidential.

Research Volunteers

12. We do not have a team of FBI agents at our disposal, nor do we have unlimited resources. We do, however, have the power of the people, who are willing to donate their time to help defend Ammon and the other political protesters. These people research, follow up on leads, encourage others to come forward by vouching for Ms. Casey, our investigator and me, and have been critical in gathering and using the vast amount of information out there. This information helps us defend

our client and the other defendants who stand shoulder-to-shoulder with Ammon and do not possess unlimited resources.

13. We need to be able to post information to large groups of people and determine its authenticity, as many of the governments assertions in this case have turned out to be potentially untrue, from accusations of threats of harm, to alleged government cover-ups and misconduct of proportions that should be and are disturbing to the public.

14. In fact, one likely major Government witness told Ammon's defense team that statements attributed to him or her by the Government were mischaracterized and at times completely untrue. He or she also told Ammon's team something to the effect that he or she felt pressured, intimidated or threatened by statements made to him or her or by the FBI. This is extremely exculpatory information which we can likely replicate in the future through crowdsourcing with our ability to release select portions of discovery at our discretion based on our process in determining the need for information based on specific portions of discovery that we may or may not redact depending on our professional judgment.

15. I have personally reviewed thousands of Facebook posts regarding this case involving leads as well as purported "threats." Most public threats

appear to be “impotent expressions of frustration” by both the overwhelming number of anti-protestors and the minority that appear to support the protest. I personally have received at least one “threat” regarding something to the effect of having a group of people with guns coming to my rural property, presumably by someone who did not support the protest. I didn’t go to the police or newspaper with it like many likely thin-skinned government officials who have also received purported “threats.” Instead, I deleted it and moved on because I perceived it as some keyboard warrior (i.e., “troll”) blowing off steam, one of the purposes of offensive speech. I refuse to live in a state of fear over words, and, in my opinion, the benefit of a public presence to increase leads for Mr. Bundy’s case is worth the inconvenience of ignoring online trolls, as there has been no credible threat articulated by the Government.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

DATED this 5th day of April, 2016.

By: /s/ Michael Arnold
Michael Arnold, OSB #011873