Case M:06-cv-01791-VRW Document 273 Filed 04/30/2007 Page 1 of 3

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13	MCI Communications Services, Inc.	und
14	UNITED STATES DISTRICT COURT	
15	NORTHERN DISTRICT OF CALIFORNIA	
16	SAN FRANCISCO DIVISION	
17 18	,	MDL NO. 06-1791 VRW
	<u>'</u>	
19	IN RE:	VERIZON'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFFS'
20	NATIONAL SECURITY AGENCY) TELECOMMUNICATIONS)	MASTER CONSOLIDATED COMPLAINT
21	RECORDS LITIGATION)	Hearing Date: June 21, 2007
22	This Document Relates To:	Time: 2:00 p.m. Courtroom: 6 (17th floor)
23	All Actions Against the MCI and Verizon Defendants in the Master MCI)	Judge: Hon. Vaughn R. Walker
24 25	and Verizon Consolidated Complaint,) Dkt. 125	
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NOTICE OF MOTION AND MOTION TO DISMISS

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 21, 2007, at 2:00 p.m., in the United States District Court for the Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco, California, in Courtroom 6 (17th floor), the following Motion To Dismiss filed by Defendants Verizon Communications Inc., Verizon Northwest Inc., Verizon Florida Inc., and MCI Communications Services, Inc. (hereinafter "Defendants") will be heard.

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendants hereby move to dismiss the "Master Consolidated Complaint Against MCI Defendants and Verizon Defendants" (Dkt. # 125) in In re National Security Agency Telecommunications Record Litigation, MDL No. 06-1791 (VRW) (N.D. Cal.) (hereinafter "the Complaint"), based on the United States' invocation of the state secrets privilege (Dkt. # 254). In addition, the Complaint should be dismissed because it fails to state a claim upon which relief may be granted: (1) Plaintiffs fail to state claims under 18 U.S.C. §§ 2511, 2702(a)(1), 2702(a)(2), 2702(a)(3), and 47 U.S.C. § 605, because none of those statutory provisions prohibits the acts alleged. (2) Plaintiffs fail to plead facts to state a claim for unlawful "divulgence" of call records under 18 U.S.C. § 2702(a)(3). (3) The First Amendment to the Constitution prohibits the imposition of liability based on the alleged divulgence of call record information to the government in the circumstances alleged in the Complaint, and the statutes upon which plaintiffs base their claims must be construed as not imposing liability based on the facts alleged. (4) Plaintiffs' state-law claims are preempted by federal law. (5) Plaintiffs fail to state deception and breach-of-contract claims. (6) Plaintiff's claims against MCI are barred by the bankruptcy discharge.

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