

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

and

KIRT WEST,  
INSPECTOR GENERAL OF THE  
LEGAL SERVICES CORPORATION  
3333 K STREET, NW, 3<sup>RD</sup> FLOOR  
WASHINGTON, DC 20007,

Petitioners,

v.

CALIFORNIA RURAL LEGAL  
ASSISTANCE, INC.  
631 HOWARD STREET, #300  
SAN FRANCISCO, CA 94105,

Respondent.

No. 1:07-mc-00123-EGS

**DECLARATION OF PHYLLIS  
KATZ IN SUPPORT OF  
ATTORNEY-INTERVENERS'  
OPPOSITION TO PETITION FOR  
SUMMARY ENFORCEMENT OF  
ADMINISTRATIVE SUBPOENA**

Before: The Honorable Emmet G. Sullivan

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TERI SCARLET, ARTURO RODRIGUEZ, and KIRK AH-  
TYE

I, Phyllis Katz, declare:

1. I am an attorney licensed to practice in the State of California, and I have been a member in good standing of the California State Bar since 1988. Between 2000 and the present, I have been employed as an attorney in the Monterey, Gilroy and now Watsonville office of California Rural Legal Assistance, Inc. (“CRLA”), respondent in this action. I am submitting this declaration in support of the Attorney-Interveners’ Opposition to the Office of the Inspector General’s Petition for Summary Enforcement of Administrative Subpoena. I make this declaration on personal knowledge, except as otherwise expressly stated. If called as a witness, I could and would testify competently to the matters stated in this declaration.

#### **CRLA’s Clients**

2. CRLA provides free legal services to low-income Californians. Originally, CRLA focused on rural Californians, specifically farm workers, but as California’s cities have expanded, CRLA’s work for low-income, urban residents has expanded as well. California is now demographically significantly comprised of various immigrant populations, and many of CRLA’s clients are non-native English speakers.

3. When potential clients first contact CRLA, they give CRLA a lot of personal information, which is recorded on an intake form. The information on this form is then input into CRLA’s database. The information is input into the database whether or not the potential client eventually becomes a client.

4. There are a number of reasons that a potential client may not become a client. For example, the person may not qualify for income-related reasons, or the person may simply decide not to pursue a legal claim. One reason that a potential client may not become a client of CRLA is if that person does not have the proper immigration documentation. Aside from specific, recognized, and exceptional circumstances, CRLA may only take on as clients immigrants who are properly documented. Potential clients who contact CRLA but who do not have the proper documentation are deemed ineligible and rejected as clients, which may be recorded in the database as “insufficient merit,” “referred after legal assessment,” or “change in

eligibility,” depending on the circumstances. The database also contains information on the type of documentation, or lack thereof, that these individuals have.

5. Once a potential client has been determined to be eligible and is accepted as a client by CRLA, CRLA may perform different kinds of work for that client. A high percentage of the work CRLA does for clients is “advice” work, informing the client of his or her legal rights and advising them on what action to take. This kind of work can take less than half an hour of an attorney’s time, and can be accomplished completely over the phone, as when, for example, clients call into my office’s housing hotline.

6. CRLA also refers many clients, if the kind of legal assistance they need is not the kind CRLA provides, such as most criminal law matters, or if CRLA simply does not have time to take the case, and these clients are known as “referral” clients. If CRLA is providing more than a referral or advice, it has clients sign a retainer agreement. There are two types of retainer agreements, one for “brief services,” usually a limited action on the part of an attorney such as writing a letter, and one for “extended services.” The majority of my clients and the majority of the clients of other CRLA basic unit attorneys (as opposed to migrant unit attorneys whose statistics I am not familiar with), are referral, advice, or brief services clients.

### **CRLA’s Clients’ Confidentiality Concerns**

7. My clients, and the clients of other CRLA attorneys, often put a premium on confidentiality. By this I mean that clients explicitly tell their CRLA attorney that they want the fact that they have contacted the attorney to stay confidential. There are many reasons for this, including that the clients are afraid of retaliation.

8. I work on many landlord/tenant cases, and clients are frequently concerned that they will be evicted if they complain to the landlord, or assert their legal rights in some other way. I believe these concerns to be legitimate, as I have had clients who have received notices to terminate their tenancy for telling a landlord that the landlord is violating the tenant’s legal rights. Also, eviction for many of my clients means that they will be homeless, since they lack

either a security deposit, funds to move, or both, and homelessness is something they often know well and will do almost anything to avoid.

9. Most of the labor clients I advise are also concerned about retaliation. Our clients often report that a friend or co-worker asserted their legal rights and was fired. Having seen what happens when others assert their rights, many of the labor clients I advise do not want me to take action, revealing their identity to their employer. Even if a client has already been fired, and could take legal action against the employer, he or she may not want me to take such action out of hope that a new foreman or crew boss may not be aware of the situation and may hire them back. Losing a job, for my clients, can quickly mean losing everything else too—their home, their hopes for their children's success in school, and even their next meal. If you have no savings, one missed paycheck can have very serious consequences.

10. Out of fear of retaliation, some of my clients decide not to bring legal claims against their landlord or against their employer. Some other of my clients learn that they do not have any legal claims (they may believe they are being treated unfairly, but the treatment is not illegal), in which case they may decide just to cope with their housing or employment situations. In both these situations, and for obvious reasons, the clients always want me to keep their visit to CRLA confidential.

11. Still others of my clients never really wanted to bring a claim; they just wanted to know their legal rights. This may seem surprising in this Internet era, but my clients are often very isolated, and even the more urban clients do not necessarily have Internet access. For these clients, my legal advice can be empowering: once they understand what their landlord or employer can and cannot do, they feel that they do not need to bring a claim, or even have me write a letter or make a telephone call. Nonetheless, these clients often want me to keep their visit to CRLA confidential.

12. Even some of my clients who do decide to bring claims are concerned about protecting their confidentiality. For example, I have worked on several education cases, trying to get special educational services for disabled student clients or their parents. These clients,

especially the teenagers, do not want anyone at their school to know that they are trying to get special services because they do not want to be labeled “special ed.” Because education disability proceedings are confidential, I have assured these clients that I will maintain their confidentiality.

13. Also, clients who are involved in federal public housing proceedings are entitled to private eviction hearings. Most of these clients choose to keep these hearings private—out of embarrassment over the fact that they receive public housing benefits, or other reasons—and I assure them that I will keep this information confidential.

#### **Specific Cases in which CRLA’s Clients’ Identities Are Confidential**

14. The subpoena issued by LSC’s Office of the Inspector General (“OIG”) seeks information that I know to be privileged and confidential. If the Court so directed me, I would be able to provide to the Court *in camera* specific examples of individual clients of mine whose privileged and confidential information is sought by OIG’s subpoena. I have not provided such detail in this declaration, and I would not provide such detail unless directed to do so by the Court *in camera*, out of concern about waiving the very privilege and confidentiality rights I am trying to protect.

15. The clients whose information is privileged and confidential include tenants who chose not to pursue claims against their landlords; employees who chose not to pursue claims against their employers; and other clients, such as disabled students, who wanted some aspect of their legal consultation kept confidential. I assured all of these clients that I would not disclose the information they asked me to keep confidential.

16. I believe my clients’ circumstances are compelling, and that reviewing their individual claims of privilege and/or confidentiality may be useful to the Court. If the Court determines a more individualized showing of privilege and/or confidentiality is needed, I therefore respectfully request that it direct me to provide more detail concerning clients from my practice *in camera*, without thereby waiving the attorney-client privilege.

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

Executed this 14th day of September 2007, at Watsonville, California.

/s/ Phyllis Katz

Phyllis Katz