

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THE AMERICAN CIVIL LIBERTIES)	
UNION OF ILLINOIS,)	
)	
Plaintiff,)	
)	Case No. 1:10-cv-05235
v.)	
)	Judge Suzanne B. Conlon
ANITA ALVAREZ, Cook County State's)	
Attorney, in her official capacity,)	Magistrate Judge Sydney I. Schenkier
)	
Defendant.)	

**THE ACLU'S MOTION TO AMEND JUDGMENT, TO
FILE AN AMENDED COMPLAINT, AND
FOR A PRELIMINARY INJUNCTION**

Plaintiff the American Civil Liberties Union Of Illinois (the "ACLU") hereby moves the Court to amend the judgment of October 28, 2010 (Dkt. No. 34) and the order of the same date denying preliminary relief, in order to allow the ACLU to file an amended complaint and to renew its motion for a preliminary injunction against enforcement of the Illinois Eavesdropping Act, 720 ILCS 5/14-1, et seq. (the "Act"). Specifically:

1. The October 28 judgment dismissed the case without prejudice. The sole basis for doing so was the Court's conclusion, in ruling on defendant Anita Alvarez's motion to dismiss, that the ACLU lacked standing to challenge the constitutionality of the Act. On this basis alone, the Court also dismissed as moot the ACLU's motion for a preliminary injunction. The complaint before the Court when it entered judgment was the ACLU's initial complaint.

2. The ACLU submits that it may amend its complaint to add allegations that address the Court's reasons for concluding that the ACLU lacked standing. Because the Court has entered judgment, albeit without prejudice, the ACLU now moves under Federal Rule of

Civil Procedure 59(e) to amend the judgment in order to seek leave to file an amended complaint to add additional factual allegations relative to standing. As established, in the supporting memorandum filed herewith, Seventh Circuit precedent entitles the ACLU to this Rule 59 relief under the present circumstances.

3. Hence, the ACLU further moves under Federal Rules of Civil Procedure 15(a)(2) and 21 to amend its complaint. The proposed amended complaint adds allegations clarifying the basis for standing of the ACLU as an organization to bring a pre-enforcement challenge to the Act under the First Amendment. The proposed amended complaint also adds two additional plaintiffs. Further, the proposed amended complaint and additional supporting materials provide further evidence regarding the ongoing abridgement of the ACLU's, and its employees', First Amendment rights to gather, receive, record, and disseminate information on matters of public importance related to civil liberties. As also established in the ACLU's accompanying memorandum, Seventh Circuit precedent supports allowing the ACLU's proposed amended complaint.

4. Finally, the ACLU renews its motion for a preliminary injunction (Dkt. Nos. 18, 26, 27) under Rule 65(a). In further support of its preliminary injunction motion, the ACLU submits additional declarations of putative plaintiffs Colleen Connell and Allison Carter.

WHEREFORE, the ACLU requests that the Court enter an order amending the judgment and order denying interim relief pursuant to Rule 59, granting leave to the ACLU to file its amended complaint pursuant to Rules 15 and 21, and granting a preliminary injunction under Rule 65(a).

DATED: November 18, 2010

Respectfully submitted,

THE AMERICAN CIVIL LIBERTIES
UNION OF ILLINOIS

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