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12 Attorneys for Plaintiff  
 KAREN GOLINSKI

14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA

17 KAREN GOLINSKI,  
 18 Plaintiff,  
 19 v.  
 20 UNITED STATES OFFICE OF PERSONNEL  
 MANAGEMENT,  
 21 Defendant.

Case No. 4:10-cv-00257 (SBA)

**DECLARATION OF JAMES R.  
 McGUIRE IN SUPPORT OF  
 PLAINTIFF KAREN  
 GOLINSKI'S MOTION FOR  
 PRELIMINARY INJUNCTION**

Date: June 15, 2010  
 Time: 1:00 p.m.  
 Place: Courtroom 1, 4th Floor  
 United States Courthouse  
 1301 Clay Street  
 Oakland, California 94612

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1 I, James R. McGuire, hereby declare and state as follows:

2 1. I am a partner of the law firm of Morrison & Foerster LLP, which is co-counsel of  
3 record for plaintiff Karen Golinski. I am licensed to practice law in the State of California and  
4 am admitted to practice before this Court. I make this declaration of my own personal  
5 knowledge, and, if called as a witness, could and would testify competently to the matters stated  
6 herein.

7 2. Attached as Exhibit I is a true and correct copy of an amended order in *In re*  
8 *Employee Dispute Resolution Plan* (9th Cir.), issued by the Chief Judge of the United States  
9 Court of Appeals for the Ninth Circuit on November 24, 2008.

10 3. Attached as Exhibit J is a true and correct copy of the Statement from Elaine  
11 Kaplan, OPM General Counsel, regarding the Chief Judge's prior orders in *In the Matter of*  
12 *Karen Golinski et ux*, No. 09-80173 (9th Cir.), which is also available at [http://](http://www.washingtonpost.com/wp-srv/nation/documents/statement_from_elaine_kaplan_opm.pdf)  
13 [www.washingtonpost.com/wp-srv/nation/documents/statement\\_from\\_elaine\\_kaplan\\_opm.pdf](http://www.washingtonpost.com/wp-srv/nation/documents/statement_from_elaine_kaplan_opm.pdf).

14 4. Attached as Exhibit K is a true and correct copy of an order in *In the Matter of*  
15 *Karen Golinski et ux*, No. 09-80173 (9th Cir.), issued by the Chief Judge of the United States  
16 Court of Appeals for the Ninth Circuit on December 22, 2009.

17 5. Ms. Golinski and OPM have complied with the Court's meet and confer  
18 requirement. On January 20, 2010, I left a voicemail for Steven Bressler, Assistant United States  
19 Attorney informing him that Ms. Golinski had filed her complaint that day and anticipated filing a  
20 motion for preliminary injunction on a shortened time schedule. I did not immediately hear back  
21 from opposing counsel, and on January 25, 2010, I sent an e-mail reiterating Ms. Golinski's  
22 decision to file a preliminary injunction on shortened time. That same day, opposing counsel  
23 responded that OPM needed to review the motion for preliminary injunction and the request to  
24 shorten time. Approximately one hour later, I replied to opposing counsel's email, and set forth  
25 in detail Ms. Golinski's primary arguments in support of her motion for preliminary injunction.  
26 A true and correct copy of the January 25, 2010 e-mail exchanges between Mr. Bressler and me is  
27 attached hereto as Exhibit L. On January 26, 2010, during a telephone conversation, opposing  
28 counsel for OPM stated it would not stipulate to entry of Ms. Golinski's preliminary injunction.

1 Opposing counsel stated that it was OPM's position that it is not subject to a mandamus because  
2 Chief Judge Kozinski's November 19, and December 22, 2009 Orders in *In the Matter of Karen*  
3 *Golinski et ux*, No. 09-80173 (9th Cir.), are not binding on OPM.

4 I declare under penalty of perjury under the laws of the United States of America that the  
5 foregoing is true and correct. Executed on January 26, 2010, at San Francisco, California.

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Dated: January 26, 2010

MORRISON & FOERSTER LLP  
LAMBDA LEGAL

By: /s/ James R. McGuire  
JAMES R. McGUIRE

Attorneys for Plaintiff  
KAREN GOLINSKI