

**Exhibit 1 to Memorandum of Points and Authorities in
Support of Defendant's Motion to Dismiss the Complaint**

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

ROBERT STEINBUCH,

Plaintiff,

- against -

JESSICA CUTLER,

Defendant.

Case No. 1:05-CV-00970 (PLF)

DECLARATION OF JESSICA CUTLER

I, JESSICA CUTLER, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am the defendant in the captioned action, am over the age of 18, and am otherwise competent to make this declaration. Except where stated otherwise, I make this declaration on the basis of personal knowledge and in support of my motion to dismiss the complaint, filed July 26, 2005.

2. On May 5, 2004, more than one year before the filing of the complaint, I visited a public Internet website known as Blogger (www.blogger.com), which offers a free service allowing users to create Internet-based and -accessible diaries called web logs or blogs.

3. I decided to create a blog to describe my various social activities, including details of my sexual relationships with several men, in order more efficiently to manage my social correspondence with my close friends. Rather than send multiple e-mails to

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different friends, I decided it would be more efficient and entertaining to create a blog that each of my friends could visit at their convenience to learn about the latest news in my social life.

4. I chose Blogger because it was the most user friendly of all the Internet websites offering the same or a similar service. To get started, I visited the Blogger site and typed in a "Blog title" and "Blog address," the latter being an Internet universal resource locator or URL. I chose the title "Washingtonienne" for my blog and assigned it the URL <http://washingtonienne.blogspot.com> (the "Blog"). Next, Blogger asked me to chose from among six design templates for my Blog. I selected a design template called "Minima," which features a white background and text in "Georgia" font.

5. After choosing the design template, Blogger immediately allowed me to post content on my new Blog. Before doing so, however, I visited the "Basic Settings" area of Blogger. There, I entered a "Description" of the Blog, which I simply defined to be the same as the "Blog title" — "Washingtonienne." Next, the "Basic Settings" area asked me whether I wanted to "Add your Blog to our listings?" Answering "yes" here would have displayed the Blog's URL on Blogger's public Internet site, thus advertising its existence to the world of cyberspace. I answered this question "no." I did this in an effort to limit access to the Blog only to those close personal friends (and one friend of one of those friends) with whom I wanted to share the contents of the Blog. I could not find in the "Basic Settings" area or any other area of Blogger the option of making a blog password protected.

6. At the time I created the Blog, I was employed as a Staff Assistant for U.S. Senator Mike DeWine, Ohio Republican. I created the Blog on my office computer and began

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posting content on it on May 5, 2004. I continued to post content on the Blog on May 6, 7, 10-14, 17, and 18, 2004. I deleted the Blog in its entirety on May 18, 2004, minutes after learning that its contents had somehow become public.

7. The day after I created the Blog, on May 6, 2004, plaintiff Robert Steinbuch, Senator DeWine's counsel on the Senate Judiciary Committee, arranged for my boss on Senator DeWine's personal staff to have all three of us meet for drinks at Union Station after work that day. My boss was Anne O'Donnell, then Senator DeWine's speech writer. While Mr. Steinbuch and I had been briefly introduced several months earlier by Ms. O'Donnell when I was first hired, this involved nothing more than a perfunctory exchange of pleasantries. For all intensive purposes, I and Mr. Steinbuch knew nothing about each other before meeting at Union Station on May 6, 2004.

8. I sent the Blog's URL to only three of my friends: (1) Alethea Scally, Legislative Assistant for U.S. Representative Raul M. Grijalva, Arizona Democrat; (2) Alexandra Mace, of San Diego, California; and (3) Rachel Robertson, of New York, New York. Miss Robertson is the author of a now-defunct blog called "Clueless." At Miss Mace's request, I gave permission for her to send the Blog's URL to a fourth person, her friend James from San Diego, California. To my knowledge, information, and belief, only these four people had access to the Blog before May 18, 2004.

9. Wonkette (www.wonkette.com) is a Washington, D.C.-centered Internet gossip site. I visited Wonkette frequently because I found its material provocative and entertaining. I did not, however, send the Blog's URL or any of its content to Wonkette. I also

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did not give permission for anyone else to do so, and, to this day, I do not know who did. On May 18, 2004, within minutes of discovering links to and the contents of the Blog on Wonkette, I deleted the Blog and removed it from Blogger.

10. Shortly after the Blog was publicized on Wonkette, Ana Marie Cox, editor of Wonkette, somehow secured my unlisted cellular telephone number and called me. My return of Ms. Cox's call was the first time I had ever spoken with her.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 26, 2005

/s/ Jessica Cutler

Jessica Cutler