

THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, LLC,

Plaintiff,

v.

KENNETH R. LAY,

Defendant.

No. 10-cv-00664-MJP

**DECLARATION OF
KENNETH R. LAY IN SUPPORT
OF NORTH CAROLINA
MOTION TO DISMISS
COMPLAINT IN INTERVENTION
(Fed. R. Civ. P. 12)**

JANE DOE 1, JANE DOE 2,
JANE DOE 3, JANE DOE 4,
JANE DOE 5, JANE DOE 6, and
CECIL BOTHWELL,

Plaintiffs-Intervenors,

v.

KENNETH R. LAY, and
AMAZON.COM, LLC,

Defendants in Intervention.

I, Kenneth R. Lay, do hereby depose and say as follows:

1. I currently serve as the Secretary of the North Carolina Department of Revenue. I was appointed to this position by Governor Beverly Perdue and took the oath of office on

1 January 13, 2009. By statute, the Secretary of Revenue is the head of the North Carolina
2 Department of Revenue. The Department of Revenue has the statutory duty to collect and
3 account for the State's tax funds, to insure uniformity in the administration of the tax laws and
4 regulations, to conduct research on revenue matters and to exercise general and specific
5 supervision over the valuation and taxation of property throughout the State.

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7 2. I am providing this Declaration in support of North Carolina's Motion to Dismiss
8 Complaint in Intervention.

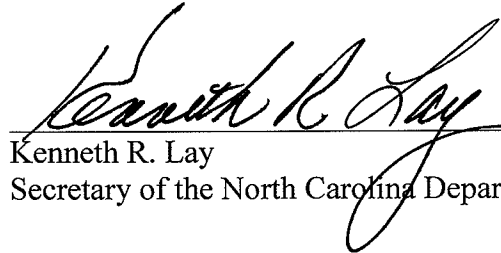
9 3. I am aware of the issue raised by Amazon's inclusion of ASIN data in response to
10 a Department IDR seeking sales data for purposes of determining sales and use tax liabilities for
11 products purchased and shipped to North Carolina residents. I have previously made it known to
12 Amazon, the ACLU and to the public that the Department has no interest in the expressive
13 content of products purchased and shipped to North Carolina residents. The Department,
14 however, does have an obligation to assess and collect the appropriate sales and use taxes owed
15 to the State of North Carolina based on the differential tax rates for items such as food and
16 books.
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19 4. In order to eliminate even the theoretical possibility that Department employees
20 would attempt to link the ASIN numbers provided by Amazon with individual customers, the
21 Department has taken steps to erase the ASIN numbers from its databases. Currently, the only
22 remaining source of the ASIN numbers at the Department is the four original compact disks
23 provided by Amazon containing sales data from August 1, 2003 to February 28, 2010. I have
24 personally taken possession of these disks and will insure they are maintained in a manner that
25 will not allow access to them by any Department employees or others.
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1 5. There is also a three month sample of data that exists in the Department's e-mail
2 system from which ASIN numbers cannot be erased for reasons beyond my control. For this
3 reason, the Department will not seek customer names for the months of August 2003, December
4 2006 and December 2007.

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7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United
8 States that the foregoing is true and correct to the best of my knowledge, and that the foregoing
9 declaration was executed on August 31, 2010.

10
11 By:



Kenneth R. Lay
Secretary of the North Carolina Department of Revenue