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12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

	)	Case No. 4:08-cv-04373-JSW
CAROLYN JEWEL, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>GOVERNMENT DEFENDANTS'</b>
	)	<b>ADMINISTRATIVE MOTION</b>
NATIONAL SECURITY AGENCY, <i>et al.</i> ,	)	<b>FOR AN ENLARGEMENT OF THE</b>
	)	<b>PAGE LIMITATION TO OPPOSE</b>
Defendants.	)	<b>PLAINTIFFS' MOTION FOR PARTIAL</b>
	)	<b>SUMMARY JUDGMENT</b>
	)	
	)	No hearing scheduled

22 Pursuant to Local Rules 6-3 and 7-11, the Government Defendants respectfully request  
 23 an enlargement of the page limitation for their opposition to Plaintiffs' partial motion for  
 24 summary judgment from 25 pages to 45 pages. As required by Local Rule 6-3, the Government  
 25 Defendants submit a declaration in support of this administrative motion. *See* Decl. of Julia  
 26 Berman, Exhibit 1 hereto. Furthermore, in support of their request, the Government Defendants  
 27 submit the following:

28 Government Defendants' Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs'  
 Motion for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

1           1.       Plaintiffs filed their Motion for Partial Summary Judgment on July 25, 2014.  
2 ECF No. 261 (“Plaintiffs’ Motion”). In that motion, they argue that the Governments’ current  
3 acquisition of information pursuant to Section 702 of the Foreign Intelligence Surveillance Act  
4 (“FISA”), violates the Fourth Amendment, and seek summary judgment as to that claim. *See id.*

5           2.       In their response to the Plaintiffs’ Motion, the Government Defendants will  
6 demonstrate that Plaintiffs do not have standing to assert such a claim, that Plaintiffs are not  
7 entitled to summary judgment on the merits of this issue, and, in fact, judgment should be  
8 awarded to the Government Defendants. *See* Exh. 1 ¶ 4.

9           3.       Local Rule 7-3(a) provides that an opposition to a motion “may not exceed 25  
10 pages of text.”

11           4.       The Government Defendants seek an enlargement of this page limit to 45 pages to  
12 allow them to address the myriad of issues the Plaintiffs’ Motions raises, and to allow them to  
13 combine their opposition to the Plaintiffs’ Motion with the Government Defendants’ cross-motion  
14 for summary judgment on the same claim. *See* Exh. 1 ¶ 5. Because the opposition to Plaintiffs’  
15 Motion and the Defendants’ proposed cross-motion focus on one claim, both submissions  
16 implicate the same questions of fact and law: the Government’s acquisition of information under  
17 Section 702; Plaintiffs’ standing to challenge those activities; and the application of the Fourth  
18 Amendment to these facts. *Id.* The Government Defendants’ proposed submission includes, *inter*  
19 *alia*: a discussion of why Plaintiffs’ Motion is procedurally improper; a description of the  
20 statutory background underlying Section 702; a detailed explanation as to why Plaintiffs’  
21 evidence is incompetent; an explanation of why the Plaintiffs have failed to establish facts  
22 sufficient to prove their standing or the merits of their claim; an explanation of why the  
23 Government’s acquisition of information pursuant to Section 702 does not violate the Fourth  
24 Amendment; and an explanation of why the Plaintiffs’ claim cannot be litigated without  
25 disclosing state secrets. *See id.* ¶ 7.

26           5.       Local Rule 7-2(a) provides that a motion such as the Government Defendants’  
27 intended cross-motion may not exceed 25 pages. Thus, if the Government Defendants filed their  
28 opposition to the Plaintiffs’ Motion and their cross-motion for summary judgment as two separate  
Government Defendants’ Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs’  
Motion for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

1 documents, the Local Rules would allow 50 total pages for the two submissions.

2 6. Rather than submitting two briefs totaling 50 pages to address these overlapping  
3 issues twice, the Government Defendants seek to combine the two documents to present the  
4 factual background and the legal analysis of the relevant issues to the Court in a single document.  
5 This approach would be efficient and would save both the Court's and the parties' time and  
6 resources.

7 7. The Government Defendants have made a good faith effort to address the issues  
8 raised by the Plaintiffs' Motion within the allotted page limit, but have been unable to do so as the  
9 Plaintiffs' Motion and the Government Defendants' cross-motion implicate complex issues of  
10 significant public interest involving national security, statutory authority, and constitutional law.  
11 *See id.* ¶ 7.

12 8. Consequently, the Government Defendants respectfully request that the Court  
13 enlarge the page limit from 25 to 45 pages to allow them to fully apprise the Court of the issues  
14 and to adequately address the legal arguments involved in their opposition to Plaintiffs' Motion  
15 and their cross-motion on the same claim. The Government Defendants will be prepared to  
16 argue the merits of both Plaintiffs' motion and their cross-motion at the oral argument scheduled  
17 for October 31, 2014 if the Court so desires.

18 9. The Government Defendants emailed Plaintiffs' counsel to ask their position  
19 regarding the relief requested herein, but had not yet heard back as of the time of filing this  
20 Administrative Motion. *See id.* ¶ 8.

21  
22 Dated: September 29, 2014

Respectfully Submitted,

23 JOYCE R. BRANDA  
24 Acting Assistant Attorney General

25 JOSEPH H. HUNT  
26 Director, Federal Programs Branch

27 ANTHONY J. COPPOLINO  
28 Deputy Branch Director

/s/ Julia Berman  
JAMES J. GILLIGAN

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18 *Attorneys for the Government Defendants*  
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12 **UNITED STATES DISTRICT COURT**  
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**OAKLAND DIVISION**

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 16 CAROLYN JEWEL, *et al.*, )  
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 Plaintiffs, )  
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 v. )  
 19 NATIONAL SECURITY AGENCY, *et al.*, )  
 20 )  
 Defendants. )  
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 22 \_\_\_\_\_ )

Case No. 4:08-cv-04373-JSW

**DECLARATION OF JULIA BERMAN  
 SUBMITTED IN SUPPORT OF THE  
 GOVERNMENT DEFENDANTS’  
 ADMINISTRATIVE MOTION  
 FOR AN ENLARGEMENT OF THE  
 PAGE LIMITATION TO OPPOSE  
 PLAINTIFFS’ MOTION FOR PARTIAL  
 SUMMARY JUDGMENT**

No hearing scheduled

23  
 24 Pursuant to 28 U.S.C. § 1746, I, Julia Berman, hereby declare:

25 1. I serve as a Trial Attorney in the United States Department of Justice, Civil  
 26 Division, Federal Programs Branch. I serve as one of the counsel for the Government  
 27 Declaration of Julia Berman Submitted in Support of the Government Defendants’  
 28 Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs’ Motion  
 for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

1 Defendants in the above-captioned case.

2 2. I submit this declaration, pursuant to Local Rules 7-5(a) and 7-11(a), in support of  
3 the Government Defendants' Administrative Motion for an Enlargement of the Page Limitation  
4 to Oppose Plaintiffs' Motion for Partial Summary Judgment.

5 3. Plaintiffs filed their Motion for Partial Summary Judgment on July 25, 2014.  
6 ECF No. 261 ("Plaintiffs' Motion"). In it, they argue that the Governments' current acquisition  
7 of information pursuant to Section 702 of the Foreign Intelligence Surveillance Act ("FISA"),  
8 violates the Fourth Amendment, and seek summary judgment as to that claim. *See id.*

9 4. In their response to the Plaintiffs' Motion, the Government Defendants intend to  
10 demonstrate that Plaintiffs do not have standing to assert such a claim, and that Plaintiffs are not  
11 entitled summary judgment on the merits of this issue. Indeed, the Government Defendants  
12 intend to demonstrate that judgment must be awarded against the Plaintiffs both as to their  
13 standing and on the merits of the Fourth Amendment claim asserted in the Plaintiffs' Motion.

14 5. The Government Defendants seek an enlargement of this page limit to 40 pages to allow  
15 them to address the myriad of issues the Plaintiffs' Motion raises, and to allow them to combine  
16 their opposition to the Plaintiffs' Motion with the Government Defendants' cross-motion for  
17 summary judgment on the same claim. Because the opposition to Plaintiffs' Motion and the  
18 Defendants' proposed cross-motion focus on one claim, both submissions implicate the same  
19 questions of fact and law: the Government's acquisition of information under Section 702;  
20 Plaintiffs' standing to challenge those activities; and the application of the Fourth Amendment to  
21 these facts.

22 6. The Government Defendants seek to combine the two documents to present the factual  
23 background and the legal analysis of the relevant issues to the Court in a single document. This  
24 approach would be efficient and would save both the Court's and the parties' time and resources.

25 7. The Government Defendants have made a good faith effort to address the issues raised by  
26 the Plaintiffs' Motion within the allotted page limit, but have been unable to do so as the  
27 Declaration of Julia Berman Submitted in Support of the Government Defendants'  
28 Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs' Motion  
for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

1 Plaintiffs' Motion and the Government Defendants' cross-motion implicate complex issues of  
2 significant public interest involving national security, statutory authority, and constitutional law.  
3 The Government Defendants' proposed submission includes, *inter alia*: a discussion of why  
4 Plaintiffs' Motion is procedurally improper; a description of the statutory background underlying  
5 Section 702; a detailed explanation as to why Plaintiffs' evidence is incompetent; an explanation  
6 of why the Plaintiffs have failed to establish facts sufficient to prove their standing or the merits  
7 of their claim; an explanation of why the Government's acquisition of information pursuant to  
8 Section 702 does not violate the Fourth Amendment; and an explanation of why the Plaintiffs'  
9 claim cannot be litigated without disclosing state secrets.

10 8. The Government Defendants emailed Plaintiffs' counsel to ask their position regarding  
11 the relief requested herein, but had not yet heard back as of the time of filing this Administrative  
12 Motion.

13  
14 I declare under penalty of perjury that the foregoing is true and correct.

15  
16 Dated: September 29, 2014

Respectfully Submitted,

17 JOYCE R. BRANDA  
Acting Assistant Attorney General

18 JOSEPH H. HUNT  
Director, Federal Programs Branch

19 ANTHONY J. COPPOLINO  
Deputy Branch Director

20  
21 /s/ Julia Berman  
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27 Declaration of Julia Berman Submitted in Support of the Government Defendants'  
28 Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs' Motion  
for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

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Declaration of Julia Berman Submitted in Support of the Government Defendants’  
Administrative Motion for an Enlargement of the Page Limitation to Oppose Plaintiffs’ Motion  
for Partial Summary Judgment, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)





1 Government Defendants' cross-motion for judgment in the same submission.  
2

3 **IT IS SO ORDERED.**

4  
5 Dated: \_\_\_\_\_

\_\_\_\_\_  
6 JEFFREY S. WHITE  
7 UNITED STATES DISTRICT JUDGE  
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