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15 *Attorneys for the Government Defendants*

16 **IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 **OAKLAND DIVISION**

18)
19) CAROLYN JEWEL, *et al.*,)

20)
21) Plaintiffs,)

22) v.)

23) NATIONAL SECURITY AGENCY, *et al.*,)

24)
25) Defendants.)
26)

Case No. 4:08-cv-4373-JSW

**GOVERNMENT DEFENDANTS'
RESPONSE TO PLAINTIFFS'
ADMINISTRATIVE MOTION TO
EXTEND TIME TO FILE REPLY
ON MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
OPPOSITION TO CROSS MOTION
UNTIL OCTOBER 31, 2014**

Courtroom 5, Second Floor
Hon. Jeffrey S. White

1 As Plaintiffs' administrative motion notes, the Government Defendants advised Plaintiffs
2 that the Government was prepared to agree to Plaintiffs' request for an additional two weeks in
3 which to file their combined reply on their motion for partial summary judgment and opposition
4 to the Government's cross-motion, if Plaintiffs would agree to extend the time for the
5 Government's reply brief in support of its cross-motion by one week. The Government's
6 proposal to extend the due date for its reply brief by one week, to November 21, would have
7 completed the briefing more than 14 days prior to the December 12 hearing, pursuant to Local
8 Rule 7, and would not have jeopardized that hearing date. Plaintiffs did not respond to the
9 Government's proposal and instead filed the instant administrative motion.

10 The reasons set forth in Plaintiffs' administrative motion for opposing a one-week
11 extension of the Government's reply deadline are meritless, and ignore the fact that Plaintiffs
12 themselves are responsible for a seven-month delay in consideration of their summary judgment
13 motion by removing it from the calendar last January. First, Plaintiffs complain that under the
14 Court's September 30 scheduling order, the Government is already provided an additional week
15 above and beyond the seven days permitted by the Local Rule. Pls.' Admin. Mot. at 1. But
16 under the original schedule negotiated in July by the parties, and ordered by the Court (ECF No.
17 272), Plaintiffs gave themselves a full *four* weeks to file *their* reply brief; the Government now
18 asks for only three. Given the number and complexity of the issues implicated by Plaintiffs'
19 Fourth Amendment claim, as reflected in the Government's opening brief (*see also* Gvt. Defs.'
20 Admin. Mot. to Extend the Time for Their Response to Pls.' Mot. for Partial Summ. Judgment at
21 2 (ECF No. 279)), the Government anticipates that Plaintiffs will seek an enlargement of the
22 page limit for their opposition/reply, in order to address the numerous issues not addressed in
23 their opening brief. The Government therefore anticipates as well that it will need the additional
24 week's time for its reply brief.

25 Second, Plaintiffs state they are "concerned" that extending the Government's reply brief
26 due date from November 14 to November 21 "would burden the Court, given the Court's posted
27 schedule and the Thanksgiving holiday, and could result in another extension of the hearing date
28" Pls.' Admin. Mot. at 1-2. To the extent this might be true, (1) it would largely be the

1 consequence of Plaintiffs' own seven-month delay in bringing their motion, and (2) it is equally
2 a reason for the Court to deny Plaintiffs' request to push their opposition/reply deadline back two
3 weeks closer to the December 12 hearing and to keep the briefing schedule ordered by the Court
4 a mere seven days ago (ECF No. 290).

5 Dated: October 7, 2014

6 Respectfully Submitted,

7 JOYCE R. BRANDA
8 Acting Assistant Attorney General

9 JOSEPH H. HUNT
10 Director, Federal Programs Branch

11 ANTHONY J. COPPOLINO
12 Deputy Branch Director

13 /s/ Marcia Berman
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17 **OAKLAND DIVISION**

18
19 CAROLYN JEWEL, *et al.*,

20 Plaintiffs,

21 v.

22 NATIONAL SECURITY AGENCY, *et al.*,

23 Defendants.

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

PROPOSED ORDER

24
25 Upon consideration of Plaintiffs' Administrative Motion to Extend Time to File Reply on
26 Motion for Partial Summary Judgment and Opposition to Cross Motion Until October 31, 2014,
27 and the Government Defendants' response thereto, it is hereby ORDERED that (1) Plaintiffs'
28 combined Reply in support of their Motion for Partial Summary Judgment and Opposition to the

1 Government Defendants' Cross-Motion for Partial Summary Judgment is due on or before
2 October 31, 2014, and (2) the Government Defendants' Reply in support of their Cross-Motion
3 for Partial Summary Judgment is due on or before November 21, 2014.

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5 **IT IS SO ORDERED.**

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7 Dated: _____

8 JEFFREY S. WHITE
9 UNITED STATES DISTRICT JUDGE
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