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15 *Counsel for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **OAKLAND DIVISION**

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CAROLYN JEWEL, TASH HEPTING,
YOUNG BOON HICKS, as executrix of the
estate of GREGORY HICKS, ERIK KNUTZEN
and JOICE WALTON, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY, *et al.*,

Defendants.

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

**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, 2nd Floor
The Honorable Jeffrey S. White

1 Pursuant to Local Rules 6-3 and 7-11, plaintiffs respectfully request a short extension of
2 time to file a combined Opposition to Defendants' Cross-Motion for Partial Summary Judgment
3 and Reply in Support of Plaintiffs' Motion for Partial Summary Judgment, extending the due date
4 by two weeks from October 17 to October 31, 2014. To accommodate this change, plaintiffs
5 suggest a corresponding extension of the government's time to file its reply in support of its cross-
6 motion from October 31 to November 14, 2014. Plaintiffs respectfully request that the hearing
7 date of December 12, 2014 set by the Court remain unchanged. Plaintiffs have sought consent
8 from the government for this request but the parties were unable to reach agreement.

9 The parties originally stipulated, and the Court ordered, that the government would have
10 eight weeks (from July 25 to September 19, 2014) to file its opposition to plaintiffs' summary
11 judgment motion and plaintiffs would have four weeks to reply to the government's opposition.
12 ECF. No. 272. Because of the government's two last-minute requests for additional time to file its
13 opposition, which the Court granted in part, the current schedule set by the Court has reduced
14 plaintiffs' time to prepare their reply and opposition by 10 days, from 28 days to 18 days. ECF
15 No. 290. At the same time, the Court extended the government's time to file its reply in support of
16 its cross-motion from the seven days provided by the local rules to 14 days.

17 Because the Court's order permitted the government to file a cross-motion, plaintiffs now
18 face a situation in which they must respond to a significantly longer government brief (45 pages
19 rather than 25 pages) that is both an opposition to plaintiffs' summary judgment motion and a
20 cross-motion for partial summary judgment, and must do so in significantly less time (18 days
21 rather than 28 days) than the Court and the parties previously agreed was appropriate if plaintiffs
22 were responding to only an opposition to their motion.

23 Plaintiffs sought consent from the government for this adjusted briefing schedule. The
24 government offered to do so if their reply time was extended by an additional week, until
25 November 21, 2014. Plaintiffs do not believe this is appropriate or necessary, since the government
26 was already provided with an extra week to prepare its reply by the Court's Order of September 30,
27 2014. ECF No. 290. More importantly, plaintiffs are concerned that this additional time would
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burden the Court, given the Court’s posted schedule and the Thanksgiving holiday, and could result
in another extension of the hearing date, a situation they strongly seek to avoid.

Dated: October 3, 2014

Respectfully submitted,

 /s/ Cindy Cohn

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DECLARATION OF CINDY COHN
IN SUPPORT OF PLAINTIFFS' ADMINISTRATIVE MOTION
TO EXTEND TIME

1. I am the Legal Director of the Electronic Frontier Foundation and counsel of record for Plaintiffs in this action. The statements made herein are based on my personal knowledge and on information made available to me in the course of my duties and responsibilities as counsel for Plaintiffs.

2. Filed with this declaration, as Exhibit 1, is a true and correct copy of the email correspondence between counsel for Plaintiffs and the Government Defendants, from September 30 to October 2, 2014. As described in the above Plaintiffs' Administrative Motion to Extend Time, the email correspondence provided as Exhibit 1 shows the request by Plaintiffs for Defendants to accommodate Plaintiffs' request for an extension of time.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 3, 2014, at San Francisco, CA.

/s/ Cindy Cohn _____
Cindy Cohn

Exhibit 1

Exhibit 1

"Gilligan, Jim (CIV)" <James.Gilligan@usdoj.gov>

October 2, 2014 8:07 AM

To: Cindy Cohn <cindy@eff.org>

Cc: Rick Wiebe <wiebe@pacbell.net>, "Berman, Marcia (CIV)" <Marcia.Berman@usdoj.gov>,

"Berman, Julia (CIV)" <Julia.Berman@usdoj.gov>, "Patton, Rodney (CIV)"

<Rodney.Patton@usdoj.gov>, David Greene <davidg@eff.org>

RE: Jewel v. NSA: extension of opposition/reply date

Cindy,

We are prepared to agree to an extension of plaintiffs' deadline to file their opposition/reply to October 31 if plaintiffs will agree to an extension of the deadline for our reply to November 21. We would be happy to review a proposed stipulation and order.

Jim

James J. Gilligan
Special Litigation Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044

Tel: 202-514-3358

From: Gilligan, Jim (CIV)

Sent: Wednesday, October 01, 2014 6:39 PM

To: 'Cindy Cohn'

Cc: Rick Wiebe; Berman, Marcia (CIV); Berman, Julia (CIV); Patton, Rodney (CIV); David Greene

Subject: RE: Jewel v. NSA: extension of opposition/reply date

Cindy, several members of our team, including myself, were out of the office today, but we should be able to get you a response by Thursday a.m. California time. That should give plaintiffs enough time to get something on file with the court before the end of the day.

Jim

James J. Gilligan
Special Litigation Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044

Tel: 202-514-3358

From: Cindy Cohn [<mailto:cindy@eff.org>]

Sent: Tuesday, September 30, 2014 8:24 PM
To: Gilligan, Jim (CIV)
Cc: Rick Wiebe; Berman, Marcia (CIV); Berman, Julia (CIV); Patton, Rodney (CIV); David Greene
Subject: Jewel v. NSA: extension of opposition/reply date

Dear Jim,

In light of the new hearing date and the fact that we now must respond to a combined opposition and reply brief responding to your brief of 45 pages, we would like your agreement to extend our date to respond until October 31. This would mean that the government's reply on its cross motion is due on November 14.

Please let me know the government's position by the close of business California time tomorrow (October 1) so that we can promptly seek relief from the Court if necessary.

Thank you,

Cindy

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**[PROPOSED] ORDER GRANTING
PLAINTIFFS' ADMINISTRATIVE
MOTION TO EXTEND TIME TO FILE
REPLY ON MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
OPPOSITION TO CROSS MOTION**

Courtroom 5, 2nd Floor
The Honorable Jeffrey S. White

[PROPOSED] ORDER

1
2 Upon consideration of the Plaintiffs' Administrative Motion to Extend Time to File Reply
3 on Motion for Partial Summary Judgment and Opposition to Cross Motion, and Defendants'
4 response thereto, and good cause appearing, **IT IS HEREBY ORDERED** that:

5 Plaintiffs' motion is **GRANTED**. Plaintiffs' time to file a combined Opposition to
6 Defendants' Cross-Motion for Partial Summary Judgment and Reply in Support of Plaintiffs'
7 Motion for Partial Summary Judgment is extended by two weeks from October 17 to October 31,
8 2014. Defendants' time to file a reply in support of their cross-motion is extended from October 31
9 to November 14, 2014. The hearing date remains December 12, 2014 at 9:00 a.m.

10
11 **IT IS SO ORDERED.**

12
13 Dated: _____

HON. JEFFREY S. WHITE
UNITED STATES DISTRICT COURT JUDGE