

1 1. Plaintiffs filed their Motion for Partial Summary Judgment on July 25, 2014, ECF
2 No. 261 (“Plaintiffs’ Motion”), seeking a determination that the Government Defendants are
3 “violating the Fourth Amendment by ... ongoing seizures and searches of plaintiffs’ Internet
4 communications.” *Id.* at 1.

5 2. The Government Defendants submitted their Opposition to Plaintiffs’ Motion on
6 September 29, 2014, *see* ECF No. 285, and cross-moved for partial summary judgment on the
7 grounds that Plaintiffs cannot meet their burden either as to their standing or as to the merits of
8 their claim. *See* ECF No. 286.

9 3. Plaintiffs submitted their combined opposition to the Government Defendants’
10 cross-motion and reply in support of their motion on October 24, 2014. *See* ECF 294 (“Plaintiffs’
11 Opposition”).

12 4. The Government Defendants now seek six additional pages to reply to the
13 Plaintiffs’ Opposition.

14 5. Local Rule 7-3(c) provides that a reply submitted in support of a motion “may not
15 exceed 15 pages of text.”

16 6. The Government Defendants seek an enlargement of this page limit to 21 pages to
17 allow them to address the numerous issues the Plaintiffs’ Opposition raises. While the 15-page
18 reply provided for by Local Rule 7-3(c) contemplates that such a reply will respond to a 25-page
19 opposition, *see* Local Rule 7-3(a), the Plaintiffs’ Opposition is 35 pages in length. *See* ECF 294.

20 7. Furthermore, the Government Defendants’ proposed submission addresses
21 numerous complex issues, including, *inter alia*, a detailed discussion of why Plaintiffs’ proffered
22 evidence is insufficient to withstand summary judgment, as well as the lack of legal support for
23 Plaintiffs’ claim that a “seizure” or a “search” implicating the Fourth Amendment occurs in the
24 steps of the intelligence gathering activity that they challenge. The proposed reply also explains
25 why the activity at issue is reasonable under the special needs doctrine, and makes significant
26 contributions to national security. Finally, the reply explains why, if the Court does not conclude
27 that summary judgment should be entered against the Plaintiffs on other grounds, their claim
28 should nonetheless be dismissed because it cannot be litigated without national security

1 information protected by the state secrets privilege.

2 8. The Government Defendants therefore respectfully request that the Court enlarge
3 the page limit from 15 to 21 pages.

4 9. The Government Defendants emailed Plaintiffs' counsel to ask their position
5 regarding the enlargement of the page limitation requested herein, and were informed that
6 Plaintiffs take no position regarding this request.

7 10. Additionally, pursuant to Local Rules 7-11 and 79-5, the Government Defendants
8 seek to file under seal the portions of their reply in support of their cross motion for summary
9 judgment that address two documents that Plaintiffs have submitted under seal, Exhibit C to the
10 Declaration of Mark Klein, *see* ECF No. 84, *see also* ECF No 122 (granting Plaintiffs'
11 administrative motion, ECF No. 84, to file portions of Exhibit C to Klein Declaration under seal)
12 and the Declaration of James W. Russell, *see* ECF No. 294.

13 11. Consistent with Local Rule 79-5(d), the Government Defendants submit herewith
14 a redacted version of the document they seek to file under seal that may be publicly disclosed,
15 and an unredacted version of the document sought to be filed under seal.

16 12. For the same reasons the underlying two documents should remain under seal, *see*
17 ECF No. 84; ECF No. 294, the Government Defendants respectfully request that the Court grant
18 the instant administrative motion to seal the discussion of those documents in the reply submitted
19 in support of their cross-motion for summary judgment.

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23 Dated: November 7, 2014

Respectfully Submitted,

24 JOYCE R. BRANDA
25 Acting Assistant Attorney General

26 JOSEPH H. HUNT
27 Director, Federal Programs Branch

28 ANTHONY J. COPPOLINO
Deputy Branch Director

/s/ James J. Gilligan

Government Defendants' Administrative Motion for an Enlargement of the Page Limitation for their Reply in Support of their Motion for Partial Summary Judgment and to File Portions of their Reply Under Seal, *Jewel v. National Security Agency* (4:08-cv-4373-JSW)

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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,)	PROPOSED ORDER
v.)	
-)	
NATIONAL SECURITY AGENCY, <i>et al.</i> ,)	
)	
Defendants.)	
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)	

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23 Upon consideration of the Government Defendants’ Administrative Motion for an
 24 Enlargement of the Page Limitation for their Reply in Support of their Motion for Partial
 25 Summary Judgment and to File Portions of their Reply Under Seal, and any submissions filed in
 26 opposition to or in support of that administrative motion, it is hereby ORDERED that the
 27 Government Defendants’ administrative motion is granted. The page limitation for the
 28 Government Defendants’ reply in Support of their Cross-Motion for Partial Summary Judgment

1 shall be enlarged from 15 pages to 21 pages. Additionally, the unredacted version of the
2 Government Defendants' reply submitted with the Government Defendants' administrative
3 motion shall be filed under seal to protect the portions of the reply that have been redacted from
4 the version filed on the public record.

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6 **IT IS SO ORDERED.**

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8 Dated: _____

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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