

1 MICHAEL F. HERTZ
Acting Assistant Attorney General
2 DOUGLAS N. LETTER
Terrorism Litigation Counsel
3 JOSEPH H. HUNT
Director, Federal Programs Branch
4 ANTHONY J. COPPOLINO
Special Litigation Counsel
5 PAUL G. FREEBORNE
Trial Attorneys
6 U.S. Department of Justice
Civil Division, Federal Programs Branch
7 20 Massachusetts Avenue, NW, Rm. 6102
Washington, D.C. 20001
8 Phone: (202) 514-4782—Fax: (202) 616-8460

9 *Attorneys for the Government Defendants*

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 IN RE NATIONAL SECURITY AGENCY) No. M:06-cv-01791-VRW
TELECOMMUNICATIONS RECORDS)
14 LITIGATION) **GOVERNMENT DEFENDANTS’**
) **RESPONSE TO PLAINTIFFS’ MOTION**
15 This Document Relates To:) **TO EXTEND TIME**
)
16 *McMurray et al. v. Verizon Comm., Inc. et al.,*) Date: June 3, 2009
No. 09-cv-0131-VRW) Time: 10:30 a.m.
17) Courtroom: 6, 17th Floor
)
18) Chief Judge Vaughn R.
)

19 The Government Defendants do not oppose plaintiffs’ requested extension to May 11,
20 2009 to respond to the Government Defendants’ and telecommunication carrier defendants’
21 motions to dismiss this action, but request that the Court not change the current hearing date of
22 June 3, 2009.

23 Plaintiffs’ motion for an extension of time did not comply with the local rules. Plaintiffs
24 did not confer with the defendants on a stipulation concerning their requested extension in
25 advance of their motion, as required by Local Rule 6-3(a)(2), nor did they file a declaration in
26 accord with L.R. 6-3(a) &7-11(a). We recognize that circumstances may arise at the last minute
27

1 which require counsel to seek additional time and, thus, do not object to the requested extension.
2 However, no further extensions should be permitted for plaintiffs' oppositions. The
3 Government's motion to dismiss was filed on March 13, 2009. *See* Dkt. 11. That motion was
4 only 8 pages long and addressed a question of law raised by the plaintiffs' complaint—a Fifth
5 Amendment "takings" challenge to Section 802 of the Foreign Intelligence Surveillance Act. *See*
6 *id.* The carrier defendants' motion to dismiss was filed on March 16, 2009, and likewise was
7 only 8 pages long. *See* Dkt. 16. Plaintiffs thus have had ample time to address these short
8 motions.^{1/}

9 In addition, because the Court is not otherwise available from June 10 through June 26,
10 2009, the Government respectfully requests that the Court not change the currently scheduled
11 June 3 hearing date. *See* Dkt. 19. Plaintiffs' extension motion and proposed alteration to the
12 briefing schedule (under which the Government and carrier defendants' respective replies would
13 be due on May 26, 2009) would reduce the 14-day period under the local rules for the Court's
14 review of the parties' submission prior to the June 3 hearing. If necessary to maintain the June 3
15 hearing date, the Government and carrier defendants' would file their replies on May 22, 2009
16 (just one day beyond the current May 21 reply date.)

17 CONCLUSION

18 For the foregoing reasons, the Government requests that, if the Court grants plaintiffs'
19 requested extension, it not change the hearing date of June 3, 2009, and, if necessary to maintain
20 that hearing date, permit the Government and carrier defendants to file their respective replies on
21 May 22, 2009, to avoid further intrusion on the Court's review time that will result from the
22 plaintiffs' belated motion to extend time.

23 The undersigned counsel for the Government has conferred with counsel for the carrier
24 defendants in this action who have indicated that they agree with the position set forth in this
25 response.

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27 ¹ Plaintiffs filed an opposition to the carrier defendants' separate motion to dismiss for
28 lack of jurisdiction. *See* Dkt. 20.

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May 8, 2009

Respectfully Submitted,

MICHAEL F. HERTZ
Acting Assistant Attorney General

DOUGLAS N. LETTER
Terrorism Litigation Counsel

JOSEPH H. HUNT
Director, Federal Programs Branch

s/ Anthony J. Coppolino
ANTHONY J. COPPOLINO
Special Litigation Counsel

PAUL G. FREEBORNE
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW, Rm. 6102
Washington, D.C. 20001
Phone: (202) 514-4782—Fax: (202) 616-8460
Email: tony.coppolino@usdoj.gov

Attorneys for the Government Defendants