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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO

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14 ELECTRONIC FRONTIER FOUNDATION, 15 Plaintiff, 16 v. 17 OFFICE OF THE DIRECTOR OF NATIONAL 18 INTELLIGENCE and UNITED STATES 19 DEPARTMENT OF JUSTICE, 20 Defendants.) Nos. 08-2997 JSW & 08-1023 JSW)) EMERGENCY FILING FOR) TEMPORARY STAY PENDING) APPEAL DECISION BY SOLICITOR) GENERAL REGARDING APPEAL) AND IMMEDIATE) ADMINISTRATIVE STAY, PER) DIRECTION OF U.S. COURT OF) APPEALS FOR THE NINTH) CIRCUIT)
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22 Defendants Office of the Director of National Intelligence and the United States

23 Department of Justice respectfully submit this filing pursuant to an order from the United States

24 Court of Appeals for the Ninth Circuit. Just moments ago, the Ninth Circuit entered an order

25 stating as follows: “Appellants’ emergency motion for stay pending appeal of the district court’s

26 October 7, 2009 order is denied without prejudice to renewal following presentation to the

27 district court and the district court’s issuance of an order granting or denying the motion. See

28 Fed. R. App. P. 8(a).” Accordingly, we hereby submit the attached emergency motion that was

1 filed in the Ninth Circuit on October 8, 2009, for disposition by this Court. We respectfully
2 request that the Court act on the motion today to provide time for defendants to resubmit the
3 motion to the Ninth Circuit today, if this Court denies it, before the disclosure deadline of
4 October 9 expires.

5 Defendants also inform the Court that they filed a Notice of Appeal yesterday. That
6 notice is attached as well.

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8 Dated: Oct. 9, 2009

Respectfully submitted,

9 TONY WEST
10 Assistant Attorney General

11 ELIZABETH J. SHAPIRO
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13 /s/ Marcia Berman
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