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10 *Attorneys for the Government Defs. in their Official Capacity*

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

14 \_\_\_\_\_ )  
CAROLYN JEWEL, *et al.*, )

Case No. 3:08-cv-04373-JSW

15 Plaintiffs, )

16 v. )

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

18 Defendants. )

19 \_\_\_\_\_ )  
20 *In re National Security Agency* )  
21 *Telecommunications Records Litigation* )  
(M:06-cv-1791) )

Case No. 07-cv-00693-JSW

**DEFENDANTS' NOTICE AND**  
**REQUEST THAT THE COURT HOLD**  
**THE PENDING CROSS-MOTIONS**  
**FOR SUMMARY JUDGMENT**  
**IN ABEYANCE**

22 This Document Relates To: )  
23 VIRGINIA SHUBERT, *et al.*, )

24 Plaintiffs, )

25 v. )

Judge Jeffrey S. White

26 BARACK OBAMA, *et al.* )

Courtroom 11, 19<sup>th</sup> Floor

27 Defendants. )

28 Defs.' Notice & Request that the Court hold Cross-Mtns. for Summ. Judgment in Abeyance  
*Jewel v. National Security Agency* (08-cv-4373-JSW)  
*Shubert v. Obama* (07-cv-00693-JSW) (M:06-cv-1791)

1 The Government Defendants, sued in their official capacities in these actions, hereby  
2 submit this request that the Court defer further consideration of pending cross-dispositive  
3 motions in this case, which were heard on December 14, 2012, and allow the parties to submit a  
4 status report to the Court on further proceedings in this case by July 12, 2013. The grounds for  
5 this request are as follows.  
6

7 In recent days there have been several media reports concerning alleged surveillance  
8 activities, including in particular concerning an Order of the Foreign Intelligence Surveillance  
9 Court. In response to these reports, the Director of National Intelligence (“DNI”) directed that  
10 certain information related to the “business records” provision of the Foreign Intelligence  
11 Surveillance Act be declassified and immediately released to the public. *See* DNI Statement on  
12 Recent Unauthorized Disclosures of Classified Information, *available at*  
13 [http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-](http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-statement-on-recent-unauthorized-disclosures-of-classified-information)  
14 [statement-on-recent-unauthorized-disclosures-of-classified-information](http://www.odni.gov/index.php/newsroom/press-releases/191-press-releases-2013/868-dni-statement-on-recent-unauthorized-disclosures-of-classified-information). Plaintiffs in this  
15 litigation have asserted claims concerning the alleged collection of communications records. *See*  
16 *Jewel* Complaint at ¶¶ 7, 10-11, 73-75, 82-97.  
17  
18

19 In light of these developments, the Government Defendants request that the Court defer  
20 further consideration of the pending motions and grant the Government time to consider the  
21 effect on the pending motions of the Government’s decision to declassify certain information,  
22 and to consult with plaintiffs concerning the matter. Accordingly, the Government Defendants  
23 respectfully request that the Court hold the pending cross-motions for summary judgment (Dkt.  
24 Nos. 83, 102) in abeyance at this time, and propose further that the parties file a joint or separate  
25 status report with the Court by July 12, 2013.  
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*Jewel v. National Security Agency* (08-cv-4373-JSW)  
*Shubert v. Obama* (07-cv-00693-JSW) (M:06-cv-1791)

1 Dated: June 7, 2013

Respectfully Submitted,

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