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

15 CAROLYN JEWEL, *et al.*,
16
17 Plaintiffs,
18
19 v.
20 NATIONAL SECURITY AGENCY, *et al.*,
21
22 Defendants.

23
24 FIRST UNITARIAN CHURCH OF
25 LOS ANGELES, *et al.*,
26
27 Plaintiffs,
28
29 v.
30 NATIONAL SECURITY AGENCY, *et al.*,
31
32 Defendants.

Case No. 08-cv-4373-JSW
Case No. 13-cv-3287-JSW

**STIPULATION AND [PROPOSED]
ORDER FOR AN EXTENSION OF
TIME TO PROCESS FOR PUBLIC
FILING CERTAIN CLASSIFIED
DECLARATIONS AND FOR AN
EXTENSION OF TIME TO
FILE A RULE 11 CERTIFICATION
REGARDING PRESERVATION
IN *FIRST UNITARIAN***

Fed. R. Civ. P. 6(b)(1) & Civil L.R. 6-2
Courtroom 11, 19th Floor
The Honorable Jeffrey S. White

1 Pursuant to Federal Rule of Civil Procedure 6(b)(1) & Civil Local Rule 6-2, the
2 Government requests, and the parties, by and through their undersigned counsel, hereby stipulate
3 to and respectfully request that the Court (1) extend the time for the Government to complete its
4 classification review of certain classified declarations previously filed in *Jewel v. National*
5 *Security Agency*, Civ. No. 08-4373-JSW, *Shubert v. Obama*, Civ. No. 07-0693-JSW, and *First*
6 *Unitarian Church of Los Angeles v. National Security Agency*, Civ. No. 13-3287-JSW; and
7 (2) extend the time for the Government to file its certification regarding preservation of evidence
8 pursuant to this Court's March 21, 2014, Preservation Order in *First Unitarian* (ECF No. 103)
9 ("Preservation Order").

10 (1) With respect to the first matter (classification review), the Government requires
11 additional time to comply with this Court's order, entered at the hearing on March 19, 2014, that
12 the Government on or before April 21, 2014, identify, review, and process for public filing
13 certain classified declarations filed in the above-referenced cases to the extent that such
14 declarations contain information that has since been publicly disclosed by the Government.
15 Whereas the Government had previously completed a similar project concerning seven
16 previously classified declarations within the almost three months' time the Court allowed for
17 compliance, *see Jewel*, 08-cv-4373-JSW, ECF No. 161 (Amended Civil Minute Order dated
18 Sept. 27, 2013), the Court's order of March 19 required the completion of a similar process for
19 ten declarations in about one month.

20 The Government has not—despite significant efforts—been able to comply with the
21 Court's order to complete its classification review of these ten declarations by April 21, 2014.
22 Significant information in the declarations remains highly classified, which must be separated
23 from any information that no longer remains classified. Each declaration must undergo several
24 layers of careful line-by-line review before public versions can be produced. These reviews also
25 require inter-agency consultation and coordination, which takes additional time and resources
26 from various governmental components that have a limited number of individuals who have the
27 experience and clearances necessary to perform these reviews. These individuals must conduct
28 these reviews in addition to other classification-review tasks such as complying with Freedom of

1 Information Act (FOIA) requests and court-ordered deadlines in related FOIA litigation. For
2 these reasons, the Government respectfully requests, and Plaintiffs do not oppose, a two-week
3 extension until May 5, 2014, for the Government to complete its classification-review,
4 processing, and (as appropriate) public filing of the ten declarations that the Government has
5 identified as subject to the Court's March 19 order.

6 (2) With respect to the second matter (preservation certification), the Government
7 requests a similar two-week extension of time to submit the certification required by this Court's
8 Preservation Order in *First Unitarian*. That Order requires counsel for each party by April 21,
9 2014, to certify to the Court, under seal and pursuant to Federal Rule of Civil Procedure 11, that
10 the directive counsel are required, under paragraph E of the Order, to issue to their respective
11 clients has been carried out. From the date the Preservation Order was entered, Government
12 counsel and the defendant agencies have exercised due diligence in addressing every aspect of
13 that Order, including the provisions of paragraph E regarding practices of any party involving the
14 routine destruction, recycling, relocation, or mutation of materials that may be relevant to the
15 case, so as to be in a position to submit the required certification as directed. Notwithstanding
16 these efforts, in light of the need for coordination between various defendant agencies and
17 components, additional time is needed to complete the certification process.

18 The Government Defendants respectfully request, and Plaintiffs do not oppose, an
19 extension of that deadline from April 21 to May 5, 2014.

20 The Court has not set a hearing date for these matters. There have been no previous
21 requests to alter these deadlines, and the requested changes should not impact the overall
22 schedule of this case.

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Dated: April 21, 2014

Respectfully Submitted,

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DECLARATION PURSUANT TO LOCAL RULE 5-1

I, James J. Gilligan, hereby declare pursuant to Local Rule 5-1 that I have obtained Plaintiffs' concurrence in the filing of this document from Cindy Cohn, counsel for Plaintiffs.

Executed on April 21, 2014, in Washington, D.C.

/s/ James J. Gilligan
JAMES J. GILLIGAN

* * * * *

PURSUANT TO STIPULATION, it is ORDERED that the Government's deadline for completing its classification review, processing, and (as appropriate) public filing, of the ten declarations that the Government has identified as subject to the Court's March 19 order be extended from April 21 to May 5, 2014. Similarly, PURSUANT TO STIPULATION, it is ORDERED that the deadline of April 21 be extended to May 5, 2014, for the Government to certify that the directive counsel are required to issue to their respective clients pursuant to paragraph E of the Court's Preservation Order in *First Unitarian* Order has been carried out.

AND IT IS SO ORDERED.

Dated: April 21, 2014



The Hon. Jeffrey S. White
United States District Judge