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15			
16	UNITED STATES DISTRICT COURT		
17	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
18		) CASE NO. 08-CV-4373-JSW	
19	CAROLYN JEWEL, TASH HEPTING, YOUNG BOON HICKS, as executrix of the	) ADMINISTRATIVE MOTION TO	
20	estate of GREGORY HICKS, ERIK KNUTZEN and JOICE WALTON, on behalf of themselves and all others similarly situated,	<ul> <li>ADVANCE HEARING DATE ON</li> <li>PLAINTIFFS' MOTION FOR ACCESS</li> <li>TO CLASSIFIED DISCOVERY</li> </ul>	
21 22	Plaintiffs,	) MATERIALS PURSUANT TO ) 18 U.S.C. § 2712(b)(4)	
22	V.	) <b>Before:</b> The Honorable Jeffrey S. White	
23 24	NATIONAL SECURITY AGENCY, et al.,	)	
25	Defendants.	) )	
26			
27			
28	///		
	Case No. 08-CV-4373-JSW ADMIN. MOTION TO A 1169267.02	DVANCE HEARING DATE	

## ADMINISTRATIVE MOTION TO ADVANCE HEARING DATE ON PLAINTIFFS' MOTION FOR ACCESS TO CLASSIFIED DISCOVERY MATERIALS PURSUANT TO 18 U.S.C. § 2712(b)(4)

Plaintiffs Carolyn Jewel, Tash Hepting, Young Boon Hicks, as executrix of the estate of Gregory Hicks, Erik Knutzen, and Joice Walton (collectively "plaintiffs") on May 7, 2018, filed a noticed motion to give their counsel access to the classified discovery materials under 18 U.S.C. section 2712(b)(4). ECF Nos. 393, 393-1.

Plaintiffs noticed their motion for hearing on July 6, 2018, the earliest available date on the Court's website calendar for cases with case numbers ending in the numeral "3."

Plaintiffs hereby request the Court to advance the hearing date to June 8, 2018. Counsel for the government have informed plaintiffs they are available for a hearing on June 8, 2018, although they intend to oppose this administrative motion. Good cause exists to advance the hearing date given the delays that have already occurred in the discovery process ordered by this Court and the need to decide this motion before further proceedings on the issue of standing can occur.

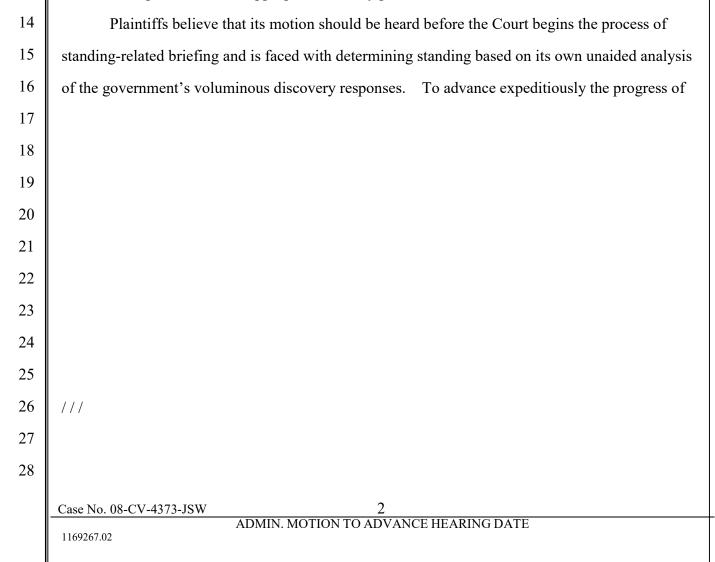
The Court seeks to determine, as the Ninth Circuit has indicated it should: "whether in fact the plaintiffs have standing under the standard for standing that is appropriate in this case." *See e.g.* Reporter's Transcript of Proceedings of May 19, 2017 Further Case Management Conference at 47:9-22, 48:7-19. This case is ten years old. The Court originally ordered discovery to go forward in February 2016. At the CMC one year ago, this Court required the government to provide it with the necessary evidence to allow the Court to make a determination of plaintiffs' standing. The Court ordered the government to provide this evidence both in response to the Court's own demand and in response to specifically-narrowed discovery requests that it allowed plaintiffs to propound.

Since that time: (i) the government asked for and received an extension from August 9,
26 2017 to October 6, 2017; (ii) the government sought an open-ended extension which plaintiffs
27 opposed, and the Court ordered compliance with plaintiffs' discovery by January 22, 2018; and (iii)
28 the government then asked for a further extension to February 16, 2018, to which the plaintiffs
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assented. While the government filed written objections and responses to plaintiffs' discovery on that date, the government did not file the actual answers to plaintiffs' discovery until it filed the a 193-page classified declaration by National Security Agency Director Admiral Michael S. Rogers on March 30, 2018.

The government's discovery responses appear to be voluminous, factually complex and technically sophisticated. They also fail to respond to interrogatories and requests for admissions directly but instead respond to groups of interrogatories and requests for admissions in a narrative fashion. Under the relevant statutes, the Court may order that plaintiffs be given access to the classified discovery materials, under appropriate security procedures and protective orders, where necessary in order for the Court to make an accurate determination of the issues before it. 18 U.S.C. § 2712(b)(4); 50 U.S.C. § 1806(f); *see* ECF Nos. 347 at 1-2; 340 at 2; 153 at 2, 11-13, 15, 24. Plaintiffs' motion asserts that this one of rare cases in which the Court should grant access to the plaintiffs under appropriate security procedures. ECF Nos. 393, 393-1.



1	this lawsuit, plaintiffs urge the Court to specially set plaintiffs' motion for June 8, 2018.	
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4	DATE: May 10, 2018	Respectfully submitted,
5		/s/ Thomas E. Moore III
6		CINDY COHN
7		DAVID GREENE LEE TIEN
8		KURT OPSAHL JAMES S. TYRE
9		MARK RUMOLD ANDREW CROCKER
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	1169267.02	ADMIN. MOTION TO ADVANCE HEARING DATE