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13 Attorneys for Plaintiffs

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 16 UNITED STATES DISTRICT COURT  
 17 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

19 ) CASE NO. 08-CV-4373-JSW  
 20 )  
 CAROLYN JEWEL, TASH HEPTING, )  
 YOUNG BOON HICKS, as executrix of the )  
 21 estate of GREGORY HICKS, ERIK KNUTZEN )  
 and JOICE WALTON, on behalf of themselves )  
 22 and all others similarly situated, )  
 )  
 23 Plaintiffs, ) Courtroom 5, Second Floor  
 ) The Honorable Jeffrey S. White  
 )  
 24 v. )  
 )  
 25 NATIONAL SECURITY AGENCY, *et al.*, )  
 )  
 26 Defendants. )

1 Plaintiffs hereby oppose the government's motion to stay proceedings because of the  
2 government shutdown.

3 Plaintiffs oppose any stay of proceedings at this time or any postponement of the February  
4 1, 2019 hearing. This lawsuit, now one of the very oldest in this District, has been subject to  
5 numerous stays, delays, and requests for extensions by the government, and is now over a decade  
6 old. The only matter currently on calendar is the February 1, 2019 motion hearing. Under the  
7 Department of Justice's shutdown plan, if the Court denies a stay, government counsel will be  
8 authorized to continuing work on the case, including participating in the February 1, 2019 hearing:  
9 "If a court denies such a request [for a stay] and orders a case to continue, the Government will  
10 comply with the court's order, which would constitute express legal authorization for the activity to  
11 continue." U.S. Department of Justice FY 2019 Contingency Plan, at p. 3, *available at*  
12 <https://www.justice.gov/jmd/page/file/1015676/download>.

13 The February 1, 2019 hearing is the culmination of the process of discovery and briefing on  
14 the issue of standing that began at the May 2017 case management conference, and that the Court  
15 originally envisaged would be completed by the end of 2017. Because of numerous extensions of  
16 the Court's discovery deadlines sought by the government, and because of the government's earlier  
17 refusal to provide any substantive discovery responses between the Court's lifting of the discovery  
18 stay in February 2016 and the Court's order that the government do so at May 2017 CMC, the  
19 threshold issue of standing is only now being addressed in 2019. Had the government acted with  
20 more diligence earlier in fulfilling its discovery responsibilities, hearing of the standing motion  
21 would have occurred months, if not a year or more, before now. Further delay is unconscionable  
22 and is highly prejudicial to plaintiffs, who have waited many years to have their claims resolved.

23  
24 DATE: January 18, 2019

Respectfully submitted,

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26 s/ Richard R. Wiebe  
Richard R. Wiebe

27 CINDY COHN  
28 DAVID GREENE  
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