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8 IN THE UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA  
 10

11 TRUTHOUT,

12 Plaintiff,

13 v.

14 DEPARTMENT OF JUSTICE,

15 Defendant.  
 16

2:12-cv-2601-LKK-CKD

**STIPULATION AND ORDER EXTENDING  
 TIME TO FILE MOTION FOR SUMMARY  
 JUDGMENT**

17  
 18 The parties, through their undersigned counsel, hereby recite and stipulate, subject to the  
 19 approval of the Court as provided for hereon, as follows:

20 **RECITALS**

21 1. In the status conference held April 1, 2013, the Court gave the Department of Justice less  
 22 time than it had requested, requiring its motion for summary judgment to be filed by July 15, 2013. The  
 23 Court, however, orally invited a request for extension, if needed, showing why the July 15 deadline  
 24 could not be met.

25 2. Defendant reports that it was on schedule to meet its July 15 deadline, except that its  
 26 search for responsive records unexpectedly found classified documents. This request results from that  
 27 occurrence, and responds to the Court's invitation at the status conference.

28 3. The FBI reports that it needs an additional five weeks to prepare Vaughn materials (that

1 is, declarations and associated materials to carry burdens explained in *Vaughn v. Rosen*, 484 F.2d 820  
2 (D.C. Cir. 1973)) for the Assistant United States Attorney to use for factual support for the summary  
3 judgment papers he will write. The additional time in the FBI results from the unexpected documents,  
4 classified at the Secret and Top Secret levels. This added time is taken up by (1) classification review, to  
5 determine whether the documents remain properly classified; (2) logistical delays necessitated by  
6 restrictions on the ability to communicate Top Secret information, all of which could be handled only by  
7 particular employees and electronic systems, and some of which had to be securely couriered between  
8 west and east coasts; (3) the need to write additional Vaughn material addressing FOIA exemptions  
9 associated with classified records; and (4) the previously-unanticipated need to prepare in-camera  
10 Vaughn papers additional to the already-anticipated public Vaughn papers.

11 3. The AUSA reports that he will need three weeks more than the time previously scheduled  
12 between his receipt of the Vaughn materials from the FBI and his filing of the summary judgment  
13 motion. The additional time need results from (1) the need for one to two additional weeks to brief,  
14 obtain internal review of, and finalize for filing the following papers additional to the previously-  
15 anticipated public summary judgment papers: (a) briefing on FOIA exemptions protecting classified  
16 documents; (b) papers requesting orders sealing materials for in-camera inspection; and (c) in-camera  
17 briefing; and (2) his already-existing motion-writing obligations in July and August, which occupy one  
18 to two weeks that he otherwise would have had for the writing tasks in this action.

19 4. The total extension requested is eight weeks. No previous extension of this time has been  
20 requested or granted.

### 21 STIPULATIONS

22 1. The summary judgment motion filing date of July 15, 2013, set by Order filed April 3,  
23 2013, at 2, last full paragraph, is EXTENDED until September 9, 2013.

24 2. The other dates set in the same paragraph are modified as follows: Plaintiff shall respond  
25 to the motion by October 7, 2013, and defendant shall reply by October 21, 2013.

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Dated: June 28, 2013

NATIONAL SECURITY COUNSELORS

By:

/s/ Kelly McClanahan (as authorized 6/28/13)

KELLY McCLANAHAN  
Executive Director

Dated: June 28, 2013

BENJAMIN B. WAGNER  
United States Attorney

By:

/s/ YHimel

YOSHINORI H. T. HIMEL  
Assistant United States Attorney

**ORDER**

It is APPROVED and SO ORDERED.

Dated: July 2, 2013.



LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT