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TONY WEST  
Assistant Attorney General  
MELINDA L. HAAG  
United States Attorney  
JOHN TYLER  
Assistant Branch Director  
KIMBERLY L. HERB  
Illinois Bar No. 6296725  
Trial Attorney  
Civil Division, Federal Programs Branch  
U.S. Department of Justice  
P.O. Box 883  
Washington, D.C. 20044  
Telephone: (202) 305-8356  
Facsimile: (202) 616-8470

Attorneys for DEFENDANTS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ELECTRONIC FRONTIER FOUNDATION, )  
Plaintiff, ) Case No. 3:09-CV-05640-SI  
vs. ) **STIPULATION AND [PROPOSED]**  
DEPARTMENT OF DEFENSE, ET AL., ) **ORDER TO AMEND BRIEFING**  
Defendants. ) **SCHEDULE**

1 Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Civil L.R. 6-2, Plaintiff Electronic  
2 Frontier Foundation (“EFF”) and Defendants Department of Justice, Criminal Division; U.S. Secret  
3 Service; Federal Bureau Investigation; and Department of Homeland Security (collectively  
4 “Defendants”) hereby stipulate to and respectfully request that this Court extend the briefing  
5 schedule for the filing of the parties’ dispositive motions. Defendants requested the revisions to  
6 the briefing schedule due to the unavailability of counsel for one of the Defendants, as counsel’s  
7 father died on September 18, 2011.

8  
9 1. Defendants submit that the Declaration of Kimberly L. Herb establishes good cause for  
10 the requested enlargement as follows:

- 11 a. On January 24, 2011, the Court granted EFF’s motion to consolidate the present  
12 action with *EFF v. DHS*, No. 10-cv-05526 (N.D. Cal.). (Dkt. 41.) As part of that  
13 Order, the Court also directed the parties to meet and confer and submit a joint  
14 proposal for the filing of dispositive motions in the consolidated action. (*Id.*)  
15 b. On February 25, 2011, the parties presented the Court with a proposed briefing  
16 schedule for the filing of dispositive motions. (Dkt. 46 at 1.) The Court approved  
17 the briefing schedule on March 1, 2011. That briefing schedule requires the parties  
18 to file their dispositive motions as follows: Defendants file a motion for summary  
19 judgment, including supporting documentation, on September 23, 2011; EFF files  
20 its response to Defendants’ motion for summary judgment and cross-moves for  
21 summary judgment on October 21, 2011; Defendants file their reply to their motion  
22 for summary judgment and their response to EFF’s cross-motion on November 4,  
23 2011; EFF files its reply to its cross-motion for summary judgment on November  
24 18, 2011; the Court holds a hearing on the dispositive motions on December 9,  
25 2011. (Dkt. 48 at 2-3.)  
26 c. On September 18, 2011, counsel for one of the Defendants (“agency counsel”) lost  
27 her father. Agency counsel is currently out of state due to the death of her father  
28 and is not scheduled to return for at least ten days. As a result, agency counsel will

1 be unable to review Defendants' motion for summary judgment and finalize the  
2 declaration necessary to support that motion. Accordingly, Defendants requested  
3 that Plaintiffs agree to an extension of the briefing schedule.

- 4 d. On September 20, 2011, defense counsel conferred with EFF regarding the briefing  
5 schedule for the parties' dispositive motions. The parties agreed to revise the  
6 briefing schedule as follows: Defendants file their motion for summary judgment  
7 on October 21, 2011; EFF files its opposition and cross-motion on November 18,  
8 2011; Defendants file their reply and opposition to EFF's cross-motion on  
9 December 2, 2011; EFF files its reply to its cross- motion on December 16, 2011;  
10 the Court holds a hearing on the parties' dispositive motions on January 13, 2012.
- 11 2. While the requested enlargement will affect the present briefing schedule for this case,  
12 the parties believe a one-month extension of Defendants' filing deadline is warranted  
13 given the circumstances. Furthermore, the parties believe this case will be resolved on  
14 summary judgment, and thus this case can be resolved expeditiously after the filing of  
15 the parties' motions.

16 \* \* \*

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18 The parties respectfully request that the Court extend the briefing schedule for the filing of  
19 the parties' dispositive motions such that they may be filed as discussed in paragraph 1(d) above.  
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1 DATED: September 22, 2011

2 Respectfully submitted,

3 /s/ Jennifer Lynch  
4 ELECTRONIC FRONTIER FOUNDATION  
Jennifer Lynch, Esq.  
5 Marcia Hoffman, Esq.  
454 Shotwell Street  
6 San Francisco, CA 94110  
Telephone: (415) 436-9333  
7 Facsimile: (415) 436-9993  
E-mail: jlynch@eff.org

TONY WEST  
Assistant Attorney General

JOSEPH P. RUSSONIELLO  
United States Attorney

JOHN TYLER  
Assistant Branch Director

8 Jason M. Schultz  
9 SAMUELSON LAW, TECHNOLOGY &  
10 PUBLIC POLICY CLINIC  
UC Berkeley School of Law  
11 396 Simon Hall  
Berkeley, CA 94720-7200  
12 Telephone: (510) 642-0499  
Facsimile: (510) 643-4625  
13 E-mail: jschultz@law.berkeley.edu

/s/ Kimberly L. Herb  
Kimberly L. Herb  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave. NW  
Washington, DC 20530  
Telephone: (202) 305-8356  
Facsimile: (202) 616-8470  
E-mail: Kimberly.L.Herb@usdoj.gov

14 Attorneys for Plaintiff

Attorneys for Defendants

15  
16 **GENERAL ORDER NO. 45(X) CERTIFICATION**

17 I attest that I have obtained Jennifer Lynch's concurrence in the filing of this document.

18 /s/ Kimberly L. Herb  
19 Kimberly L. Herb

20 \* \* \*

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22  
23 Dated: 9/26/11



24 Hon. Susan Ilston  
25 United States District Judge