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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**

14  
15 ELECTRONIC FRONTIER FOUNDATION, )

) Case No.: 14-cv-03010-RS

16 Plaintiff, )

17 v. )

) **STIPULATED REQUEST FOR**  
) **CONTINUANCE OF SUMMARY**  
) **JUDGMENT BRIEFING TO PERMIT**  
) **REPROCESSING OF DOCUMENT**  
) **AND [~~PROPOSED~~] ORDER**

18 NATIONAL SECURITY AGENCY, OFFICE )  
19 OF THE DIRECTOR OF NATIONAL )  
INTELLIGENCE, )

) Hon. Richard Seeborg  
)  
)  
)

21 Defendants. )

1 Pursuant to Civil L.R. 6-2, Defendants hereby request a continuance of the upcoming  
2 summary judgment briefing for Defendants to complete reprocessing of the single document  
3 responsive to Plaintiff's May 6, 2014 Freedom of Information Act ("FOIA") requests that remains  
4 in contention in this matter. In support of this motion, the Government states as follows:

5 1. Throughout this litigation, the parties have worked to narrow the scope of the issues  
6 in this action. After the parties agreed to a narrowing of Plaintiff's FOIA requests, Defendants  
7 produced 16 responsive documents, all of which contained redactions pursuant to claimed FOIA  
8 exemptions. Defendants also withheld in full 107 documents responsive to Plaintiff's requests.

9 2. The parties conferred after the completion of the Defendants' production, and  
10 agreed that the only issue remaining in contention in this matter is one record withheld in full  
11 pursuant to FOIA exemptions (b)(1), (b)(3), and (b)(5). *See* Joint Case Management Statement,  
12 ECF No. 24, at 5. The parties then submitted a proposed schedule for summary judgment briefing  
13 regarding that issue. *See id.*

14 3. The Court adopted the parties' proposed summary judgment briefing schedule in an  
15 Order dated May 19, 2015. *See* Order Adopting Proposed Briefing Schedule and Vacating Case  
16 Management Conference, ECF No. 25.

17 4. Under the current schedule:

- 18 a. On or before August 12, 2015, defendants will file their motion for summary judgment.  
19 b. On or before September 11, 2015, plaintiff will file its combined cross-motion for  
20 summary judgment and opposition to defendants' motion.  
21 c. On or before October 16, 2015, defendants will file their combined opposition to  
22 plaintiff's motion and reply in support of their motion.  
23 d. On or before October 30, 2015, plaintiff will file its reply in support of its motion.

23 *Id.* at 1.

24 5. Defendants have now determined that the single document that remains in  
25 contention in this case may be reprocessed and released in part. Defendants have begun that  
26 process and anticipate that they will be able to produce a redacted version of the document to  
27 Plaintiff by September 3.

1           6.       Plaintiff has agreed to review the reprocessed document, in conjunction with a  
2 *Vaughn* index for that document, to determine whether it is satisfied with the disclosure or whether  
3 it will challenge the redactions taken in the document. Plaintiff has agreed to inform the  
4 Defendants of how it wishes to proceed by September 17, 2015.

5           7.       At that time, the parties propose to file an update with the Court, informing the  
6 Court of whether any substantive matters remain in contention, and, if so, proposing a new  
7 schedule for summary judgment briefing that would begin in October 2015.

8           8.       The requested continuance would suspend the deadlines currently on the calendar in  
9 this matter. The parties respectfully request this relief to enable them to confer regarding the  
10 reprocessed document, and to avoid potentially unnecessary briefing regarding the merits of this  
11 matter.

12           9.       There have been no prior extensions or continuances as to the summary judgement  
13 briefing schedule described in paragraph 4.

14           For all of these reasons, the parties respectfully request that the Court continue the current  
15 summary judgment briefing schedule and order that the parties submit a status report, including, if  
16 any substantive matters remain in contention, a new proposed summary judgment briefing schedule  
17 by September 25, 2015.

18  
19 DATED: August 11, 2015

Respectfully submitted,

20  
21 BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

22 MELINDA HAAG  
23 United States Attorney

24 ELIZABETH J. SHAPIRO  
Deputy Branch Director

25 /s/ Julia A. Berman  
26 RODNEY PATTON  
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3 *Attorneys for Defendants*

4 /s/ Andrew Crocker

5 Andrew Crocker

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9 San Francisco, CA 94109

*Attorneys for Plaintiff*

10 *Electronic Frontier Foundation*

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12  
13 **ATTESTATION PURSUANT TO LOCAL RULE 5-1(i)(3)**

14 I, Julia Berman, hereby attest that I obtained the concurrence of Andrew Crocker, counsel  
15 for the Plaintiff, Electronic Frontier Foundation, in the filing of this document.

16  
17 /s/ Julia A. Berman

JULIA A. BERMAN

18 Trial Attorney

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PURSUANT TO STIPULATION, it is hereby ORDERED that the current summary judgment briefing schedule is continued, and it is further ORDERED that the parties shall submit a status report, including, if any substantive matters remain in contention, a new proposed summary judgment briefing schedule by September 25, 2015.

IT IS SO ORDERED.

Dated: 8/11/15

  
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HON. RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE