



2. The Government has been working diligently to complete Petitioner's factual return, as well as other tasks related to the Guantanamo habeas litigation. The factual return has proven to be significantly complicated and time-consuming, including unique issues related to the evidence proposed for use in the return and the clearance of proposed evidence used in this proceeding.<sup>1</sup> Disclosure of additional detail regarding these issues would risk inappropriate disclosure of classified information subject to clearance issues or of attorney-client privileged information or attorney work product. Should the Court require additional detail regarding the circumstances of preparing Petitioner's factual return, the Government could provide further information to the Court *ex parte* and *in camera*.

3. The Government has sought two previous extensions with respect to Petitioner's factual return, both of which were filed with the consent of Petitioner's counsel. *See* Dec. 31, 2008 Status Report Re the Filing of Factual Returns for December 2008 & Req. for Exception from Sequencing (Misc. No. 08-442) (dkt. no. 1444); Jan. 30, 2009 Resp'ts' Status Report and Mot. for Extension of Time to File Factual Returns & Legal Justification (Misc. No. 08-442) (dkt. no. 1573). The Court granted both requests. *See* Jan. 2, 2009 Minute Order (Misc. No. 08-0442); Feb. 2, 2009 Minute Order.

4. In accordance with local rule 7(m), undersigned counsel conferred with Petitioner's counsel. Petitioner does not oppose the relief requested in this motion. In addition, the parties recognize that this petition raises unique issues and believe it will be difficult to litigate the petition within the timeframe established by the case management order adopted by Judge Hogan (dkt. nos. 48 and 62). Accordingly, the parties anticipate having to seek extensions

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<sup>1</sup> The clearance process is more fully described in Respondents' Motion for Partial and Temporary Relief from the Court's July 11, 2008 Scheduling Order (Misc. No. 08-0442) (filed

of the deadlines in the case management order in at least some instances. Petitioner's counsel has agreed to the Government's current and prior requests for extensions of the deadline for filing Petitioner's factual return. In the same fashion, and in recognition of the complexity of this case, the Government anticipates it will agree to Petitioner's requests for extensions. The parties hope to resolve such issues without the Court's involvement.

Accordingly, the Government respectfully requests that the Court grant an extension of time until March 27, 2009 for the Government to file Petitioner's factual return.

Dated: February 27, 2009

Respectfully submitted,

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