

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

	)	Misc. No. 08-mc-442 (TFH)
)	
IN RE:	)	Civil Action Nos.
)	
GUANTANAMO BAY	)	02-cv-0828, 04-cv-1136, 04-cv-1164, 04-cv-1194,
DETAINEE LITIGATION	)	04-cv-1254, 04-cv-1937, 04-cv-2022, 04-cv-2215,
	)	05-cv-0023, 05-cv-0247, 05-cv-0270, 05-cv-0280,
	)	05-cv-0329, 05-cv-0359, 05-cv-0392, 05-cv-0492,
	)	05-cv-0520, 05-cv-0526, 05-cv-0569, 05-cv-0634,
	)	05-cv-0748, 05-cv-0764, 05-cv-0877, 05-cv-0883,
	)	05-cv-0889, 05-cv-0892, 05-cv-0993, 05-cv-0994,
	)	05-cv-0999, 05-cv-1048, 05-cv-1124, 05-cv-1189,
	)	05-cv-1220, 05-cv-1244, 05-cv-1353, 05-cv-1429,
	)	05-cv-1457, 05-cv-1490, 05-cv-1497, 05-cv-1504,
	)	05-cv-1555, 05-cv-1592, 05-cv-1601, 05-cv-1607,
	)	05-cv-1623, 05-cv-1638, 05-cv-1645, 05-cv-1646,
	)	05-cv-1971, 05-cv-1983, 05-cv-2088, 05-cv-2104,
	)	05-cv-2185, 05-cv-2186, 05-cv-2199, 05-cv-2249,
	)	05-cv-2349, 05-cv-2367, 05-cv-2371, 05-cv-2379,
	)	05-cv-2380, 05-cv-2384, 05-cv-2385, 05-cv-2386,
	)	05-cv-2387, 05-cv-2479, 06-cv-1668, 06-cv-1684,
	)	06-cv-1690, 06-cv-1761, 06-cv-1765, 06-cv-1766,
	)	06-cv-1767, 07-cv-1710, 07-cv-2337, 07-cv-2338,
	)	08-cv-1101, 08-cv-1207, 08-cv-1224, 08-cv-1228,
	)	08-cv-1233, 08-cv-1235, 08-cv-1237, 08-cv-1238,
	)	08-cv-1360, 08-cv-1440, 08-cv-1789, 08-cv-1805,
	)	08-cv-1828, 08-cv-1923, 08-cv-2019, 08-cv-2083,
	)	09-cv-0031, 09-cv-0745, 09-cv-0873, 09-cv-0904,
	)	09-cv-1332, 09-cv-1385, 09-cv-2368, 10-cv-0407

**AMENDED MOTION FOR EXTENSION
OF TIME REGARDING PROPOSED PUBLIC RETURNS**

Respondents, by and through undersigned counsel, respectfully amend their pending motion for an extension of time regarding the preparation and submission of proposed public factual returns as required by the Court's January 14, 2010 Order (08-mc-442, Dkt. No. 1896). Respondents originally requested until July 14, 2010 to comply with the Court's Order, but now respectfully request until the end of the following week, July 23, 2010, to complete the reprocessing required by the Court's Order and to serve the reprocessed, marked returns on

petitioners' counsel.¹ An amended proposed order is attached.

For the following reasons, and those stated in Respondents' briefs in support of their Motion to Amend and for Clarification of the Court's January 14, 2010 Order Regarding Public Returns (08-mc-442, Dkt. No. 1942) (Notice of Filing), the Court should grant Respondents an extension of time until July 23, 2010 to complete the reprocessing required by the Court's January 14, 2010 Order.

1. On January 14, 2010, the Court issued an order providing the Government three months to reprocess the more than 150 proposed public versions of factual returns submitted by the Government in the Guantanamo Bay Detainee Litigation. *See* Jan. 14, 2010 Order. The Order requires a line-by-line reprocessing of classified and sensitive-but-unclassified information contained in 159 factual returns, which number up to 400 to 500 pages each. In each return, Respondents must redact classified information using black redaction boxes and must also highlight in green any sensitive but unclassified information they seek to deem "protected" pursuant to the governing Protective Order. *See* June 1, 2009 Order 1-2 (08-mc-442, Dkt. No. 1781). Multiple executive branch agencies are involved and must work together to prepare a single "proposed public return" in each case.

2. Despite a tremendous diversion of resources to this effort by Respondents' classification review teams, the sheer scope of the undertaking — individual line-by-line reviews of each return separately conducted by several executive branch agencies, which must then

¹ The Court's June 1, 2009 and January 14, 2010 Orders apply to all "cases consolidated for purposes of coordination and management in [the] Misc. No. 08-0442 [docket]," except "to petitions that are stayed or to any petitioner who consented" to a motion filed by the Government in January, 2009 entitled "Motion to Confirm Designation of Unclassified Factual Returns as 'Protected.'" *See* June 1, 2009 Mem. Op. at 3 n.2, 9 n.10 (08-mc-0442, Dkt. No. 1780). Respondents have identified 159 factual returns as subject to the Court's Orders.

coordinate with one another to produce a single proposed public return in each of more than 150 cases — made it impracticable for Respondents to complete the proposed public returns within the original prescribed deadline while still meeting other obligations imposed on them in these *habeas* cases. Accordingly, on April 14, 2010, Respondents filed a Motion to Amend and for Clarification of the Court’s January 14, 2010 Order Regarding Public Returns. Among other things, the motion requested an extension of time until July 14, 2010, to complete the reprocessing required and to serve the proposed public returns on Petitioners’ counsel.

3. Respondents are nearing completion of the proposed public returns. The Department of Defense, Federal Bureau of Investigation, and Central Intelligence Agency have each completed individual agency versions of the public returns in any of the 159 returns subject to the Court’s orders in which that agency has information. To date, the Department of Defense Security Classification/Declassification Review Team (“DoD SC/DRT”) — the team that merges individual agency versions into compiled single versions of each return — has compiled 142 returns. Of these, 78 have completed the second-round review (quality check) step and have been finalized, with the remaining compiled versions currently undergoing the second round review. Respondents have served 70 returns on Petitioners’ counsel to date, and will continue to serve the remaining returns on a rolling basis until they are completed.

4. Respondents have spent an enormous amount of time, resources, and money to comply with the Court’s January 14, 2010 Order. Despite their best efforts to complete this project by their previously estimated date of July 14, 2010, Respondents require until the end of the follow week to finish serving the remaining returns. This is so for several reasons. First, the competing demands that these *habeas* cases continue to place on the time and resources of the agencies’ classification review teams, as previously described by Respondents to the Court, have

precluded them from solely focusing on processing the proposed public returns. Second, in the past two weeks, Respondents have discovered that documents in nearly a dozen returns require review by the Department of State before they can be included in the compiled proposed public returns. After these documents are redacted and/or highlighted as necessary by the Department of State and added to the returns, the returns must still undergo quality control review to ensure that all agencies' redactions of classified information, and highlighted designations of protected information, are included in the proposed public return compiled by the Department of Defense.

5. No party will be prejudiced by the brief addition of time requested herein to complete the reprocessing of proposed public returns. For the above stated reasons, and those stated in support of their opening and reply briefs in support of the Motion to Amend and for Clarification, the Court should allow Respondents until July 23, 2010 to finish the reprocessing of the proposed public returns and serve the remaining returns on Petitioners' counsel.

6. Pursuant to LCvR 7(m), counsel for Respondents met and conferred with representative counsel for Petitioners and counsel for Press Intervenors regarding their amendment to their pending motion for an extension of time. Darin Thompson, on behalf of Petitioners' counsel, indicated that Petitioners do not object to Respondents amending the pending extension motion but do object to Respondents' extension motion, whether amended or not, for the reasons stated by Petitioners in their opposition brief. Press Intervenors also opposed Respondents' April 14, 2010 motion for an extension of time, and counsel for Press Intervenors indicated today that Press Intervenors continue to object to any delay in the process associated with the filing of public returns.

For the above stated reasons, and those previously explained to the Court in connection with Respondents' Motion to Amend and for Clarification, the Court should grant Respondents

until July 23, 2010 to complete the 159 proposed public returns and serve them on Petitioners' counsel.

Dated: July 9, 2010

Respectfully submitted,

TONY WEST
Assistant Attorney General

JOSEPH H. HUNT
Branch Director

TERRY M. HENRY
Assistant Branch Director

/s Lisa Zeidner Marcus

JAMES J. GILLIGAN
Assistant Branch Director

LISA ZEIDNER MARCUS
Trial Attorney
(NY Bar Registration No. 4461679)

United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, DC 205301
Phone: (202) 514-3336

Attorneys for Respondents