

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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LARRY KLAYMAN, <i>et al.</i> ,)	
)	
	Plaintiffs,)	Civil Action No.
)	1:13-cv-00851-RJL
	v.)	
)	
BARACK OBAMA, President of the)	
United States, <i>et al.</i> ,)	
)	
	Defendants.)	
<hr/>)	
LARRY KLAYMAN, <i>et al.</i> ,)	
)	
	Plaintiffs,)	Civil Action No.
)	1:13-cv-00881-RJL
	v.)	
)	
BARACK OBAMA, President of the)	
United States, <i>et al.</i> ,)	
)	
	Defendants.)	
<hr/>)	

**GOVERNMENT DEFENDANTS’ MOTION TO EXTEND THE TIME TO
RESPOND TO PLAINTIFFS’ MOTIONS FOR PRELIMINARY INJUNCTIONS**

Defendants Barack Obama, President of the United States, Eric Holder, Attorney General of the United States, and General Keith B. Alexander, Director of the National Security Agency (NSA), insofar as they are sued in their official capacities, together with defendants NSA and the United States Department of Justice (collectively, the “Government Defendants”), hereby move, pursuant to Federal Rule of Civil Procedure 6(b) and Local Rule 65.1(c), to extend the time to respond to Plaintiffs’ motions for preliminary injunctions (ECF No. 13 in Civ. Action No. 13-851 and ECF No. 10 in Civ. Action No. 13-881) in the above-captioned cases.

1. The complaint in *Klayman v. Obama* (Civ. Action No. 13-851) (“*Klayman I*”) was filed on June 6, 2013 and amended on June 9, 2013. On September 30, 2013, Plaintiffs

moved for an extension of time to certify a class action, when they had yet to serve the (original or amended) complaint on any defendant. Plaintiffs finally served the amended complaint on the Office of the United States Attorney for the District of Columbia on October 2, 2013, nearly four months after bringing suit. The Government Defendants' response to the amended complaint in *Klayman I* is currently due on December 2, 2013.

2. The complaint in *Klayman v. Obama* (Civ. Action No. 13-881) ("*Klayman II*") was filed on June 12, 2013. As in *Klayman I*, Plaintiffs in *Klayman II* moved for an extension of time to certify a class action on September 30, 2013, before the complaint was served on any defendant. Plaintiffs served the complaint on the Office of the United States Attorney for the District of Columbia on October 16, 2013, more than four months after bringing suit. The Government Defendants' response to the complaint in *Klayman II* is due on December 16, 2013.

3. On October 29, 2013, Plaintiffs filed motions for preliminary injunctions in *Klayman I* and *Klayman II*. Under Local Rule 65.1(c), the Government Defendants' responses are due seven days after service of the motions for preliminary injunctions. As noted above, the Government Defendants' responses to the complaints, however, are not due until December 2 and 16, 2013 respectively. The Government Defendants intend to move to dismiss the claims asserted against them in their entirety.

4. Plaintiffs' motions for preliminary injunctions are based on allegations about NSA collection of telephonic and Internet-based communications. Plaintiffs maintain that these alleged activities are unlawful under the Foreign Intelligence Surveillance Act and the Constitution. The Government Defendants' opposition to these motions will raise jurisdictional defenses and present arguments that Plaintiffs have failed to state claims against the Government Defendants as a matter of law, the same issues that will be presented in their forthcoming motions to dismiss. Accordingly, it makes the most sense, in the interests of judicial economy,

for the Government Defendants to address these arguments in combined oppositions to motions for preliminary injunctions and motions to dismiss on December 2, 2013, in *Klayman I* and on December 16, 2013, in *Klayman II*. The Government Defendants further submit that the complaints and motions for preliminary injunctions raise significant questions of law, requiring substantially longer than seven days to prepare appropriate responses to the motions.¹

5. The fact that Plaintiffs waited four months or more after filing their complaints to serve the Government Defendants, and then waited close to another month in *Klayman I* and two weeks in *Klayman II* to file their motions for preliminary injunctions, strongly indicates that there is no urgency requiring immediate consideration of their motions. Indeed, nothing in Plaintiffs' motion papers suggests that they have any greater need for preliminary relief now than at any time during the four-month period when they failed even to serve the Government Defendants with the complaints. In a similar case filed in the Southern District of New York, where the plaintiffs filed a motion for preliminary injunction on August 26, 2013, *ACLU v. Clapper*, Civ. Action No. 13-cv-03994 (WHP) (S.D.N.Y.) (ECF No. 26), the court issued a scheduling order that allowed sufficient time for the parties to brief the complex issues involved, and argument on the motion is scheduled for November 22, 2013.

6. Counsel for Plaintiffs in *Klayman I and II* has advised counsel for the Government Defendants that Plaintiffs oppose this motion. Counsel for defendant Verizon Communications and Lowell McAdam have advised that they consent to this motion.

¹ It is unclear from Plaintiffs' papers whether they are seeking preliminary injunctive relief against the Government Defendants alone, or against other parties named in these actions as well. To the extent they are seeking relief against the private-party defendants, counsel for defendants Verizon Communications and Lowell McAdam have asked that we note their like request for an extension until December 2, 2013, to file their opposition to Plaintiffs' motion in *Klayman I*. Pursuant to the Court's October 15 and October 20, 2013, Minute Entries, December 2 is also the due date for defendants Verizon and McAdam to respond to the complaint in that action.

7. For the reasons stated above, the Government Defendants' request to extend the deadline for their responses to Plaintiffs' preliminary injunction motions should be granted.

Dated: October 30, 2013

Respectfully submitted,

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