

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’ AMENDED COMPLAINTS IN LIGHT OF
MEMORANDUM OPINION ISSUED TODAY**

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), to extend the time to respond to Plaintiffs’ amended complaints in the above-captioned cases.

1. Today is the due date for Government Defendants’ response to the amended complaints in both *Klayman v. Obama* (Civ. Action No. 13-851) (“*Klayman I*”) and *Klayman v.*

Obama (Civ. Action No. 13-881) (“*Klayman II*”). Government Defendants had prepared a motion to dismiss for filing today, largely incorporating the merits arguments made in Government Defendants’ Opposition to Plaintiffs’ Motions for Preliminary Injunctions (ECF No. 25 in *Klayman I* and ECF No. 21 in *Klayman II*). At 1:07 p.m. this afternoon, however, the Court issued a 68-page Memorandum Opinion granting in part Plaintiffs’ Motions for Preliminary Injunction. The opinion concludes that, with respect to *Klayman I*, Plaintiffs have standing to challenge the constitutionality of the Government’s telephony metadata program, that Plaintiffs demonstrated a substantial likelihood of success on the merits of their Fourth Amendment claim, and that Plaintiffs will suffer irreparable harm. Thus, the Court granted in part the motion in *Klayman I*, with respect to plaintiffs Larry Klayman and Charles Strange and as against Government Defendants, but stayed the order pending appeal.

2. Government Defendants respectfully request an extension until January 10, 2014, of the deadline for responding to the amended complaints in these cases, to allow them sufficient time to determine the impact of today’s Memorandum Opinion on the motion to dismiss that Government Defendants were prepared to file today, and more generally how the Government will seek to proceed in light of today’s ruling. For example, Government Defendants intended to move to dismiss Plaintiffs’ Fourth Amendment claim for failure to state a claim upon which relief can be granted, but the Court ruled that that claim has a likelihood of success on the merits, and therefore the Government will need to assess the Court’s ruling to determine how to proceed in light of that ruling.

3. Government Defendants seek until January 10 because of approaching deadlines in another pair of cases in the Northern District of California challenging the NSA’s intelligence-gathering activities, which cases are handled by the same litigation team responsible for defending Government Defendants in the instant cases. On December 20, 2013, the Government

must report to the Court in *Jewel v. National Security Agency* (08-cv-4373-JSW) (N.D. Cal.) and *Shubert v. Obama* (07-cv-0693-JSW) (N.D. Cal.) on the impact of recent disclosures concerning the NSA's intelligence-gathering activities on the Government's 2012 state secrets privilege assertion in those cases. The Government is also required to submit by December 20 redacted, declassified versions of the multiple prior state secrets privilege declarations filed in those cases. These are extraordinarily sensitive, complex filings requiring a great deal of effort and coordination by different government agencies. The litigation team handling those cases and the instant cases must devote its full attention to the *Jewel* and *Shubert* matters in order to meet the court-imposed deadlines in those cases. In addition, December 25, 2013, and January 1, 2014, are federal holidays.

4. Counsel for Plaintiffs in *Klayman I* and *II* has advised counsel for Government Defendants that Plaintiffs object to this motion. Counsel for defendant Verizon Communications and Lowell McAdams have advised that they consent to this motion.

Dated: December 16, 2013

Respectfully submitted,

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