

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LARRY E. KLAYMAN, CHARLES
STRANGE, and MARY ANNE STRANGE,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

BARACK HUSSEIN OBAMA,
ERIC HIMPTON HOLDER, JR.,
KEITH B. ALEXANDER, LOWELL C.
MCADAM, ROGER VINSON,
VERIZON COMMUNICATIONS,
NATIONAL SECURITY AGENCY, and
U.S. DEPARTMENT OF JUSTICE,

Defendants.

No. 1:13-cv-00851-RJL

**MOTION OF DEFENDANT VERIZON COMMUNICATIONS INC. FOR AN
EXTENSION OF TIME TO RESPOND TO PLAINTIFFS' AMENDED COMPLAINT**

Defendant Verizon Communications Inc. (“Verizon”)¹ respectfully moves for an extension of time to file a motion to dismiss Plaintiffs’ Class Action Amended Complaint under Federal Rule of Civil Procedure 12(b) or to answer the amended complaint. An extension of time is necessary to align the deadlines for the federal government defendants and Verizon to respond to the amended complaint. Verizon seeks an extension up to and including December 2, 2013, or such later date as the Court may set for the federal government defendants’ response. Verizon has not previously requested or obtained an extension of time in this matter.

¹ There is no personal jurisdiction over Verizon Communications Inc. in this district. Verizon therefore reserves the right to challenge personal jurisdiction in its response to Plaintiffs’ amended complaint. Verizon does not, by seeking this extension of time, concede personal jurisdiction.

BACKGROUND

Plaintiffs filed this action against the National Security Agency (“NSA”), the Department of Justice, President Obama, Attorney General Eric H. Holder, Jr., NSA Director Keith B. Alexander, Judge Roger Vinson of the Foreign Intelligence Surveillance Court, and the Verizon defendants on June 6, 2013 in the wake of press reports purporting to describe certain alleged NSA activities. Plaintiffs filed their amended complaint on June 9, 2011.

Plaintiffs’ amended complaint challenges an alleged government intelligence program. *See, e.g.*, Am. Compl. ¶ 2. Among other things, the amended complaint alleges that the Foreign Intelligence Surveillance Court issued an order “directing Verizon to turn over, on an ongoing basis, ... [a]ll call detail records or telephony metadata created by Verizon for communications (i) between the United States and abroad; or (ii) wholly within the United States, including local telephone calls.” *Id.* ¶ 2 (internal quotation marks omitted). Plaintiffs allege violations of the First, Fourth, and Fifth Amendments to the U.S. Constitution against the individual government defendants; state-law claims for intentional infliction of emotional distress and for “[i]ntrusion [u]pon [s]eclusion” against all defendants; and claims under the Electronic Communications Privacy Act against Verizon.

REQUEST FOR AN EXTENSION

Under Federal Rule of Civil Procedure 12(a)(1)(A), a private party defendant has 21 days from the date of service to respond to a complaint. Verizon received a copy of Plaintiffs’ amended complaint by certified mail on September 30, 2013. Assuming that was sufficient to effect service of process, Verizon’s deadline to file a motion to dismiss or to answer would currently be October 21, 2013.

The federal government defendants named in this action have a different deadline for

responding to the amended complaint. Under Federal Rule of Civil Procedure 12(a)(2)-(3), they have 60 days from the date they were served to respond. Counsel for the federal government has indicated that its response to the amended complaint is currently due December 2, 2013, but that it will likely seek an extension of time in light of the ongoing government shutdown.

Verizon anticipates that the arguments and defenses it will likely raise in response to Plaintiffs' amended complaint may overlap in certain respects with those of the federal government. As a result, the most efficient course for this action is to set a schedule that aligns the deadlines for the federal government defendants and Verizon to respond to the amended complaint. Such a schedule will facilitate a coordinated response from Verizon and the federal government defendants and avoid unnecessary duplication of effort by the parties and the Court.

Pursuant to Local Civil Rule 7(m), undersigned counsel conferred with counsel for Plaintiffs and counsel for the federal government defendants regarding this motion. Counsel for the federal government defendants does not oppose the requested extension. Counsel for Plaintiffs opposes the requested extension.

CONCLUSION

Accordingly, Verizon therefore respectfully requests that the Court extend its deadline to respond to the amended complaint up to and including December 2, 2013, or such later date as the Court may set for the federal government's response. In light of the **October 21, 2013** deadline for Verizon to file a motion to dismiss or an answer, Verizon respectfully requests that, if necessary, the Court expedite the time for filing any opposition to this motion.

Dated: October 10, 2013

Respectfully submitted,

/s/ Randolph D. Moss
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Counsel for Verizon Communications Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2013, I filed the foregoing document with the Clerk of Court for the United States District Court for the District of Columbia using the Court's CM/ECF system, which caused notice of the filing to be served upon all counsel of record.

/s/ Randolph D. Moss

Randolph D. Moss