

1 MICHAEL F. HERTZ  
 Deputy Assistant Attorney General  
 2 ANN M. RAVEL  
 Deputy Assistant Attorney General  
 3 TIMOTHY P. GARREN  
 Director  
 4 ANDREA W. MCCARTHY  
 Senior Trial Counsel  
 5 JAMES R. WHITMAN (D.C. Bar No. 987694)  
 Trial Attorney  
 6 United States Department of Justice  
 Civil Division, Torts Branch  
 7 P.O. Box 7146, Ben Franklin Station  
 Washington, DC 20044-7146  
 8 Tel: (202) 616-4169  
 Fax: (202) 616-4314  
 9 james.whitman@usdoj.gov

10 *Attorneys for the Defendants Listed on the Signature Page*

11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

13 CAROLYN JEWEL, et al.,	)	No. 08-4373 VRW
14 <span style="padding-left: 100px;">Plaintiffs,</span>	)	<b>STIPULATION TO SET BRIEFING SCHEDULE</b>
15 v.	)	[Civil L.R. 6-1(b); 6-2; 7-12]
16 NATIONAL SECURITY AGENCY, et al.,	)	
17 <span style="padding-left: 100px;">Defendants.</span>	)	
18	)	

19 Pursuant to Local Rule 6-1(b), the parties, through their undersigned counsel, hereby  
 20 stipulate and agree to a briefing schedule in connection with the Individual Capacity Defendants'  
 21 Motion for Relief from the Court's Orders of April 27, 2009, and May 8, 2009.  
 22

23 **RECITALS**

24 1. On September 18, 2008, plaintiffs filed a complaint in this action against the  
 25 National Security Agency ("NSA"), the United States, and several Government officials in their  
 26 official and individual capacities, challenging alleged surveillance activities on statutory and  
 27 constitutional grounds. See Doc # 1.  
 28

1           2.       On April 3, 2009, the Government Defendants sued in their official capacities  
2 filed a Motion to Dismiss and for Summary Judgment. See Doc # 18. That motion was argued  
3 and submitted for consideration by the Court on July 15, 2009.

4           3.       On July 10, 2009, the individual capacity defendants filed a Motion for Relief  
5 from the Court's Orders of April 27, 2009, and May 8, 2009. See Doc # 32. That motion is  
6 scheduled to be heard on September 17, 2009, at 10:00 a.m.

7           4.       The parties have conferred and agreed upon the following briefing schedule in  
8 connection with the September 17, 2009 hearing date:

9                   August 24, 2009:       Plaintiffs' Opposition to the Individual Capacity

10   Defendants' Motion

11                   September 3, 2009:    Individual Defendants' Reply

**STIPULATION**

Pursuant to Local Rule 6-1(b), the parties, through their undersigned counsel, hereby stipulate and agree to the following schedule in connection with the Individual Capacity Defendants' Motion for Relief from the Court's Orders of April 27, 2009, and May 8, 2009:

1. August 24, 2009: Plaintiffs' Opposition to the Individual Capacity Defendants' Motion
2. September 3, 2009: Individual Capacity Defendants' Reply
3. September 17, 2009: Hearing on Individual Capacity Defendants' Motion at 10:00 a.m.

Respectfully submitted this 5th day of August, 2009,

MICHAEL F. HERTZ  
Deputy Assistant Attorney General, Civil Division

ANN M. RAVEL  
Deputy Assistant Attorney General, Civil Division

TIMOTHY P. GARREN  
Director, Torts Branch

ANDREA W. MCCARTHY  
Senior Trial Counsel, Torts Branch

/s/ James R. Whitman  
JAMES R. WHITMAN (D.C. Bar No. 987694)  
Trial Attorney  
United States Department of Justice  
Civil Division, Torts Branch

Attorneys for George W. Bush, Richard B. Cheney, David S. Addington, Keith B. Alexander, Michael V. Hayden, John D. McConnell, John D. Negroponte, Michael B. Mukasey, Alberto R. Gonzales, and John D. Ashcroft, in their individual capacity

**DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B**

I, JAMES R. WHITMAN, hereby declare that, pursuant to General Order 45, § X.B, I have obtained the concurrence in the filing of this document from each of the other signatories listed below.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on August 5, 2009, in the City of Washington, District of Columbia.

/s/ James R. Whitman

JAMES R. WHITMAN (D.C. Bar No. 987694)  
Trial Attorney  
United States Department of Justice  
Civil Division, Torts Branch  
P.O. Box 7146, Ben Franklin Station  
Washington, DC 20044-7146  
Tel: (202) 616-4169  
Fax: (202) 616-4314  
james.whitman@usdoj.gov

Attorney for the Individual Capacity Defendants

**SIGNATORY PER G.O. 45:**

ELECTRONIC FRONTIER FOUNDATION  
CINDY COHN (145997)  
LEE TIEN (148216)  
KURT OPSAHL (191303)  
KEVIN S. BANKSTON (217026)  
JAMES S. TYRE (083117)  
454 Shotwell Street  
San Francisco, CA 94110  
Telephone: 415/436-9333  
Fax: 415/436-9993

By: /s/ Cindy Cohn per G.O. 45  
CINDY COHN

Attorneys for Plaintiffs

**[PROPOSED] ORDER**

Pursuant to the foregoing Stipulation, and good cause appearing, the Court hereby sets the following schedule in connection with the Individual Capacity Defendants' Motion for Relief from the Court's Orders of April 27, 2009, and May 8, 2009:

1. August 24, 2009: Plaintiffs' Opposition to the Individual Capacity Defendants' Motion
2. September 3, 2009: Individual Capacity Defendants' Reply
3. September 17, 2009: Hearing on Individual Capacity Defendants' Motion at 10:00 a.m.

**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

Dated: \_\_\_\_\_, 2009

\_\_\_\_\_  
Hon. Vaughn R. Walker  
United States District Chief Judge