



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

October 13, 2017

BY ECF AND HAND DELIVERY

Honorable Richard M. Berman
United States District Judge
United States Courthouse
500 Pearl Street, Room 1650
New York, New York 10007

Re: *ACLU, et al. v. National Security Agency, et al.*
16 Civ. 8936 (RMB)

Dear Judge Berman:

This Office represents defendants National Security Agency, Office of the Director of National Intelligence, Department of Justice and Central Intelligence Agency (collectively, "Defendants") in the above-captioned Freedom of Information Act ("FOIA") case. Pursuant to Paragraph 7 of the Stipulation and Order entered on February 8, 2017 [Dkt. No. 35], Defendants write on behalf of the parties to inform the Court whether the parties anticipate filing a consolidated motion for summary judgment.

As of September 15, 2017, Defendants have completed their production of partially or fully non-exempt documents deemed responsive to Plaintiffs' FOIA Request dated September 14, 2016, as modified by stipulations entered in this case. The parties are presently engaged in negotiations that, if fruitful, would result in the settlement of this case without the need for further litigation. Those negotiations include Plaintiffs' request for an award of its reasonable attorney fees and other litigation costs as provided for in FOIA, 5 U.S.C. § 552(a)(4)(E). Plaintiffs have submitted their attorneys' fees request to Defendants, who have requested further information from Plaintiffs. Counsel for both sides will make good faith efforts to resolve this action without the need for judicial intervention. To allow Defendants time to consider whether any negotiated fee award is appropriate and, if so, what constitutes reasonable attorneys' fees and costs under the circumstances, the parties propose submitting a status report to the Court by November 21, 2017. The letter will inform the Court of the progress of their negotiations and, if necessary, whether further litigation of Defendants' withholdings or Plaintiffs' request for fees is anticipated.

We thank the Court for its consideration of this request.

Honorable Richard M. Berman
October 13, 2017

Page 2 of 2

Respectfully submitted,

JOON H. KIM
Acting United States Attorney

By: /s/ Tomoko Onozawa
DAVID S. JONES
TOMOKO ONOZAWA
Assistant United States Attorneys
Tel: (212) 637-2739/2721
Fax: (212) 637-2686
Email: david.jones6@usdoj.gov
tomoko.onozawa@usdoj.gov

cc: (Via ECF)
Patrick Toomey, Esq.
Anna Diakun, Esq.
Ashley Gorski, Esq.
Counsel for Plaintiffs