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13 Additional counsel listed on signature page of Plaintiffs’ special motion

14 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA—SAN FRANCISCO DIVISION

15 WILEY GILL; JAMES PRIGOFF; TARIQ  
16 RAZAK; KHALID IBRAHIM; and AARON  
17 CONKLIN,

18 Plaintiffs,

19 v.

20 DEPARTMENT OF JUSTICE; LORETTA  
LYNCH,<sup>1</sup> in her official capacity as the  
Attorney General of the United States;  
21 PROGRAM MANAGER – INFORMATION  
SHARING ENVIRONMENT;  
22 KSTEMENDRA PAUL, in his official  
capacity as the Program Manager of the  
23 Information Sharing Environment,

24 Defendants.

Case No. 3:14-cv-03120 (RS)

**STIPULATION AND ~~PROPOSED~~  
ORDER SETTING HEARING DATE  
AND BRIEFING SCHEDULE FOR  
PLAINTIFFS’ SPECIAL MOTION TO  
ESTABLISH RIGHT TO DISCOVERY  
ON THE DEPARTMENT OF  
JUSTICE’S STANDARD FOR  
SUSPICIOUS ACTIVITY REPORTING  
AND SUBMISSION OF  
ADMINISTRATIVE RECORD  
REGARDING FUNCTIONAL  
STANDARD**

25 \_\_\_\_\_  
26 <sup>1</sup> In light of Ms. Lynch’s swearing in as Attorney General on April 27, 2015, she is automatically  
substituted as a Defendant in this action in place of Eric Holder. *See* Fed. R. Civ. P. 25(d).

27 STIPULATION AND [PROPOSED] ORDER  
SETTING HEARING DATE AND  
28 BRIEFING SCHEDULE FOR PLAINTIFFS’  
SPECIAL MOTION AND SUBMISSION OF  
ADMINISTRATIVE RECORD REGARDING  
FUNCTIONAL STANDARD

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**RECITALS**

1. On October 16, 2014, Defendants filed a motion to dismiss Plaintiffs’ complaint (ECF No. 21), which the Court denied on February 20, 2015 (ECF No. 38).

2. On March 12, 2015, the Court held a case management conference. (ECF No. 41.)

3. At the conference, the Court ordered Defendants to provide an administrative record for Defendant Program Manager of the Information Sharing Environment’s (“Program Manager”) standard on suspicious activity reporting by June 10, 2015. (ECF No. 41.)

4. The parties disagreed regarding the availability of discovery on Plaintiffs’ claims related to Defendant Department of Justice’s (“DOJ”) alleged standard on suspicious activity reporting. Plaintiffs argued that immediate discovery on the DOJ’s standard on suspicious activity reporting is appropriate and necessary. Defendants contend that discovery is inappropriate in this Administrative Procedure Act action, which is governed by the administrative record. With respect to the so-called DOJ standard, Defendants further contend that Plaintiffs have failed to plead facts sufficient to establish the existence of such a standard or a cause of action that would warrant discovery. The Court invited Plaintiffs to address the dispute between the parties via an affirmative motion setting forth Plaintiffs’ position as to their right to obtain discovery related to the DOJ’s standard for suspicious activity reporting. Pursuant to the Court’s invitation, Plaintiffs intend to file a special motion to establish their right to discovery on the DOJ’s standard for suspicious activity reporting (“Special Motion”).

5. To ensure orderly briefing on Plaintiffs’ Special Motion, the parties stipulate to the following briefing schedule. On June 4, 2015, Plaintiffs will file their Special Motion. On July 10, 2015, Defendants will file their opposition to Plaintiffs’ Special Motion. Plaintiffs will then file a reply brief in support of their Special Motion on July 30, 2015.

6. The parties additionally stipulate that the hearing on Plaintiffs’ Special Motion will be held on August 20, 2015, subject to the Court’s approval.

7. The parties further stipulate that Defendants will be permitted until June 17, 2015,

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1 to file the administrative record pertaining to the Program Manager’s functional standard, subject  
2 to the Court’s approval. Defendants request an additional week to ensure proper review of the  
3 record.

4 **STIPULATION**

5 Plaintiffs will file their Special Motion on June 4, 2015. Defendants will file their  
6 opposition to Plaintiffs’ Special Motion on July 10, 2015. Plaintiffs will then file a reply brief in  
7 support of their Special Motion on July 30, 2015. Plaintiffs’ Special Motion will be heard on  
8 August 20, 2015, subject to the Court’s approval. Defendants will file the administrative record  
9 pertaining to the Program Manager’s functional standard on or before June 17, 2015.

10  
11 Dated: June 4, 2015

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN  
CALIFORNIA

12  
13 By /s/ Julia Harumi Mass  
JULIA HARUMI MASS

14 *Attorneys for Plaintiffs*

15  
16 Dated: June 4, 2015

U.S. DEPARTMENT OF JUSTICE

17 By /s/ Paul Freeborne  
Paul Freeborne

18 *Attorneys for Defendants*

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27 STIPULATION AND [PROPOSED] ORDER  
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**FILER’S ATTESTATION**

I, Nicole R. Sadler, am the ECF user whose identification and password are being used to file this STIPULATION AND [PROPOSED] ORDER SETTING HEARING DATE AND BRIEFING SCHEDULE FOR PLAINTIFFS’ SPECIAL MOTION TO ESTABLISH RIGHT TO DISCOVERY ON THE DEPARTMENT OF JUSTICE’S STANDARD FOR SUSPICIOUS ACTIVITY REPORTING AND SUBMISSION OF ADMINISTRATIVE RECORD REGARDING FUNCTIONAL STANDARD. Pursuant to L.R. 5-1(i)(3), I hereby attest that concurrence in the electronic filing of this document has been obtained from each of the other signatories.

Dated: June 4, 2015

By     /s/Nicole R. Sadler      
Nicole R. Sadler

STIPULATION AND [PROPOSED] ORDER  
SETTING HEARING DATE AND  
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**[PROPOSED] ORDER**

Pursuant to the Stipulation between the Parties, it is hereby ORDERED that Plaintiffs' Special Motion to Establish Right to Discovery on the Department of Justice's Standard for Suspicious Activity Reporting is set for hearing on August 20, 2015, at 1:30 p.m.

Further pursuant to the Stipulation, it is hereby ORDERED that Plaintiffs' Special Motion shall be filed no later than June 4, 2015; the opposition to the motion shall be filed no later than July 10, 2015; and the reply shall be filed no later than July 30, 2015. Defendants will file the administrative record pertaining to the Program Manager's functional standard on or before June 17, 2015.

**IT IS SO ORDERED.**

Dated: 6/4/15



\_\_\_\_\_  
The Hon. Richard Seeborg  
Judge of the United States District Court for  
the Northern District of California