



FACSIMILE COVER SHEET

U.S. ATTORNEY'S OFFICE- SDNY
ONE ST. ANDREW'S PLAZA
NEW YORK, NY 10007

From: Heather K. McShain

Office Phone No.: (212) 637-2696

Fax Number: (212) 637-2702

No. pages (including cover sheet): 3

Date sent: 2/11/2009

**"FOR OFFICIAL USE ONLY" U.S. ATTORNEY FACSIMILE
COMMUNICATION**

The information contained in this facsimile message, and any and all accompanying documents, constitute "FOR OFFICIAL USE ONLY" information. This information is the property of the U.S. Attorney's Office. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is strictly prohibited. If you received this information in error, please notify us immediately by telephone at the above number and destroy the information. (rev. 9/08)

To: (following distribution list)

<u>Name</u>	<u>Phone Number</u>	<u>Fax Number</u>
Hon. Alvin K. Hellerstein	(212) 805-0152	(212) 805-7942
Amrit Singh, Esq.	(212) 549-2609	(212) 549-2654
Jennifer Brooke Condon, Esq.	(973) 596-4500	(973) 596-0545

Remarks:

U.S. Department of Justice



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 11, 2009

BY FACSIMILE

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street, Room 1050
New York, New York 10007-1312

Re: ACLU, et al., v. Department of Defense, et al., No. 04 Civ. 4151 (AKH)

Dear Judge Hellerstein:

We write respectfully to request a 90-day extension of time, from February 13, 2009 until May 14, 2009, to file the Government's opposition to plaintiffs' fourth motion for summary judgment and the Government's cross-motion. This is the Government's second request for an extension.

This extension is necessary to permit consultations with officials of the new administration who will need time to familiarize themselves with the issues presented in this sensitive matter. In this motion, Plaintiffs challenge the withholding of three Office of Legal Counsel memoranda. The Central Intelligence Agency seeks to withhold these three memoranda pursuant to Exemptions One and Three, and the Office of Legal Counsel seeks to withhold them under Exemption Five. On January 22, 2009, President Obama issued an Executive Order pertaining to the detention and interrogation of persons detained by the United States in armed conflicts, which could have some bearing on this litigation. New administration officials at both agencies will need time to obtain the requisite security clearances, familiarize themselves with the matter and the classified documents at issue, and ensure that the Government's positions are consistent with the president's new Executive Order. The Government estimates that this process will take 90 days to complete.

This is the Government's second request for an extension of this deadline. On January 15, 2009, this Court granted the Government's request for a one month extension of the deadline. The Government requested plaintiffs' consent to this extension request, and plaintiffs responded that they do not consent to any extension request beyond 14 days.

Hon. Alvin K. Hellerstein
United States District Court
February 11, 2009
Page 2

We thank the Court for its consideration of this request.

Respectfully,

LEV N. DASSIN
Acting United States Attorney

By:



SEAN H. LANE
PETER M. SKINNER
HEATHER K. McSHAIN
Assistant United States Attorneys
Telephone: (212) 637-2696
Facsimile: (212) 637-2702

cc: Amrit Singh, Esq.
Jenny-Brooke Condon, Esq.