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 11 *Attorneys for the Government Defs. in their Official Capacity*

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

14	)	Case No. 4:08-cv-04373-JSW
15	)	
16	)	
17	)	<b>GOVERNMENT DEFENDANTS'</b>
18	)	<b>NOTICE OF CROSS-MOTION</b>
19	)	<b>FOR PARTIAL SUMMARY</b>
20	)	<b>JUDGMENT</b>
21	)	Date: December 5, 2014
22	)	Time: 9:00 a.m.
23	)	Courtroom 5, Second Floor
24	)	Hon. Jeffrey White

23 PLEASE TAKE NOTICE that, on December 5, 2014, at 9:00 a.m., before Judge  
 24 Jeffrey S. White, the Government Defendants sued in their official capacity in this action will  
 25 cross-move for partial summary judgment against the Plaintiffs with respect to the Fourth  
 26 Amendment claim asserted in the Plaintiffs' motion for partial summary judgment, ECF No. 261.  
 27 The grounds for this motion are as follows:

28 1. Plaintiffs have not established their standing, and cannot do so without the risk of grave  
 Government Defendants' Notice of Cross-Motion for Partial Summary Judgment, *Jewel v. National Security Agency*  
 (4:08-cv-4373-JSW)

1 damage to national security.

2 2. Plaintiffs' claims that a Fourth Amendment seizure and search of their communications  
3 occurs as part of Section 702 collection fails as a matter of fact and law, and cannot be litigated  
4 without disclosing state secrets.

5 3. The seizure and search alleged by Plaintiffs fall within the Fourth Amendment's "special  
6 needs" doctrine and are reasonable under the totality of the circumstances.

7 The grounds for this motion are set forth further in the accompanying Memorandum of  
8 Points and Authorities. Classified materials supporting the Government Defendants' cross-  
9 motion, consisting of a classified supplement and the Classified Declaration of Miriam P, NSA,  
10 have been lodged with court information security officers and are available upon request solely  
11 for the Court's *in camera, ex parte* review.

12  
13 Dated: September 29, 2014

Respectfully Submitted,

14 JOYCE R. BRANDA  
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17 Director, Federal Programs Branch

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