



easily addressed), defendant proposes the following schedule for defendant's Third CIPA Section 5 Notice:

- February 7, 2014: Defendant files his Third CIPA Section 5 Notice.
- February 17, 2014: Government files its Objections, if any, to the Third Notice.

Given the amount of time involved in the drafting of these notices in the SCIF and the Court's recent opinion regarding CIPA Section 5's requirements, the defense does not believe that it would be efficient or fair to Mr. Kim to proceed with the filing of his Third CIPA Section 5 Notice before either the government has conceded, or the Court has otherwise ruled, that the form of his Revised Second CIPA Section 5 Notice is adequate. The defense submits that the schedule set forth above is consistent with the Court's Order (Dkt. 229), which contemplates the filing of the revised Second Notice, the government's opposition thereto, then the third CIPA Section 5 Notice and any opposition thereto – and not a simultaneous filing as proposed by the government below.

## **II. CIPA Section 5: The Government's Proposed Dates**

The defendant's Third CIPA Section 5 Notice was due on December 10, 2013. In a Joint Notice, filed with the Court on December 9, 2013, the defendant indicated that he sought a continuance of the schedule for the filing of his Third CIPA Section 5 Notice (i.e., the next day), because the Court had not yet resolved the parties' dispute over the adequacy of the defendant's Second CIPA Section 5 Notice. The United States did not oppose that request.

Since that time, however, the Court has issued a detailed written opinion addressing the adequacy of the defendant's Second CIPA Section 5 Notice and has provided guidance to the parties generally about CIPA Section 5's requirements. Informed by the Court's written opinion, the defendant should be required to file his Second and Third CIPA Section 5 Notices in

conformity with the Court's rulings either simultaneously or as a single filing in the next 30 days. In any event, the defendant's December 9th request to delay the filing of his Third CIPA Section 5 Notice to await the Court's decision on his Second CIPA Section 5 Notice should not result in a nearly two-month extension of time for that filing, as proposed above. Therefore, the United States proposes the following schedule with respect to the defendant's Revised Second CIPA Section 5 Notice and Third CIPA Section 5 Notice:

- January 13, 2014: Defendant files his Revised Second CIPA Section 5 Notice and Third CIPA Section 5 Notice.
- January 24, 2014: Government files its Objections, if any, to the Revised Second CIPA Section 5 Notice and Third CIPA Section 5 Notice.

Respectfully submitted,

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2013, I caused a true and correct copy of the foregoing to be served via the Court's ECF system to all counsel of record in this matter.

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/s/  
Keith M. Rosen