

NO. 09-10875

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

UNITED STATES OF AMERICA,
Respondent - Appellee,

V.

**HOLY LAND FOUNDATION FOR
RELIEF AND DEVELOPMENT, ET AL.,**
Defendants.

Appeal Of:

NORTH AMERICAN ISLAMIC TRUST
Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
United States v. Holy Land Foundation For Relief and Development, et al.,
CASE NO. 3:04-CR-0240

**APPELLANT'S MOTION TO SEAL ORAL ARGUMENT
OR, IN THE ALTERNATIVE, REQUEST FOR
INSTRUCTIONS CONCERNING ORAL ARGUMENT**

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Appellant North American Islamic Trust (“NAIT”) moves to seal the anticipated oral argument in this case (as well as all recordings and transcripts of that argument) or, in the alternative, NAIT seeks instructions from this Court regarding how to proceed with oral argument. In support of this request, NAIT states as follows:

1. On August 26, 2009, the North American Islamic Trust (“NAIT”) filed a Notice of Appeal asking this Court to review a July 1, 2009 Memorandum Opinion Order (the “Order”) of the United States District Court for the Northern District of Texas. That Order was issued under seal in the criminal proceeding styled *United States v. Holy Land Foundation For Relief And Development, et al.*, Case No. 3:04-CR-00240.

2. On February 1, 2010, NAIT sought leave from this Court to file its Appellant’s Initial Brief and Record Excerpts under seal. On April 5, 2010, the Government sought leave from this Court to file its Brief and Record Excerpts under seal. On April 29, 2010, NAIT sought leave from this Court to file Appellant’s Reply Brief and Supplemental Record Excerpts under seal.

3. On May 5, 2010, this Court entered an Order granting the parties’ requests and sealed the documents referenced in paragraph 2. (Exhibit A)

4. On June 17, 2010, this Court notified the parties that oral argument for this case had tentatively been scheduled for the week of August 30, 2010.

(Exhibit B)

5. On June 17, 2010, this Court notified the parties that a third-party's motion to unseal the appellate briefs in this case, filed with the Court on May 20, 2010, would be submitted to the Court along with the merits of the appeal.

(Exhibit C)

6. In light of the foregoing, NAIT moves to seal the oral argument in this case or, in the alternative, seeks instruction from this Court regarding how to proceed with oral argument. Although NAIT opposes the District Court's sealing order and would prefer that the oral argument in this case be public, sealing the oral argument in this appeal would prevent the public disclosure of items the District Court has decided should be, or by operation of the local sealing procedures are, shielded from public view. Accordingly, in order to comply with and respect the District Court's sealing order, NAIT requests instructions on how the parties should proceed with oral argument in this case.

7. NAIT has conferred with counsel for the Appellee, the United States of America. The Appellee does not oppose this request.

WHEREFORE the North American Islamic Trust respectfully requests that this Court enter an order either sealing the oral argument (along with any

transcripts or recordings) or, providing the parties instruction on how to proceed with oral argument.

Dated: July 20, 2010

Respectfully Submitted,

By: /s/ Timothy M. Maggio

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CERTIFICATE OF CONFERENCE

Counsel for the North American Islamic Trust conferred with counsel for United States of America, Appellee, regarding this motion. The Appellee does not oppose this motion.

/s/ Timothy M. Maggio
Timothy M. Maggio

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all counsel of record on this the 20th day of July, 2010 via the appellate CM/ECF system and U.S. Mail, pre-paid postage, to the following addresses:

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