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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

AL-HARAMAIN ISLAMIC
FOUNDATION, *et al.*,

CV. 06-274- KI

Plaintiffs,

v.

**DEFENDANTS' NOTICE OF MOTION
TO TRANSFER TO THE JOINT
PANEL ON MULTIDISTRICT
LITIGATION**

GEORGE W. BUSH, *et al.*,

Defendants.

Defendants hereby provide notice to the parties and the Court that the United States—as part of the United States’ response to Verizon Communications Inc., Verizon Global Networks Inc., and Verizon Northwest Inc.’s (“Verizon”) motion to transfer and coordinate a large number of National Security Agency cases against telecommunication companies, *In re National Security Litigation*, MDL-1791—has sought to transfer and coordinate this action and four others with the cases currently under consideration by the Joint Panel on Multidistrict Litigation (“JPML”).^{1/} See Rule 7.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation. As stated in the United States’ response to Verizon’s motion (attached hereto as Exhibit 1), this case, like the cases against the telecommunications companies, contains allegations that the United States is engaged in a foreign intelligence program involving the alleged disclosure of, or access to, telephone and/or internet communications and/or records, in purported violation of federal statutes and the U.S. Constitution. This case thus shares common questions of fact and causes of action with the cases against the telecommunications carriers. In addition, common questions relating to pretrial procedure, particularly the United States’ intention to assert the state secrets privilege and seek dismissal, arise across all the cases regardless of whether the case is against a telecommunications company, the Government, or both. Thus, judicial economy and convenience to the parties favor the transfer and coordination of this case and the actions already subject to the JPML proceeding.

A hearing on Verizon’s motion is set for July 27, 2006. In the event that the Panel grants that motion to transfer and coordinate, Defendants expect that the JPML will treat this action as a

¹ The United States served Plaintiffs with its response to Verizon’s motion on the same day that the response was filed (June 19, 2006).

“tag along” action under the applicable rules and provide Plaintiffs with an opportunity to object to the transfer of the action to MDL-1791 at that time. *See* Rule 7.4 (providing an opportunity and briefing to oppose conditional transfers of “tag along” actions).

That expectation is based on specific guidance that counsel for the United States received from the JPML’s Clerk’s Office. On June 20, 2006, the Clerk’s Office requested that counsel for the United States send a letter to the Clerk of the Panel requesting that its filing be considered a response to Verizon’s pending MDL motion and that the five actions added by the United States, including the instant one, be treated as related or “tag-along” actions to MDL-1791. The United States sent the requested letter to the Clerk of the Panel on June 21, 2006, and also served it on all parties, including Plaintiffs. *See* United States’ June 21, 2006 letter (attached hereto as Exhibit 2). According to the Clerk’s Office and Rule 7.4 of the Rules of Procedure of the JPML, if the JPML grants Verizon’s motion to transfer, it will issue a conditional transfer order for the “tag-along” actions and serve that order on each party to the litigation. The parties to those “tag-along” actions will then have 15 days to file a notice of opposition to the conditional transfer order. *See* Rule 7.4(c). If a party files such a notice, it will then have an additional 15 days to file a motion to vacate the conditional transfer order. *Id.* 7.4(d). A motion to vacate will be set for consideration at the next appropriate hearing session of the JPML.^{2/} *Id.*

² Thus, despite Plaintiffs’ suggestions in their letter of June 23, 2006 to the Court, they were promptly served with all relevant papers and will have an opportunity to object to the transfer of this action.

Dated: June 26, 2006

Respectfully submitted,

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