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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

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

CV. 06-274- KI

Plaintiffs,

v.

GEORGE W. BUSH, *et al.*,

Defendants.

**DEFENDANTS' NOTICE OF  
DECISION BY THE  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

Defendants hereby provide notice to the parties and the Court that, on August 9, 2006, the Judicial Panel on Multidistrict Litigation (“Panel”) issued an order relating 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. *See* August 9, 2006 Transfer Order, *In re National Security Litigation*, MDL-1791, attached hereto as Exhibit 1. The Panel ordered that the actions subject to Verizon’s motion be transferred to the Northern District of California for coordinated or consolidated pretrial proceedings. *See id.* at 2 (“the Panel finds that these actions involve common questions of fact, and that centralization under Section 1407 in the Northern District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation”), & 3.

As previously explained to the Court, *see* Docket No. 62, in response to Verizon’s motion, the United States sought to transfer and coordinate this action and four others with the cases subject to Verizon’s motion. *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 as Exhibit 1 to Docket No. 62), 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 subject to the Panel's August 9, 2006 Transfer Order.

Defendants expect that the Panel will treat this action as a "tag-along" action under the applicable rules and provide Plaintiffs with an opportunity to object to the transfer of the action to MDL-1791. *See* Rule 7.4 (providing an opportunity and briefing to oppose conditional transfers of "tag-along" actions). According to Rule 7.4 of the Rules of Procedure of the Panel, a conditional transfer order for the "tag-along" actions should be issued and served 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 Panel. *Id.*

Accordingly, Defendants respectfully suggest that the Court stay proceedings in this case — and, in particular, continue the hearing presently scheduled for August 29, 2006 — pending resolution of the status of this case as a "tag-along" action to MDL-1791.<sup>1/</sup>

Dated: August 14, 2006

Respectfully submitted,

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<sup>1</sup> Plaintiffs have informed Defendants that they object to a continuance of the August 29, 2006 hearing.

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*s/ Andrea Gacki*

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