

1 MICHAEL F. HERTZ  
 Deputy Assistant Attorney General  
 2 DOUGLAS N. LETTER  
 Terrorism Litigation Counsel  
 3 JOSEPH H. HUNT  
 Director, Federal Programs Branch  
 4 VINCENT M. GARVEY  
 Deputy Branch Director  
 5 ANTHONY J. COPPOLINO  
 Special Litigation Counsel  
 6 MARCIA BERMAN  
 Trial Attorney  
 7 U.S. Department of Justice  
 Civil Division, Federal Programs Branch  
 8 20 Massachusetts Avenue, NW, Rm. 6102  
 Washington, D.C. 20001  
 9 Phone: (202) 514-4782—Fax: (202) 616-8460

10 *Attorneys for the Government Defendants*

11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**  
 13 **SAN FRANCISCO DIVISION**

14		)	<b>No. M:06-cv-01791-VRW</b>
15	IN RE NATIONAL SECURITY AGENCY	)	
16	TELECOMMUNICATIONS RECORDS	)	<b>STIPULATION TO MODIFY AND</b>
17	LITIGATION	)	<b>EXTEND THE CURRENT SCHEDULE</b>
18	_____	)	Date: September 1, 2009
19	<u>This Document Solely Relates To:</u>	)	Time: 10:00 a.m.
20		)	Courtroom: 6, 17th Floor
21	<i>Al-Haramain Islamic Foundation of Oregon, et</i>	)	Chief Judge Vaughn R. Walker
22	<i>al. v. Obama, et al.</i> (07-cv-109-VRW)	)	
23	_____	)	

24 Pursuant to Local Rule 6.1, the parties, through their undersigned counsel, hereby  
 25 stipulate to and seek the Court’s approval of a modification to the current briefing and hearing  
 26 schedule for plaintiffs’ motion for partial summary judgment as set forth in the Court’s Order of  
 27 July 2, 2009 (Dkt. 98 in 07-cv-109-VRW).  
 28

**RECITALS**

1. After a hearing in this action on June 3, 2009, the Court directed the plaintiffs to file a  
 motion for summary judgment and set a hearing on plaintiffs’ motion for September 1, 2009.  
 See June 5, 2009 Order, Dkt. 96. The Court directed that plaintiffs’ motion must be based on

1 non-classified evidence and that if “defendants rely upon Sealed Document or other classified  
2 evidence in response, the court will enter a protective order and produce such classified  
3 evidence” to certain of plaintiffs’ counsel. *Id.* at 2.

4 2. On July 2, 2009, the Court approved the parties’ stipulated briefing schedule  
5 giving: (i) plaintiffs until July 10, 2009 to file a motion for summary judgment; (ii) defendants  
6 until August 5, 2009 to oppose the motion; and (iii) plaintiffs until August 19, 2009 to reply.

7 3. Plaintiffs filed a partial motion for summary judgment on July 9, 2009. *See* Dkt.  
8 99.

9 4. Counsel for the Government Defendants has conferred with counsel for plaintiffs and  
10 sought agreement on a short two-week extension of the briefing schedule and a modification of  
11 the hearing date due to the press of business and other scheduling conflicts arising after the  
12 plaintiffs filed their motion.<sup>1</sup> To facilitate this agreement, counsel for Government Defendants  
13 advised plaintiffs’ counsel that the Government does not presently anticipate submitting  
14 classified information in support of the Government’s position in response to plaintiffs’ motion  
15 or with any cross motion.

16 5. No prior modifications of the briefing schedule or hearing with regard to  
17 plaintiffs’ instant motion for partial summary judgment have been sought or entered. L.R.  
18 6-2(a)(2).

19 6. The requested time modification would adjust the time for the Government’s response  
20 (or any cross motion), Plaintiffs’ reply (or any opposition), and the hearing date, but would have  
21 no other impact on the schedule in this case. L.R. 6-2(a)(3).

22 7. The parties request that the Court change the hearing date on the matter from  
23  
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26 <sup>1</sup> Counsel for the Government advised plaintiffs that the Government’s response time  
27 was impacted by the need for Government counsel to present oral argument in two matters on  
28 July 15, 2009 (before this Court in the *Jewel* action) and July 22, 2009 (in another action), as  
well as other business and personal commitments.

1 Tuesday, September 1, 2009 to Friday, September 25, 2009 at 10:00 am.<sup>2</sup>

2 **STIPULATION**

3 Pursuant to L.R. 6.1, the parties, through their undersigned counsel, hereby stipulate and  
4 agree to the following modification to the briefing schedule and hearing on plaintiffs' partial  
5 motion for summary judgment, and request that the Court enter the proposed order below as an  
6 order of the Court.

7 1. The Government Defendants' response to plaintiffs' partial motion for summary  
8 judgment (and any cross motion) is due on August 20, 2009.

9 2. Plaintiffs' reply in support of their motion (and opposition to any cross motion) is due  
10 on September 8, 2009.

11 3. If the Government Defendants file a cross motion, any reply in support thereof would  
12 be due on September 14, 2009.

13 4. The matter will be heard on Friday, September 25, 2009 at 10:00 a.m.

14 DATED: July 31, 2009

15 Respectfully Submitted,

16 MICHAEL F. HERTZ  
Acting Assistant Attorney General

17 DOUGLAS N. LETTER  
Terrorism Litigation Counsel

18 JOSEPH H. HUNT  
Director, Federal Programs Branch

19 VINCENT M. GARVEY  
Deputy Branch Director

20 s/ Anthony J. Coppolino  
21 ANTHONY J. COPPOLINO  
22 Special Litigation Counsel

23 MARCIA BERMAN  
24 Trial Attorney  
25 U.S. Department of Justice  
26 Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, NW, Rm. 6102

27  
28 <sup>2</sup> We note this is not the Court's usual day to hear motions, but seek the Court's approval  
of a Friday hearing in this case to accommodate the parties' pre-existing schedules.

Washington, D.C. 20001  
Phone: (202) 514-4782—Fax: (202) 616-8460

*Attorneys for the Government Defendants*

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1                                   **DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B**

2                   I, ANTHONY J. COPPOLINO, hereby declare pursuant to General Order 45, § X.B, that  
3 I have obtained the concurrence in the filing of this document from each of the other signatories  
4 listed below.

5                   I declare under penalty of perjury that the foregoing declaration is true and correct.

6                   Executed on July 31, 2009, in the City of Washington, District of Columbia.

7                                   MICHAEL F. HERTZ  
8                                   Acting Assistant Attorney General  
9                                   DOUGLAS N. LETTER  
10                                  Terrorism Litigation Counsel  
11                                  JOSEPH H. HUNT  
12                                  Director, Federal Programs Branch  
13                                  VINCENT M. GARVEY  
14                                  Deputy Branch Director  
15                                  ANTHONY J. COPPOLINO  
16                                  Special Litigation Counsel  
17                                  MARCIA BERMAN  
18                                  Trial Attorney

19                                  By:           s/ Anthony J. Coppolino            
20                                  ANTHONY J. COPPOLINO  
21                                  U.S. Department of Justice  
22                                  Civil Division, Federal Programs Branch  
23                                  20 Massachusetts Avenue, NW, Rm. 6102  
24                                  Washington, D.C. 20001  
25                                  Phone: (202) 514-4782—Fax: (202) 616-8460

26                                  *Attorneys for the Government Defendants*

27                                  By:           s/ Jon B. Eisenberg per G.O. 45            
28                                  JON B. EISENBERG  
  California Bar No. 88278 (jon@eandhlaw.com)  
  Eisenberg & Hancock LLP  
  1970 Broadway, Suite 1200 • Oakland, CA 94612  
  510.452.2581 – Fax 510.452.3277

  Counsel for Plaintiffs Al-Haramain Islamic Foundation,  
  Inc., Wendell Belew, and Asim Ghafoor

1 **[PROPOSED] ORDER**

2 Pursuant to the foregoing stipulation, and good cause appearing, it is hereby ORDERED  
3 that:

4 1. The Government Defendants' response to plaintiffs' partial motion for summary  
5 judgment (and any cross motion) is due on August 20, 2009.

6 2. Plaintiffs' reply in support of their motion (and opposition to any cross motion) is due  
7 on September 8, 2009.

8 3. If the Government Defendants file a cross motion, any reply in support thereof would  
9 be due on September 14, 2009.

10 4. The matter will be heard on Friday, September 25, 2009 at 10:00 a.m.

11  
12 IT IS SO ORDERED.

13 Dated: \_\_\_\_\_, 2009.

14 \_\_\_\_\_  
15 Hon. Vaughn R. Walker  
16 United States District Chief Judge  
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