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 Deputy Assistant Attorney General  
 2 DOUGLAS N. LETTER  
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 8 20 Massachusetts Avenue, NW, Rm. 6102  
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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	<i>Al-Haramain Islamic Foundation of Oregon, et</i>	)	Courtroom: 6, 17th Floor
21	<i>al. v. Obama, et al.</i> (07-cv-109-VRW)	)	Chief Judge Vaughn R. Walker
22	_____	)	

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

27 **RECITALS**

28 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  
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24  
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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

Respectfully Submitted,

15 MICHAEL F. HERTZ  
16 Acting Assistant Attorney General

17 DOUGLAS N. LETTER  
18 Terrorism Litigation Counsel

19 JOSEPH H. HUNT  
20 Director, Federal Programs Branch

21 VINCENT M. GARVEY  
22 Deputy Branch Director

23 s/ Anthony J. Coppolino  
24 ANTHONY J. COPPOLINO  
25 Special Litigation Counsel

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

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<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  
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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.

SEPTEMBER 23, 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: August 3, 2009.

