

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
 Senior Counsel
 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 Defendants*

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

15	IN RE NATIONAL SECURITY AGENCY)	No. M:06-CV-01791-VRW
	TELECOMMUNICATIONS RECORDS)	
16	LITIGATION)	GOVERNMENT DEFENDANTS'
)	ALTERNATIVE FORM OF
)	JUDGMENT
17	<u>This Document Solely Relates To:</u>)	
)	Date: (No Hearing Set)
18	<i>Al-Haramain Islamic Foundation et al.</i>)	Time:
	<i>v. Obama, et al.</i> (07-cv-109-VRW))	Courtroom: 6, 17 th Floor
19)	Chief Judge Vaughn R. Walker
20)	
21)	

22 The Government Defendants in this action hereby submit this alternative form of
 23 judgment pursuant to the Court's Orders dated March 31, 2010 (Dkts. 721/115) and April 19,
 24 2010 (Dkts. 724/118). By the submission of this alternative form of judgment, the Defendants
 25 do not consent to the entry of any judgment against them in this case for any damages or relief
 26 (including the alternative judgment below), and we continue to oppose the Court's liability
 27 determination on which any such judgment would be based. Rather, should the Court determine

28 **Government Defendants' Alternative Form of Judgment**
Al-Haramain v. Obama (07-cv-109-VRW) (MDL 06-cv-1791-VRW)

1 to enter judgment against the Defendants over their objection, Defendants have submitted this
2 alternative form of judgment solely to set forth their position that only limited relief would be
3 available to plaintiffs in any event under the Court's contested decision finding liability and
4 applicable law. Any judgment entered against the Defendants (including the alternative form of
5 judgment) would then be subject to appeal by Defendants. The Government's position is set
6 forth further in the Government Defendants' Response in Opposition to Plaintiffs' Proposed
7 Judgment, submitted herewith.

8 Dated: April 30, 2010

Respectfully Submitted,

9 MICHAEL F. HERTZ
Deputy Assistant Attorney General

10 DOUGLAS N. LETTER
Terrorism Litigation Counsel

11 JOSEPH H. HUNT
Director, Federal Programs Branch

12 VINCENT M. GARVEY
Deputy Branch Director

13 s/ Anthony J. Coppolino
14 ANTHONY J. COPPOLINO
Special Litigation Counsel

15 s/ Marcia Berman
16 MARCIA BERMAN
Senior Counsel

17 U.S. Department of Justice
18 Civil Division, Federal Programs Branch
19 20 Massachusetts Avenue, NW, Rm. 6102
20 Washington, D.C. 20001
21 Phone: (202) 514-4782—Fax: (202) 616-8460

22 *Attorneys for the Defendants*

ALTERNATIVE FORM OF JUDGMENT

1 This matter came before the Court on Plaintiffs’ motion for partial summary judgment on
2 the issue of Defendants’ liability under Section 1810 of the Foreign Intelligence Surveillance Act
3 (“FISA”), 50 U.S.C. §1810, and on Defendants’ motion to dismiss the amended complaint and
4 cross-motion for summary judgment. On March 31, 2010, the Court issued a Memorandum of
5 Decision and Order granting Plaintiffs’ motion and denying Defendants’ motions. Dkts.
6 721/115. Based on the Memorandum of Decision and Order, and pursuant to Rule 54 of the
7 Federal Rules of Civil Procedure,

8 IT IS HEREBY ADJUDGED AS FOLLOWS:

- 9 1. The Court has determined that the Defendants in their official capacities are adjudged
10 liable for liquidated damages pursuant to 50 U.S.C. § 1810. *See* Dkts. 721/115.
- 11 2. The Court’s liability determination and this judgment are entered over the continued
12 opposition of the Defendants and are subject to Defendants’ right to appeal.
- 13 3. Based on the showing made by Plaintiffs in this case, Plaintiffs Belew and Ghafoor are
14 entitled to an award of solely \$1,000 in minimum liquidated damages per plaintiff pursuant to 50
15 U.S.C. § 1810(a).
- 16 4. Plaintiffs shall not recover punitive damages.
- 17 5. All claims against ROBERT S. MUELLER III in his individual capacity are
18 dismissed without leave to amend.
- 19 6. All other claims against Defendants for violations of constitutional and other law, set
20 forth in plaintiffs’ amended complaint (Dkts. 458/35), shall be and are hereby dismissed.
- 21 7. Plaintiffs’ request for a declaratory judgment is denied.
- 22 8. Plaintiffs’ request for equitable relief pursuant to 50 U.S.C. § 1806(g) and the Court’s
23 equitable powers is denied.
- 24 9. The Court defers any determination on plaintiffs’ eligibility for fees recoverable under 50
25 U.S.C. § 1810(c), or the reasonableness of any fees, until the entry of judgment and the filing of
26 a properly supported motion for attorney fees, including the amount of any reasonable
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attorney-fee award that plaintiffs may seek.

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IT IS SO ORDERED AND ADJUDGED.

DATE:

VAUGHN R. WALKER
United States District Chief Judge