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14 **Attorneys for Plaintiffs Al-Haramain Islamic Foundation, Inc., Wendell Belew and Asim Ghafoor**

15 **IN THE UNITED STATES DISTRICT COURT**

16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 **IN RE NATIONAL SECURITY AGENCY**)
 18 **TELECOMMUNICATIONS RECORDS**)
 19 **LITIGATION**)

MDL Docket No 06-1791 VRW

**DECLARATION OF STEVEN
 GOLDBERG IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 ATTORNEY'S FEES**

20 This Document Relates Solely To:

21 *Al Haramain Islamic Foundation, et al., v. Bush,*
et al. (07-CV-109-VRW)

22 **AL-HARAMAIN ISLAMIC FOUNDATION,**)
 23 **INC., et al,**)

Plaintiffs,

24 vs.

25 **BARACK H. OBAMA, President of the**)
 26 **United States, et, al.,**)

27 Defendants.)

1 I, Steven Goldberg, hereby declare as follows:

2 1. I make this Declaration based upon my own personal knowledge and would testify
3 to the statements in this Declaration if called as a witness.

4 2. I graduated from Harvard Law School *cum laude* in 1972 and have been practicing
5 law since graduation. I was admitted to the Florida State Bar in 1972 and have been a member of
6 the Oregon State Bar since 1975.

7 3. My work during the initial part of my legal career was primarily for legal aid
8 offices, first in Jacksonville, Florida and then in Salem, Oregon. Between 1980 and 2006, I was a
9 partner in the Portland, Oregon law firm of Goldberg, Mechanic, Stuart & Gibson, LLP. Since
10 January 2007, I have been in practice as a sole practitioner.

11 4. My work as part of my Portland law firm and as a sole practitioner has primarily
12 consisted in the representation of labor unions and Taft Hartley Trust Funds, but also general civil
13 litigation, including domestic relations, personal injury and probate matters. However, since the
14 beginning of my legal career, litigating civil rights cases has been an important part of my practice.
15 For example, in the first year of my practice for Legal Aid in Florida, I represented a taxi cab
16 driver in a lawsuit attacking the constitutionality of Florida's financial responsibility law as applied
17 to the plaintiff. *McKinney v. O'Malley*, 379 F.Supp. 135 (M.D. Fla. 1974).

18 5. In the early 1980s, my law firm litigated a case on behalf of a prisoner who was shot
19 during the course of a riot at the Oregon State Penitentiary. We litigated the case through the trial
20 court, 9th Circuit and U.S. Supreme Court, resulting in an opinion regarding the applicability of the
21 Eighth Amendment to prisoners. *Whitley v. Albers*, 475 U.S. 312 (1986). (We lost the case in a
22 five to four decision).

23 6. In 1991 I was co-counsel in successful litigation challenging medical and mental
24 health conditions at Eastern Oregon Correctional Institution as violative of the Eighth Amendment
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1 to the U.S. Constitution. *Van Patten v. Pearce*, 1991 U.S. Dist. LEXIS 21134 (D.Or. 1991). The
2 case was ultimately settled and dismissed while the State's appeal was pending in the Ninth
3 Circuit.

4 7. In 2002, I represented a minor political party successfully challenging the
5 constitutionality of an Oregon statute restricting the party's access to the ballot based upon both
6 federal and state constitutional theories. *Freedom Socialist Party v. Bradbury*, 182 Or. App. 217
7 (2002).
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9 8. In 2005, I represented an Oregon National Guardsman in an unsuccessful challenge to
10 the U.S. Army's Stop Loss Program, a program which involuntarily extended the military enlistments
11 of soldiers. *Santiago v. Rumsfeld*, 425 F.3d 549 (9th Cir. 2005).
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13 9. Throughout my legal career I have litigated cases in federal and state court, at both the
14 trial and appellate levels.

15 10. I have also worked as an adjunct professor at Willamette University College of Law
16 between 1978 and 1980, and in 1988 and was a visiting professor at the Stockholm University School
17 of Law in Stockholm, Sweden in the spring of 1990 during which I was I invited to teach two one-day
18 seminars in comparative labor law and politics and law in the United States.

19 11. Additionally, I have been involved in international legal issues as chairperson of the
20 National Lawyers Guild's International Committee between 1995 and 2005. I have been involved in
21 international human rights delegations through the Guild to South Africa, Cuba, and Palestine and
22 Israel.
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24 12. I became involved in the Al-Haramain litigation in late 2005 when I was contacted
25 by Thomas Nelson to help litigate the case. I was involved in the initial analysis and formulation
26 of the legal issues, primarily under the Foreign Intelligence Surveillance Act, and was the person
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1 who organized the team of attorneys who have litigated this case. (*See* Plaintiffs' Motion for
2 Attorney's Fees, p. 5).

3 13. When this case was litigated in the U.S. District Court of Oregon, I was the attorney
4 primarily responsible for dealing with the government's attorneys, and for dealing with the court in
5 terms of numerous hearings that were held via telephone and, with Jon Eisenberg, the in-court
6 argument held in August 2006. As discussed by Eisenberg in his Declaration, as this case proceeded
7 through the Ninth Circuit and in the Northern District of California, and the motions flew fast and
8 furious, Eisenberg had primary responsibility for drafting motions. I would describe myself as lead
9 second chair, primarily working with Eisenberg in terms of both analyzing plaintiffs' arguments,
10 drafting portions of the various memoranda of law which were filed and drafting all of the discovery
11 requests. This is not in any way intended to diminish the contribution of other members of our legal
12 litigation team; each person contributed significantly to the analysis, research and various briefs that
13 have been filed in this case.
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16 14. I maintain time records in this case in the same manner as I maintain time records for
17 all of my other cases, both paying and nonpaying. Throughout the course of each day, I record, in
18 tenths of an hour, the time spent on specific tasks for my work that day. I use a computerized time and
19 billing program and enter my time contemporaneously into the program as work is performed.
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21 15. Pursuant to Civil Local Rule 54-5(b)(2), I provide the following statement of the
22 services I have rendered in this case and summary of the time I have spent providing those services.
23 At the Court's request, and pursuant to Civil Local Rule 54-5(b)(2), I am prepared to produce my
24 contemporary time records or an abstract thereof for *in camera* inspection by the Court, if the Court
25 deems it appropriate. My hours include time spent traveling to San Francisco for hearings in this case.
26 The case was initially and appropriately filed in Oregon. The decision to move to transfer the case
27 from Oregon was made by defendants, and necessitated the various trips to San Francisco.
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1 **Preparation for filing of initial complaint (12/16/05-2/28/06):**

- 2 • Research, analysis, consultations with co-counsel for drafting of complaint: 12.2 hours.

3 **Litigation in Oregon (2/28/06-12/20/06):**

- 4 • Research, analysis, consultations with co-counsel regarding possible recusal of judge
5 initially assigned to case: 3.4 hours
- 6 • Research, analysis, consultations regarding classification of the Sealed Document,
7 handling of the Document, and the government's ability to have ex parte, in camera
8 contact with the court regarding the Document (3/17/06 – 5/25/06): 34.0 hours
- 9 • Research, analysis, consultations and drafting of briefs in opposition to defendants'
10 lodging of material ex parte and in camera, in reply to government's memorandum,
11 and re: filings related to Oregonian newspaper's attempt to have filings unsealed, and
12 preparation for hearings related to these issues (3/17/06 – 5/25/06): 15.5 hours
- 13 • Letters and calls to government attorneys and the court, and telephone hearings,
14 regarding classification, handling and ex parte contact issues, and the Oregonian
15 newspaper's attempt to have filings unsealed; calls to Litigation Security Section and
16 court security officer (3/17/06 – 5/25/06): 10.9 hours
- 17 • Revisions to and filing pro hac vice pleadings: 2.0 hours
- 18 • Research, analysis, consultations and drafting of discovery requests, motion to compel
19 discovery (3/17/06 – 5/25/06): 11 hours
- 20 • Review and analysis of defendants' motion to prevent plaintiffs' access to Sealed
21 Document; research, analysis, consultations with co-counsel, draft and edit opposition
22 memo focusing on alternatives allowing access and protective order (5/28/06 – 6/7/06):
23 18 hours
- 24 • Draft response to government's motion for extension of time (6/1/06): 2 hours
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- Research, analysis, consultations regarding proceedings before Judicial Panel on Multidistrict Litigation (JPML) including draft and edits to memos opposing transfer (brief and reply brief) (6/21/06 – 10/28/06): 22.5 hours
 - Analysis re: transfer of Sealed Document to JPML, letter to Oregon court, telephone court hearing re: transfer (6/21/06 – 9/25/06): 8.5 hours
 - Further work on discovery: draft reply to government’s response to motion to compel, analysis re: discovery after Judge King decision (7/2/06 – 9/22/06): 18 hours
 - Research, analysis, consultations re: government’s motion to dismiss and assertion of state secrets privilege; edits to reply brief; consultations re: preparation for oral argument; court hearing on August 29 including argument on government’s motions and plaintiffs’ motion to compel (7/1/06 – 8/29/06): 23 hours
 - Research, analysis consultations with co-counsel, draft and edit of motion for summary judgment, including drafting of supporting exhibits and declarations and filing of documents discussing Sealed Document; response to government’s objections to filing of documents; preparation for court hearing including research and analysis re: client confidentiality concerns; court telephone hearing (10/23/06 – 11/1/06): 22 hours
 - Follow-up to court hearing regarding handling of documents including consultations with co-counsel, letters and emails to government attorneys, analysis re: government’s insistence on wiping of computers (11/22/06 – 5/7/07): 6.2 hours

23 **Litigation in the Northern District of California (12/20/06 – 7/9/10):**

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- Various matters including analysis re: Judge Walker’s briefing schedule; research and analysis on sovereign immunity issue and possible amendment of complaint; draft and revision of further discovery requests; review of government filings re: interlocutory appeal (3/14/07 – 3/27/07): 17 hours

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- Appeal to 9th Circuit: Review and analysis of government appellate brief; meeting in San Francisco with Hepting legal team and Eisenberg (including travel time); research, analysis, consultations with co-counsel, drafting portions of and edits of plaintiffs' response brief; travel to San Francisco to draft sections of brief discussing Sealed Document in secure facility; analysis of additional court decisions in D.C. Circuit and Comey testimony before Congress; assist in preparation for oral argument including consultations with Eisenberg and co-counsel; travel to San Francisco for 9th Circuit oral argument; meetings to prepare for argument; argument before 9th Circuit; analysis of further steps after oral argument (5/31/07 – 8/28/07): 80.8 hours
 - Post-9th Circuit decision work including analysis of decision, consultations with co-counsel to discuss strategy, research on legislative history of section 1806; calls to government attorneys re: scheduling post-case management conference (11/18/07 – 1/29/08): 12.4 hours
 - Analysis, legal research, consultations with co-counsel, drafting and editing sections of brief responding to government's second motion to dismiss, brief responding to amicus curiae brief of Telecom communications carrier defendants; analysis of government's reply brief; preparation for oral argument including meetings with co-counsel and EFF counsel; court hearing on government's motion including travel to and from San Francisco (2/7/08 – 4/23/08): 83.3 hours
 - Post-July 2008 Walker decision including consultations with co-counsel, analysis, legal research re: issues of service on defendant Mueller, amending complaint, burden of proof; calls to government attorneys re: service; preparation for and case management conference in San Francisco (7/2/08 – 9/15/08): 34.8 hours

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- Analysis, legal research, consultations with co-counsel, drafting and editing sections of plaintiffs' motion pursuant to 1806(f) and plaintiffs' response to government's third motion to dismiss; consult with co-counsel re: oral argument; hearing in San Francisco on motions (9/24/08 – 12/2/08): 43.7 hours
 - Analysis, consultation with co-counsel re: January 2009 Walker opinion and follow-up; completion of security clearance questionnaire, fingerprinting at Portland FBI, interview with FBI agent; preparation for case management conference including research on court's declassification authority, case management conference in San Francisco (1/5/09 – 1/23/09): 23.3 hours
 - Analysis, legal research, consultations with co-counsel, drafting and editing briefs in response to government's motion for 1292(b) certification and stay, government's emergency motion for stay before 9th Circuit; draft section on appealability for plaintiffs' reply on plaintiffs' motion to dismiss appeal (1/28/09 – 2/25/09): 21.4 hours
 - Analysis, research, consultations with co-counsel re: government's response to court's orders concerning compliance with January 5th order, court's order directing submission of protective order; draft and editing of protective order; preparation for and call to government attorney re: protective order; draft section on letter to court re: disputed issues; draft response to government's joint submission; research, analysis and consultations with co-counsel re: court's order to show cause and sanctions issue; hearing on order to show cause (appeared by telephone) (3/2/09 – 6/3/09): 32.4 hours
 - Analysis, research, consultations with co-counsel, drafting and editing plaintiffs' motion for summary judgment and reply brief; preparation for oral argument; hearing in San Francisco (6/16/09 – 9/23/09): 35.8 hours

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August 2007: Ninth Circuit oral argument	\$284.80
April 2008: Court hearing on Motion to Dismiss	\$183.00
September 2008: Case Management Conference	\$254.00
December 2008: Court hearing on Motion to Dismiss	
and Plaintiffs' 1806(f) Motion	\$297.00
January 2009: Case Management Conference	\$195.20
September 2009: Court hearing on Motions for	
Summary Judgment	\$159.20
Federal Express Charge:	\$ 60.10

Based on the foregoing, I request an award of \$1,753.10 as reasonable litigation costs.

I, hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 30th day of June, 2010.

s/ Steven Goldberg
Steven Goldberg, Ore. Bar No. 75134
**Of Attorneys for Plaintiffs Al-Haramain Islamic
Foundation, Inc., Wendell Belew, and Asim
Ghafoor**