

1 **Jon B. Eisenberg, California State Bar No. 88278** (jon@eandhlaw.com)
 2 **William N. Hancouck, California State Bar No. 104501** (bill@eandhlaw.com)
 3 **Eisenberg & Hancock, LLP**
 1970 Broadway, Suite 1200 · Oakland, CA 97612
 510.452.2581 -- Fax 510.452.3277

4 **Steven Goldberg, Oregon Bar No. 75134** (steven@stevengoldberglaw.com)
 River Park Center, Suite 300 · 305 SE Spokane St. Portland, OR 97202
 503.445.4622 -- Fax 503.238.7501

6 **Thomas H. Nelson, Oregon State Bar No. 78315** (nelson@thnelson.com)
 P.O. Box 1211, 24525 E. Welches Rd. · Welches, OR 97067
 503.622.3123 -- Fax 503.622.1438

8 **Zaha S. Hassan, California State Bar No. 184696** (zahahassan@comcast.net)
 P.O. Box 1187 · Lake Oswego, OR 97034
 360.213.9737 -- Fax 866.399.5575

10 **J. Ashlee Albies, Oregon State Bar No. 05184** (ashlee@sstcr.com)
 11 **Stenson, Schumann, Tewksbury, Creighton and Rose, PC**
 815 S.W. Second Ave., Suite 500 · Portland, OR 97204
 503.221.1792 -- Fax 503.223.1516

12 **Lisa R. Jaskol, California Bar No. 138769** (ljaskol@earthlink.net)
 13 610 S. Ardmore Ave. · Los Angeles, CA 90005
 213.385.2977 -- Fax 213.385.9089

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

16 **IN THE UNITED STATES DISTRICT COURT**
 17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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

MDL Docket No 06-1791 VRW

DECLARATION OF ZAHA S. HASSAN
IN SUPPORT OF PLAINTIFFS' MOTION
FOR ATTORNEY'S FEES

21 This Document Relates Solely to:)

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

24 **AL HARAMAIN ISLAMIC**)
 25 **FOUNDATION,, INC., et al.,**)

Plaintiffs,)

26 vs.)

27 **BARAK H. OBAMA, President of the**)
 28 **United States, et al.,**)

Defendants.

1
2 I, Zaha S. Hassan, hereby declare as follows:

3 1. I make this declaration of my own personal knowledge and could testify thereto if
4 called as a witness.

5 2. I graduated from UC Berkeley Boalt Hall School of Law in 1996 and was
6 admitted to the California bar that same year. I have also been a member of the Oregon bar since
7 1997. During my legal training at Boalt Hall, I externed with Judge Claudia Wilken at the
8 Federal District Court for the Northern District of California and with the Criminal Division of
9 the U.S. Attorney's Office in San Francisco. After law school, from September 1996 to January
10 2001, I worked for Thomas H. Nelson & Associates, first as a contract attorney, then as
11 associate, and later, on an of counsel basis. At this boutique law firm, I provided advice and
12 counsel to large public utilities on issues involving contracts, federal and state regulatory
13 compliance, and municipal law.

14 3. From 2000, I began providing legal consultancy services to nonprofit,
15 nongovernmental ("NGO") human rights organizations. I also co-founded a human rights
16 advocacy organization in Portland, Oregon in 2000 and have chaired a number of other human
17 rights advocacy NGOs in the last ten years, including the Middle East Subcommittee of the
18 National Lawyers Guild. In 2004, I received my Master's of Law degree from Willamette
19 University in Salem, Oregon in International and Transnational Law with a focus on human
20 rights advocacy. After obtaining my Master's, I moved to the Middle East to work as a legal
21 consultant for a nonprofit NGO representing refugees and internally displaced persons. In that
22 capacity, I was responsible for the preparation and submission of complaints to the UN Human
23 Rights Commission (today, known as the Human Rights Council) on behalf of internally
24 displaced persons seeking UN intervention for large-scale land confiscations in contravention of
25 the International Covenant on Civil and Political Rights. I continue to provide legal consultancy
26 services to this NGO and am a member of its international legal support network.

27 4. In 2005, I began working on an of counsel basis for medical clinics operating in
28 the states of Washington and Oregon. My representation involved providing advice and counsel

1 to the clinics on issues involving employment and labor law, state regulatory compliance, and
2 corporate law.

3 5. I became involved in the Al Haramain litigation in February 2006 when I was
4 contacted by Thomas Nelson and Steven Goldberg to help with the case. I was involved in the
5 initial analysis and formulation of legal issues, particularly those involving the Foreign
6 Intelligence Surveillance Act and international law claims. My role in the litigation team was to
7 provide legal research, review and assistance with drafting memoranda of law to the two
8 attorneys with primary responsibility for the case, Jon Eisenberg and Steven Goldberg.

9 6. I am not required to submit time records for my consultancy projects or for my of
10 counsel legal services. I am paid a flat-fee for consultancy projects and am paid a salary for of
11 counsel work. Because I do not generally have a need for a computerized hourly billing, with
12 respect to recording my time for work on the Al Haramain litigation team, my practice was to
13 enter my time contemporaneously in a journal which I later transferred to an Excel program.
14 Throughout the course of the day, I record, in tenths of an hour, the time spent on specific tasks
15 for my work as a part of the Al Haramain litigation team for that day.

16 7. Pursuant to Civil Local Rule 54-5(b)(2), I provide the following statement of the
17 services I have rendered in this case and summary of the time I have spent providing those
18 services. At the Court's request, and pursuant to Civil Local Rule 54-5(b)(2), I am prepared to
19 produce my contemporary time records or an abstract thereof for *in camera* inspection by the
20 Court, if the Court deems it appropriate. My hours include time spent traveling to San Francisco
21 for hearings in this case. The case was initially and appropriately filed in Oregon. The decision
22 to move to transfer the case from Oregon was made by defendants, and necessitated the various
23 trips to San Francisco.

24
25 **Preparation for filing of initial complaint (2/19/06-2/28/06):**

- 26 • Review factual background of case; research, analysis, consultations with co-counsel
27 for drafting of complaint: 10.6 hours.

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

- 1 • Research, analysis, and consultations regarding Foreign Intelligence Surveillance
2 Act, privilege and ethical issues, extraterritorial application of state criminal law,
3 handling of the Sealed Document, the government's ability to have *ex parte*, *in*
4 *camera* contact with the court regarding the Document, and preparation and review
5 of discovery requests; review of pro hac vice pleadings (3/17/06 – 5/25/06): 21.5
6 hours
- 7 • Research, analysis, consultations and drafting of briefs in opposition to defendants'
8 lodging of material *ex parte* and *in camera*, in reply to government's memorandum,
9 regarding filings related to Oregonian newspaper's attempt to have filings unsealed,
10 and preparation for hearings related to these issues; consultations with co-counsel
11 and participation in telephone hearings regarding classification, handling and *ex*
12 *parte* contact issues, and the Oregonian newspaper's attempt to have filings
13 unsealed, (3/17/06 – 5/25/06): 46.1 hours
- 14 • Review and analysis of defendants' motion to prevent plaintiffs' access to Sealed
15 Document; research, analysis, consultations with co-counsel, review and edit
16 opposition memo, (5/28/06 – 6/7/06): 7.1 hours
- 17 • Research, analysis, consultations regarding transfer of case to Judicial Panel of
18 Multi-District Litigation including drafting memo to co-counsel regarding same;
19 edits to memos opposing transfer (brief and reply brief); calls to MDL clerk; review
20 letter to Oregon court, telephone court hearing regarding transfer (6/22/06 –
21 9/18//06): 13.4 hours
- 22 • Research, analysis, consultations regarding government's motion to dismiss and
23 assertion of state secrets privilege; edits to reply brief; consultations regarding
24 preparation for oral argument; telephone court hearing; court hearing on August 29
25 on government's motion to dismiss, (7/1/06 – 8/29/06): 21 hours
- 26 • Research, analysis, consultations with co-counsel regarding motion to compel; draft
27 section of motion to compel, (5/26/06 to 6/28/06): 5.4 hours

- 1 • Research, analysis, consultations with co-counsel, review and edit of brief for
2 summary judgment motion; response to government's objections to filing of
3 documents; preparation for and attendance at court hearing; research, analysis and
4 consultation with co-counsel regarding court's decision; review, analysis and
5 consultation with co-counsel regarding proposed legislation amending FISA, (9/7/06
6 – 11/1/06): 18.6 hours
- 7 • Review defendants' petition for interlocutory appeal; research, analyze and draft
8 plaintiffs' brief opposing stay; court hearing and consultations with co-counsel
9 regarding same, (9/7/06 – 11/17/06): 12.7 hours

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

- 11 • Research, consultations and analysis of various matters including interlocutory
12 appeal, MDL transfer, designation of entities, referencing classified material in
13 filings, government request to scrub attorney computers and drives, and other related
14 issues; review and consultation regarding sovereign immunity issue and review and
15 editing of amended complaint, (11/17/06 – 3/22/07): 12.3 hours
- 16 • Review, analysis and consultations regarding government motion to stay
17 proceedings in district court; review and comment on drafts of plaintiffs' response
18 brief to 9th Circuit and district court; review and analyze defendants' reply, (3/24/07
19 -4/12/07); 3.9 hours
- 20 • Review and analysis of government appellate brief before 9th Circuit; research,
21 analysis, consultations with co-counsel, edit plaintiffs' response brief; analysis of
22 additional court decisions in D.C. and 6th circuits and Comey testimony before
23 Congress; review Mueller, Bald and Dam testimonies; review news articles
24 regarding method of interception; assist in preparation for oral argument including
25 consultations with co-counsel; travel to San Francisco for 9th Circuit oral argument;
26 meetings to prepare for argument; argument before 9th Circuit; analysis of further
27 steps after oral argument (5/31/07 – 8/31/07): 46.8 hours

- 1 • Post-9th Circuit decision work including analysis of decision, consultations with co-
2 counsel to discuss strategy, research on methods of interception and legislative
3 history of section 1806, (9/1/07 – 1/29/08): 26.2 hours
- 4 • Review and consultations regarding motion for summary judgment; review,
5 analysis, consultations with co-counsel, editing sections of brief responding to
6 government's second motion to dismiss; analysis of government's reply brief;
7 research on legislative history of FRE 501 and privilege; review amended FISA and
8 analyze implications; read and analyze Judge Walker opinion on defendants' second
9 motion to dismiss; research regarding blanket surveillance of all incoming calls to
10 US, (1/30/08 – 7/3/08): 15.8 hours
- 11 • Post-July 2008 Walker decision including consultations with co-counsel, analysis,
12 research regarding court filings on AHIF designation and physical surveillance;
13 meetings with attorneys of Pete Seda; analysis and consultations regarding service
14 on defendant Mueller, amending complaint, burden of proof, and revisions to case
15 management conference statement, (7/2/08 – 9/15/08): 12.3 hours
- 16 • Analysis and consultations with co-counsel and research on legislative history of
17 1806(f) and editing sections of plaintiffs' 1806(f) motion and plaintiffs' response to
18 government's third motion to dismiss; review 2nd Circuit decisions; research and
19 analyze material regarding technical aspects of electronic surveillance; consult with
20 co-counsel regarding oral argument; (9/4/08 – 12/2/08): 16 hours
- 21 • Analysis, consultation with co-counsel regarding January 2009 opinion of Judge
22 Walker and follow-up; prepare interrogatories; (12/3/08 – 1/22/09): 6.9 hours
- 23 • Review and edit plaintiffs' memo regarding feasibility of motion by plaintiffs for
24 summary judgment; consultations and review of plaintiffs' summary judgment
25 memo, defendants' opposition to same, and plaintiffs' reply; review AC brief and
26 decision in Horn v. Huddle and Judge Walker decision in Jewel, (5/27/09 – 3/30/10):
27 10.4 hours

- 1 • Analysis, legal research, consultations with co-counsel regarding March 2010
2 Walker opinion and post-decision strategy, whether to pursue 4th Amendment claim,
3 equitable relief, damages calculation, punitive damages, cy pres issue; review and
4 edit judgment, memo on punitive damages, and letter to court; legal research on
5 voluntary dismissal, 28 USC 1291 and 1292(b), and FRCP 51(b) and online research
6 to support punitive damage award; analysis of government filings on judgment and
7 response to brief on punitive damages (3/31/10 – 5/21/10): 23 hours

8 **Motion for Attorney Fees:**

- 9 • Analysis and consultations with co-counsel concerning denial of deferment of
10 judgment on attorney fees and recent Supreme Court cases; review motion for
11 attorney fees, memorandum of law, declarations; review and edit statement of hours;
12 draft personal declaration, (6/4/10 – 6/29/10): 13.5 hours

13
14 8. Based on the foregoing, my total hours in this case are 343.5. Using the Laffey
15 matrix hourly rate of \$446, I request an award of reasonable attorney fees in the amount of
16 \$153,201.00.

17 9. I also incurred certain litigation costs in this matter. Those costs include travel costs
18 to San Francisco for court hearings. I believe those costs are properly reimbursable insofar as this
19 case was transferred from the District Court of Oregon, where it was initially filed, to the Northern
20 District as a result of defendants' motion to the Joint Panel on Multidistrict Litigation. Further, on
21 information and belief, the standard practice in the Northern District of California is for attorneys to
22 bill clients for such travel expenses separate from their hourly rates. The expenses I am seeking
23 reimbursement for are as follows:

24
25 August 2007 9th Circuit Oral Argument: \$ 220.80
26 April 2008 Hearing on Motion to Dismiss: \$ 247

27
28 Based on the following, I request an award of \$ 467.80 as reasonable litigation costs.

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

3 Dated this 30th day of June, 2010
4

5 _____
6 /s/ Zaha S. Hassan,
California State Bar No.184696

7 **Of Attorneys for Al Haramain**
8 **Islamic Foundation, Inc., Wendell**
9 **Belew, and Asim Ghafoor**