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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 IN RE: MDL Docket No 06-1791 VRW
10 NATIONAL SECURITY AGENCY ORDER
11 TELECOMMUNICATIONS RECORDS
12 LITIGATION

13 This order pertains to:

14 Al-Haramain Islamic Foundation et
al v Bush et al (C-07-0109 VRW),
15 _____/

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17 On June 3, 2009, the court held a hearing on the order
18 dated May 22, 2009 that directed defendants to show cause why:

19 (1) defendants should not be prohibited, under FRCP
20 37(b)(2)(ii), from opposing the liability component of
21 plaintiffs' claim under 50 USC § 1810 — that is, from
denying that plaintiffs are "aggrieved persons" who were
subjected to electronic surveillance; and

22 (2) the court should not deem liability under 50 USC §
23 1810 established and proceed to determine the amount of
damages to be awarded to plaintiffs.

24 The order to show cause is hereby ordered continued
25 pending the briefing and hearing of plaintiffs' motion for summary
26 judgment, which shall proceed as follows:

27 Plaintiffs shall notice their motion for summary judgment
28 for September 1, 2009 at 10:00 am. Plaintiffs shall base their

1 motion on non-classified evidence. If defendants rely upon the
2 Sealed Document or other classified evidence in response, the court
3 will enter a protective order and produce such classified evidence
4 to those of plaintiffs' counsel who have obtained top
5 secret/sensitive compartmented information clearances (Messrs
6 Eisenberg and Goldberg) for their review. Otherwise, the court
7 will consider the motion on non-classified evidence.

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9 IT IS SO ORDERED.

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13 VAUGHN R WALKER
14 United States District Chief Judge
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