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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
16	TELECOMMUNICATIONS RECORDS)	GOVERNMENT DEFENDANTS’ ALTERNATIVE FORM OF JUDGMENT
17	LITIGATION)	
18	<u>This Document Solely Relates To:</u>)	
19	<i>Al-Haramain Islamic Foundation et al.</i>)	Date: (No Hearing Set)
20	<i>v. Obama, et al.</i> (07-cv-109-VRW))	Time:
21)	Courtroom: 6, 17 th Floor
22)	Chief Judge Vaughn R. Walker
23)	
24)	
25)	
26)	
27)	

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

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,

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

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