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11 [Additional counsel appear on signature page.]  
 12

13 UNITED STATES DISTRICT COURT  
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN FRANCISCO DIVISION

16 IN RE NATIONAL SECURITY AGENCY )  
 17 TELECOMMUNICATIONS RECORDS )  
 18 LITIGATION, MDL No. 1791 )

MDL Docket No 06-CV-01791 VRW

**CLASS ACTION**

19 This Document Relates To:  
 20 ALL ACTIONS

**DECLARATION OF CINDY A. COHN IN  
 SUPPORT OF PLAINTIFFS' RESPONSE  
 TO ADMINISTRATIVE MOTION OF  
 THE UNITED STATES TO CHANGE  
 TIME (CIV. L.R. 6-3) AND FOR  
 SCHEDULING ORDER**

21 )  
 22 )  
 23 ) Courtroom: 6, 17th Floor  
 Judge: The Hon. Vaughn R. Walker  
 24 )  
 25 )

1 I, Cindy A. Cohn, hereby declare:

2 1. I am an attorney at law, licensed to practice before all of the courts of the State of  
3 California and am counsel of record in the above-referenced case. I am also Co-chair of the  
4 Plaintiffs' Executive Committee in the above-referenced case. The facts contained in this  
5 declaration are known to me of my personal knowledge and if called upon to testify about them, I  
6 could and would competently do so.

7 2. On February 20, 2007, the Court issued an Order requiring, among other things, that the  
8 carrier defendants and the government to respond to any non-stayed complaints in this MDL by  
9 March 29, 2007, over five weeks later. Dckt #347.

10 3. A week after the February 20 Order, on February 27, 2007, the counsel for the Government,  
11 including Anthony Coppolino, contacted me on behalf of the plaintiffs and stated that they were  
12 interested in coordinating the various cases that have been assigned to the Court through the MDL  
13 process and to agree to an overall schedule that would be "manageable" by the parties and the  
14 court.

15 4. I agreed to undertake to coordinate a manageable schedule on behalf of the plaintiffs in the  
16 various cases, including:

17 a. The remaining carrier cases that were not yet stayed, including Verizon, MCI, the non-  
18 *Hepting* AT&T cases, and BellSouth.

19 b. The cases based on state law only that had sought remand.<sup>1</sup>

20 c. The *Center for Constitutional Rights v. Bush* case ("CCR") recently transferred from the  
21 Southern District of New York that has fully briefed motions pending, and

22

23 <sup>1</sup> The state-law-only cases are *Riordan v. Verizon Communications, Inc.*, *Campbell v. AT&T*  
24 *Communications of California*, *Roche v. AT&T Corp.*, *Chulsky v. Cellco Partnership d/b/a/*  
25 *Verizon Wireless*, *Bready v. Verizon Maryland*, and *Mink v. AT&T Communications of the*  
26 *Southwest, Inc.* All of them except *Bready* have agreed to be folded into the scheduling for the  
27 federal claims cases against the relevant defendants. Thus, *Chulsky*, *Campbell*, *Roche* and *Mink*  
28 have offered to stay their cases, along with the class actions that have been stayed (Verizon for  
*Chulsky*, non-*Hepting* AT&T cases for *Campbell*, *Roche* and *Mink*). *Riordan* counsel offered to  
allow any motion to dismiss in its case, which is not a class action and is based on different state  
laws than those raised in the class action complaint, to be heard on the same schedule as the  
Verizon motion to dismiss.

1 d. The *Shubert v. Bush* case, another recently transferred case from the Eastern District of  
2 New York that was brought against just the government but that is a class action.<sup>2</sup>

3 5. On March 6, 2007, the government submitted a proposed schedule to us that would have  
4 required all of the remaining carrier motions and corresponding state secrets motions to be briefed  
5 and decided simultaneously, provided a delay until May 4 for the government's state secrets  
6 motions and until May 18 for the carrier motions, and stretched the briefing schedule out until a  
7 September, 2007 hearing. Attached hereto as Exhibit A and incorporated herein by this reference  
8 is a true and correct copy of the Government's proposed schedule and the cover email that  
9 accompanied it.

10 6. After several discussions with the various parties and the defendants and government, on  
11 March 7, 2007, I proposed during a conference call with governmental and carrier counsel an  
12 omnibus alternative approach that did the following:

13 a. Stayed the non-*Hepting* AT&T cases, including the state claims only cases until after a  
14 decision on *Hepting* appeal as long as the non-AT&T defendants agreed to respond to discovery  
15 issued to them in the context of *Hepting*.

16 b. Folded the state law cases into the schedule for the federal cases with the exception of  
17 *Bready*, a state law claims case from New Jersey that has an administrative motion currently  
18 pending before this Court seeking hearing on its remand motion.

19 c. Reduced the burden on the parties and the Court by granting an extension to the Verizon  
20 and BellSouth defendants until some time period after the Motion to Dismiss by MCI was decided.

21 d. Largely adopted the scheduling for *CCR* and *Shubert* that the government had proposed.

22 7. The government responded by rejecting our schedule and asking plaintiffs to stipulate that  
23 Verizon and MCI can file joint motions to dismiss and that the government's state secrets motion  
24 would be due in late April with the carrier motion due approximately two weeks thereafter.

25 8. After consultation with my co-counsel, on March 9, 2007, I notified the counsel for the  
26 government that plaintiffs refused this offer and again offered an alternative schedule, this time

27 \_\_\_\_\_  
28 <sup>2</sup> The Government represented that they would be negotiating separately with counsel for the State  
Officials cases, and rejected plaintiffs' suggestion that those discussions be folded in.

