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8 9	[Additional counsel listed on signature page]	
10	UNITED STATES DI	ISTRICT COURT
11	NORTHERN DISTRIC	Γ OF CALIFORNIA
12	SAN FRANCISC	O DIVISION
13	In re:	MDL Dkt. No. 06-1791-VRW
14		STIPULATION AND [PROPOSED]
15	NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS	ORDER REGARDING NEW CASE AND NOTICE OF DISMISSAL OF
16	LITIGATION	DEFENDANT CELLCO PARTNERSHIP
17		
18	This Document Relates To:	[Civil L.R. 6-2, 7-1(5), 7-12]
19	McMurray v. Verizon Communications,	Courtroom: 6, 17th Floor
	N.D. Cal No. C 09-0131 VRW	Judge: Hon. Vaughn R. Walker
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<ul><li>24</li><li>25</li></ul>		
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1	RECITALS	
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3	Transfer of McMurray to this MDL	
4	A. On July 10, 2008, Plaintiffs Rev. Joe McMurray, et al., filed a complaint	
5	against Defendants Verizon Communications Inc. and Cellco Partnership (collectively, the	
6	"Verizon Defendants"); BellSouth Corporation, AT&T Corporation, and AT&T Inc.	
7	(collectively, the "AT&T Defendants"); George W. Bush, "individually in his executive	
8	capacity and as representative of the United States of America," and the National Security	
9	Agency (collectively, the "Government Defendants") in the United States District Court for	
10	the Southern District of New York in Case No. 1:08-6264.	
11	B. On August 12, 2008, the Judicial Panel on Multidistrict Litigation ("JPML")	
12	issued a Conditional Transfer Order ("CTO-7") transferring this action to the U.S. District	
13	Court for the Northern District of California as part of MDL-1791, In re National Security	
14	Agency Telecommunications Records Litigation. On September 9, 2008, the Plaintiffs filed	
15	a motion to vacate CTO-7. The JPML considered the Plaintiffs' motion without oral	
16	argument at its November 20, 2008 sitting.	
17	C. On Dec. 19, 2008, the JPML ordered that this action be included in MDL	
18	No. 1791 for coordinated or consolidated pretrial proceedings. The JPML's transfer order	
19	was filed with this Court on Dec. 23, 2008.	
20	Timing of Duty to Respond in McMurray	
21	D. Prior to transfer, the Verizon Defendants, AT&T Corporation and AT&T	
22	Inc. were served with the McMurray complaint on November 12, 2008. Accordingly, the	
23	original deadline for the Verizon Defendants, AT&T Corporation and AT&T Inc. to answer	
24	or otherwise respond was December 2, 2008. See Fed. R. Civ. P. 12(a)(1).	
25	E. Defendant BellSouth Corporation was served with the <i>McMurray</i> complaint	
26	on November 14, 2008. Accordingly, the original deadline for BellSouth Corporation to	
27	answer or otherwise respond to it was December 4, 2008. See id.	
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1	F. The Government Defendants were served with the <i>McMurray</i> complaint on	
2	November 14, 2008. Accordingly, the deadline for the Government Defendants to answer	
3	or otherwise respond to it is January 12, 2009. See Fed. R. Civ. P. 12(a)(2).	
4	G. The Verizon and AT&T Defendants informally agreed with the <i>McMurray</i>	
5	Plaintiffs to an extension of those defendants' respective deadlines to respond to the	
6	complaint while they were negotiating this Stipulation.	
7	H. The parties have not previously requested an adjournment or an extension of	
8	time to respond to the McMurray complaint from any court.	
9	Disposition of McMurray Before This Court	
10	I. The parties have not been able to reach complete agreement regarding the	
11	appropriate posture of the McMurray complaint in the MDL, and each side reserves its right	
12	to bring the matter to the Court's attention.	
13	J. Plaintiffs are agreeable to staying the obligations of all of the Defendants to	
14	answer or otherwise respond to the McMurray complaint for 65 days from the date of this	
15	stipulation in the interim, that is, until March 19, 2009.	
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17	STIPULATION	
18	Plaintiffs and Defendants hereby stipulate as follows:	
19	1. The Plaintiffs, the Verizon Defendants, the AT&T Defendants, and the	
20	Government Defendants hereby stipulate that no Defendant need answer or otherwise	
21	respond to the complaint in this action until March 19, 2009.	
22	2. By entering into this Stipulation, neither Plaintiffs nor Defendants waive any	
23	procedural or substantive defenses, rights or objections, including, but not limited to, the	
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25	right to challenge personal jurisdiction over any particular Defendant.	
26	DISMISSAL	
27	Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs hereby dismiss	
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1	Defendant Cellco Partnership from this action without prejudice.	
2	Dated: January 13, 2009.	
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Attorneys for the United States

1	DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B
2	I, MARC H. AXELBAUM, hereby declare pursuant to General Order 45, § X.B.
3	that I have obtained the concurrence in the filing of this document from each of the other
4	signatories listed above.
5	I declare under penalty of perjury that the foregoing declaration is true and correct.
6	Executed on January 13, 2009, at San Francisco, California.
7	/a/ More II. Avellance
8	<u>/s/ Marc H. Axelbaum</u> Marc H. Axelbaum
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1	[PROPOSED] ORDER
2	Pursuant to the foregoing Stipulation and Notice of Dismissal, and good cause
3	appearing, IT IS HEREBY ORDERED that:
4	No party need answer or otherwise respond to the complaint in McMurray v.
5	Verizon Communications, N.D. Cal No. C 09-0131 VRW, until March 19, 2009.
6	IT IS HEREBY FURTHER ORDERED that Defendant Cellco Partnership is
7	dismissed from this action without prejudice.
8	PURSUANT TO STIPULATION AND NOTICE, IT IS SO ORDERED.
9	Dated:, 2009.
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11	Hon Wousha D. Wellen
12	Hon. Vaughn R. Walker United States District Chief Judge
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