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10 *Attorneys for the Government Defendants*

11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN FRANCISCO DIVISION**

14)	No. M:06-cv-01791-VRW
15	IN RE NATIONAL SECURITY AGENCY)	
16	TELECOMMUNICATIONS RECORDS)	STIPULATION TO MODIFY AND
17	LITIGATION)	EXTEND THE CURRENT SCHEDULE
18	_____)	Date: September 1, 2009
19	<u>This Document Solely Relates To:</u>)	Time: 10:00 a.m.
20	<i>Al-Haramain Islamic Foundation of Oregon, et</i>)	Courtroom: 6, 17th Floor
21	<i>al. v. Obama, et al.</i> (07-cv-109-VRW))	Chief Judge Vaughn R. Walker
22	_____)	

23 Pursuant to Local Rule 6.1, the parties, through their undersigned counsel, hereby
 24 stipulate to and seek the Court’s approval of a modification to the current briefing and hearing
 25 schedule for plaintiffs’ motion for partial summary judgment as set forth in the Court’s Order of
 26 July 2, 2009 (Dkt. 98 in 07-cv-109-VRW).

27 **RECITALS**

28 1. After a hearing in this action on June 3, 2009, the Court directed the plaintiffs to file a
 motion for summary judgment and set a hearing on plaintiffs’ motion for September 1, 2009.
 See June 5, 2009 Order, Dkt. 96. The Court directed that plaintiffs’ motion must be based on

1 non-classified evidence and that if “defendants rely upon Sealed Document or other classified
2 evidence in response, the court will enter a protective order and produce such classified
3 evidence” to certain of plaintiffs’ counsel. *Id.* at 2.

4 2. On July 2, 2009, the Court approved the parties’ stipulated briefing schedule
5 giving: (i) plaintiffs until July 10, 2009 to file a motion for summary judgment; (ii) defendants
6 until August 5, 2009 to oppose the motion; and (iii) plaintiffs until August 19, 2009 to reply.

7 3. Plaintiffs filed a partial motion for summary judgment on July 9, 2009. *See* Dkt.
8 99.

9 4. Counsel for the Government Defendants has conferred with counsel for plaintiffs and
10 sought agreement on a short two-week extension of the briefing schedule and a modification of
11 the hearing date due to the press of business and other scheduling conflicts arising after the
12 plaintiffs filed their motion.¹ To facilitate this agreement, counsel for Government Defendants
13 advised plaintiffs’ counsel that the Government does not presently anticipate submitting
14 classified information in support of the Government’s position in response to plaintiffs’ motion
15 or with any cross motion.

16 5. No prior modifications of the briefing schedule or hearing with regard to
17 plaintiffs’ instant motion for partial summary judgment have been sought or entered. L.R.
18 6-2(a)(2).

19 6. The requested time modification would adjust the time for the Government’s response
20 (or any cross motion), Plaintiffs’ reply (or any opposition), and the hearing date, but would have
21 no other impact on the schedule in this case. L.R. 6-2(a)(3).

22 7. The parties request that the Court change the hearing date on the matter from
23
24
25

26 ¹ Counsel for the Government advised plaintiffs that the Government’s response time
27 was impacted by the need for Government counsel to present oral argument in two matters on
28 July 15, 2009 (before this Court in the *Jewel* action) and July 22, 2009 (in another action), as
well as other business and personal commitments.

1 Tuesday, September 1, 2009 to Friday, September 25, 2009 at 10:00 am.²

2 **STIPULATION**

3 Pursuant to L.R. 6.1, the parties, through their undersigned counsel, hereby stipulate and
4 agree to the following modification to the briefing schedule and hearing on plaintiffs' partial
5 motion for summary judgment, and request that the Court enter the proposed order below as an
6 order of the Court.

7 1. The Government Defendants' response to plaintiffs' partial motion for summary
8 judgment (and any cross motion) is due on August 20, 2009.

9 2. Plaintiffs' reply in support of their motion (and opposition to any cross motion) is due
10 on September 8, 2009.

11 3. If the Government Defendants file a cross motion, any reply in support thereof would
12 be due on September 14, 2009.

13 4. The matter will be heard on Friday, September 25, 2009 at 10:00 a.m.

14 DATED: July 31, 2009

Respectfully Submitted,

15 MICHAEL F. HERTZ
16 Acting Assistant Attorney General

17 DOUGLAS N. LETTER
18 Terrorism Litigation Counsel

19 JOSEPH H. HUNT
Director, Federal Programs Branch

20 VINCENT M. GARVEY
21 Deputy Branch Director

22 s/ Anthony J. Coppolino
ANTHONY J. COPPOLINO
23 Special Litigation Counsel

24 MARCIA BERMAN
25 Trial Attorney
26 U.S. Department of Justice
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27
28 ² We note this is not the Court's usual day to hear motions, but seek the Court's approval
of a Friday hearing in this case to accommodate the parties' pre-existing schedules.

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Attorneys for the Government Defendants

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1 **DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B**

2 I, ANTHONY J. COPPOLINO, hereby declare pursuant to General Order 45, § X.B, that
3 I have obtained the concurrence in the filing of this document from each of the other signatories
4 listed below.

5 I declare under penalty of perjury that the foregoing declaration is true and correct.

6 Executed on July 31, 2009, in the City of Washington, District of Columbia.

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8 Acting Assistant Attorney General
9 DOUGLAS N. LETTER
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26 *Attorneys for the Government Defendants*

27 By: s/ Jon B. Eisenberg per G.O. 45
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 Counsel for Plaintiffs Al-Haramain Islamic Foundation,
 Inc., Wendell Belew, and Asim Ghafoor

[PROPOSED] ORDER

Pursuant to the foregoing stipulation, and good cause appearing, it is hereby ORDERED that:

1. The Government Defendants' response to plaintiffs' partial motion for summary judgment (and any cross motion) is due on August 20, 2009.

2. Plaintiffs' reply in support of their motion (and opposition to any cross motion) is due on September 8, 2009.

3. If the Government Defendants file a cross motion, any reply in support thereof would be due on September 14, 2009.

4. The matter will be heard on Friday, September 25, 2009 at 10:00 a.m.

IT IS SO ORDERED.

Dated: _____, 2009.

Hon. Vaughn R. Walker
United States District Chief Judge