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15 **Attorneys for Plaintiffs Al-Haramain Islamic Foundation, Inc., Wendell Belew and Asim**
16 **Ghafoor**

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

18 **IN RE NATIONAL SECURITY**
19 **AGENCY TELECOMMUNICATIONS**
20 **RECORDS LITIGATION**

) MDL Docket No. 06-1791 VRW

)
) **DECLARATION OF JON B. EISENBERG**
) **IN SUPPORT OF PLAINTIFFS' MOTION**
) **FOR PARTIAL SUMMARY JUDGMENT**

20 This Document Relates Solely To:

21 *Al-Haramain Islamic Foundation, Inc., et*
22 *al. v. Obama, et al.* (C07-CV-0109-VRW)

) Date: Tuesday, September 1, 2009

22 **AL-HARAMAIN ISLAMIC**
23 **FOUNDATION, INC., et al.,**

) Time: 10:00 a.m.

) Court: Courtroom 6, 17th Floor

) Honorable Vaughn R. Walker

24 Plaintiffs,

24 vs.

25 **BARACK H. OBAMA, President of the**
26 **United States, et al.,**

27 Defendants.

1 I, Jon B. Eisenberg, am one of the attorneys for plaintiffs in this action. I have personal
 2 knowledge of the matters attested to in this declaration, and I am legally competent to testify to the
 3 matters stated herein. I make this declaration in support of plaintiffs' Motion For Partial Summary
 4 Judgment.

5 The following exhibits A through AA attached to this declaration are true and correct
 6 copies or transcripts of public statements or documents made and executed by the defendants or
 7 their agents; exhibit BB is a copy of a brief in other litigation, attached hereto for the Court's
 8 convenience:

9 **Exhibit Title/Description**

10 Exhibit A President's Radio Address, December 17, 2005

11 Exhibit B Excerpt from Press Conference of the President, December 19, 2005

12 Exhibit C Excerpts from Press Briefing by Attorney General Alberto Gonzales and General
 13 Michael Hayden, December 19, 2005

14 Exhibit D Excerpts from Responses to Questions for Lt. General Keith B. Alexander from
 Senate Judiciary Committee, December 19, 2006

15 Exhibit E Excerpts from U.S. Department of Justice, *Legal Authorities Supporting the*
 16 *Activities of the National Security Agency Described by the President* (Jan. 19,
 2006)

17 Exhibit F Excerpts from Interview with John Yoo, *Frontline*, July 5, 2008

18 Exhibit G Excerpts from transcript of testimony by Former Deputy Attorney General James B.
 19 Comey, Senate Judiciary Committee, May 15, 2007

20 Exhibit H Answers to Written Questions to Former Deputy Attorney General James B. Comey
 Submitted by Senator Patrick Leahy, May 22, 2007

21 Exhibit I Excerpts from transcript of testimony by FBI Director Robert Mueller, House
 22 Judiciary Committee, July 26, 2007

23 Exhibit J Testimony of Gary M. Bald, Senate Caucus on International Narcotics Control,
 March 4, 2004

24 Exhibit K Press Release, Treasury Department, February 19, 2004

25 Exhibit L Testimony of John S. Pistole, Senate Committee on Banking, Housing and Urban
 26 Affairs, September 25, 2003

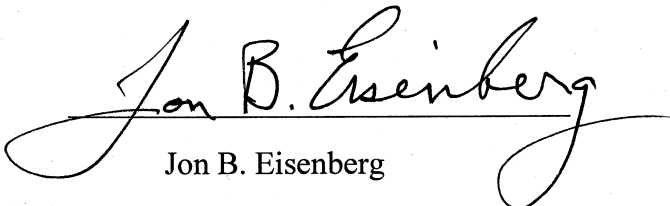
27 Exhibit M Excerpts from testimony of R. Richard Newcomb, House Financial Services
 Subcommittee on Oversight and Investigations, June 16, 2004

28

- 1 Exhibit N Letter from R. Richard Newcomb to Lynne Bernabei, April 23, 2004
- 2 Exhibit O Letter from R. Richard Newcomb to Lynne Bernebei, July 23, 2004
- 3 Exhibit P Press Release, Treasury Department, September 9, 2004
- 4 Exhibit Q Supplemental Declaration of Frances R. Hourihan, May 10, 2006
- 5 Exhibit R Letter from Adam J. Szubin to Lynne Bernabei and Thomas Nelson, February 6, 2008
- 6 Exhibit S Speech by John S. Pistole to American Bankers Association/American Bar
- 7 Association Money Laundering Enforcement Conference, October 22, 2007
- 8 Exhibit T Excerpts from Brief for Appellants [defendants] in Ninth Circuit Court of Appeals, June 6, 2007
- 9 Exhibit U Excerpts from Government's Memorandum In Support Of Pretrial Detention,
- 10 *United States v. Sedaghaty*, August 21, 2007
- 11 Exhibit V Testimony of General Michael V. Hayden, Senate Judiciary Committee, July 26, 2006
- 12 Exhibit W Excerpts from testimony of Mike McConnell, Senate Select Committee on
- 13 Intelligence, May 1, 2007
- 14 Exhibit X Excerpts from testimony of Mike McConnell and Kenneth Wainstein, House Select
- 15 Intelligence Committee, September 20, 2007
- 16 Exhibit Y Excerpts from transcript of hearing, *American Civil Liberties Union v. National*
- 17 *Security Agency*, June 12, 2006
- 18 Exhibit Z Excerpts from memorandum of Howard Mendelsohn to Adam J. Szubin regarding
- 19 redesignation of Al-Haramain Islamic Foundation, February 6, 2008
- 20 Exhibit AA Legal Authorities Supporting the Activities of the National Security Agency
- 21 Described by the President ("White Paper"), January 19, 2006
- 22 Exhibit BB Brief for Amici Curiae Center for National Security Studies and the Constitution
- 23 Project, *ACLU v. NSA*, 493 F.3d 644 (6th Cir. 2007), 2006 WL 4055623

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

24 Executed this 9th day of July, 2009

24 
25 Jon B. Eisenberg