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8	•				
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10	UNITED STATES D	DISTRICT COURT			
11	NORTHERN DISTRIC	T OF CALIFORNIA			
12	SAN FRANCISCO DIVISION				
13	•	MDL Dkt. No. 06-1791-VRW			
14	In re:	STIPULATION AND [PROPOSED]			
	NATIONAL SECURITY AGENCY	ORDER REGARDING NEW CASE AND			
15	TELECOMMUNICATIONS RECORDS LITIGATION	NOTICE OF DISMISSAL OF DEFENDANT CELLCO PARTNERSHIP			
16	EITIGITIEN				
17					
18	This Document Relates To:	[Civil L.R. 6-2, 7-1(5), 7-12]			
	McMurray v. Verizon Communications,	Courtroom: 6, 17th Floor			
19	N.D. Cal No. C 09-0131 VRW	Judge: Hon. Vaughn R. Walker			
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1 **RECITALS** 2 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 the Southern District of New York in Case No. 1:08-6264. 10 11 В. 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. C. 17 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 or otherwise respond was December 2, 2008. See Fed. R. Civ. P. 12(a)(1). 24 E. 25 Defendant BellSouth Corporation was served with the *McMurray* 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. 28

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	
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23	2. By entering into this Stipulation, neither Plaintiffs nor Defendants waive an	
24	procedural or substantive defenses, rights or objections, including, but not limited to, the	
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 dismis	
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1	Defendant Cellco Partnership from this action without prejudice.	
2	Dated: January 13, 2009.	
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23	By /s/ Anthony J. Coppolino Anthony J. Coppolino
24	Attorneys for the United States
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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	/c/ Mara H. Avalhaum
8	/s/ Marc H. Axelbaum 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: Jan 21, 2009.
10	Dated: Jan 21, 2009.
11	How Vaughn P
12	Hole Yaughn P W GRANTED
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14	Judge Vaughn R Walker
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