

1 DANIEL J. WOODS (SBN: 78638)
 2 PATRICK HUNNIUS (SBN: 174633)
 3 WHITE & CASE LLP
 4 633 W. Fifth Street, Suite 1900
 5 Los Angeles, CA 90071-2007
 Telephone: (213) 620-7700
 Facsimile: (213) 452-2329
 Email: dwoods@whitecase.com
 Email: phunnius@whitecase.com

6 Attorneys for Plaintiff
 7 Log Cabin Republicans

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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

LOG CABIN REPUBLICANS, a non-
 profit corporation,
 Plaintiff,
 v.
 UNITED STATES OF AMERICA and
 ROBERT M. GATES, SECRETARY
 OF DEFENSE, in his official capacity,
 Defendants.

Case No. CV 04-8425 VAP (Ex)

**STIPULATION RE POTENTIAL
 TRIAL DATES**

Date: N/A
 Time: N/A
 Courtroom: N/A

Discovery Cutoff: Mar. 15, 2010
 Pretrial Conference: June 7, 2010
 Trial: June 14, 2010

1 Pursuant to Local Rule 7.1, Plaintiff Log Cabin Republicans (“Plaintiff”) and
2 Defendants United States of America and Robert M. Gates, Secretary of Defense
3 (“Defendants” and, collectively with Plaintiff, the “Parties”) hereby enter into the
4 Stipulation (“Stipulation”) set forth below in light of the following:

5 A. During the April 26, 2010 hearing before the Court regarding
6 Defendants’ Motion for Summary Judgment the Court indefinitely continued the
7 trial date in this matter due to a calendar conflict.

8 B. At the conclusion of the April 26, 2010 hearing, the Court ordered the
9 parties to meet and confer regarding a new trial date and to submit a stipulation
10 regarding a trial date that the parties mutually agreed to (or, if the parties failed to
11 reach an agreement, a list of the parties’ respective preferred trial dates).

12 C. The parties have met and conferred regarding a trial date.

13 NOW THEREFORE, in consideration of the foregoing, the Parties, through
14 their undersigned counsel, hereby:

15 1. Agree that, pending the rescheduling of the trial date, the Pretrial
16 Conference, originally scheduled pursuant to the Court’s July 24, 2009 Civil Trial
17 Scheduling Order for June 7, 2010, should be continued;

18 2. The parties further agree that due dates for the various pretrial filings
19 and other pretrial events identified in Local Rule 16 whose due date is linked to
20 either the trial date or the date of the Pretrial Conference (e.g., Memoranda of
21 Contentions of Fact and Law, Pretrial Conference Order, exhibit and witness lists)
22 are also continued; and.

23 3. Set forth below their respective positions regarding a new trial date:

24 a. Plaintiff’s position:

25 **Trial Date:** Plaintiff’s preferred trial date is July 13, 2010. Both parties are
26 available to begin trial on this date: during the meet and confer process,
27 Defendants’ counsel confirmed that Defendants are available for trial the week of
28 July 12, 2010. Lead trial counsel for plaintiff (Mr. Woods) is not available on

1 Monday, July 12, 2010, due to a pre-scheduled mediation session, but could begin
2 trial on July 13, 2010 or any date thereafter.

3 If July 13, 2010 is not available, Plaintiff's alternative preferences (in order
4 of preference) are July 19, 2010 or July 26, 2010. Defendants' counsel informed
5 Plaintiff's counsel that its "trial team" is not available either the week of July 19,
6 2010 or July 26, 2010. Plaintiff's counsel believes that Defendants' counsels'
7 purported unavailability at those times would likely interfere with a July 13, 2010
8 trial date, as it is Plaintiff's counsel view that the trial will last more than one week.

9 Lead trial counsel for Plaintiff is not available the week of June 28, 2010.

10 Finally, Plaintiff objects to Defendants' proposal – set forth below – for an
11 evidentiary hearing regarding standing. Defendants essentially request, without
12 briefing, that the Court bifurcate the trial between two issues: merits and standing.
13 If Defendants wanted the trial bifurcated they should have filed (or should file) a
14 motion seeking bifurcation so both the Court and the parties can fully address the
15 issue.

16 **Pretrial matters:** If the Court chooses July 13, 2010 as the new trial date,
17 Plaintiff suggests that the Pretrial Conference be scheduled for either July 6, 2010
18 or June 28, 2010 in light of the fact that July 5, 2010 (a Federal holiday). If the
19 Court sets July 13, 2010 as the trial date and June 28, 2010 as the Pretrial
20 Conference date, Plaintiff suggests: (1) any pretrial motions that would (based on a
21 Pretrial Conference calendared for June 28, 2010 and pursuant to either Local Rule
22 6-1 or Local Rule 16) ordinarily be due on May 31, 2010 (another Federal holiday)
23 instead be due to be filed and served on May 28, 2010; (2) that the due date for
24 serving Memoranda of Contentions of Fact and Law be no later than June 7, 2010;
25 and (3) that the due date for lodging the proposed Pretrial Conference Order be no
26 later than June 28, 2010. Plaintiff further suggests that all other due dates for
27 pretrial filings whose due date is linked to either the trial date or the date of the
28 Pretrial Conference (e.g., trial briefs, exhibit and witness lists) be in accordance

1 with Local Rule 16.

2 If the Court either: (1) chooses to set July 13, 2010 as the trial date and July
3 6, 2010 as the Pretrial Conference date or (2) chooses a date other than July 12,
4 2010 as the new trial date, Plaintiff suggests (1) the Pretrial Conference should be
5 scheduled for one week before the first day of trial; (2) the due date for serving
6 Memoranda of Contentions of Fact and Law should be not later than twenty-one
7 (21) calendar days before the Pretrial Conference; and (3) the due date for lodging
8 the proposed Pretrial Conference Order should be (7) calendar days before the
9 Pretrial Conference. Plaintiff further suggests that all other due dates for pretrial
10 filings whose due date is linked to either the trial date or the date of the Pretrial
11 Conference (e.g., trial briefs, exhibit and witness lists) be in accordance with Local
12 Rules 6-1 and 16.

13 b. Defendants' position:

14 **Trial Date:** Defendants respectfully suggest that, prior to scheduling dates
15 for a trial on the merits in this case, the Court first resolve the threshold issue of
16 LCR's standing. As explained in Defendants' summary judgment motion and
17 supplemental briefing, before reaching the merits of LCR's facial due process
18 challenge, the Court should first determine whether LCR properly has standing to
19 bring its facial challenge. As explained in Defendants' supplemental brief
20 regarding standing (Doc. 166 at 10), there is ample authority within this Circuit and
21 elsewhere for such bifurcated proceedings. While Defendants contend that, based
22 upon the record in this case, LCR has failed to meet its burden to establish
23 associational standing, to the extent the Court determines that a material, factual
24 dispute exists with respect to this issue, Defendants respectfully request that a
25 hearing on this threshold issue first be conducted before establishing a trial date to
26 resolve the merits. Given that both parties are apparently available from July 13-
27 16, 2010, a one or two day hearing during that period to resolve the threshold issue
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1 of standing (and subject-matter jurisdiction) appears particularly appropriate.

2 And even if the Court were to consider the merits and divided time equally
3 for each side's examinations of the witnesses Plaintiff is permitted to present in its
4 case-in-chief, one week of trial is more than sufficient to try the issues presented by
5 Plaintiff's facial challenge. Defendants do not intend to present any witnesses.
6 Defendants are available for trial during the week suggested at the April 26, 2010
7 hearing—that is, June 28, 2010-July 2, 2010. Defendants are also available for trial
8 from July 12, 2010-July 16, 2010. Defendants are also available for trial in August
9 during the weeks of August 16, 2010, August 23, 2010, and August 30, 2010.

10 **Pretrial Matters:** Assuming trial begins during the week of July 13, 2010,
11 and the pretrial conference is held on June 28, 2010, Defendants propose the
12 following schedule:

- 13 • May 19, 2010: Parties must convene Rule 16 meeting of counsel on
14 or before this date. Given that Defense counsel is in Washington,
15 D.C., Defendants request that the parties be permitted to conduct this
16 conference telephonically.
- 17 • May 28, 2010: Parties must file any motions in *limine*. (Because of
18 the holidays, Defendants request the 10-day meet-and-confer
19 requirement set forth in Local Rule 7-3 for the filing of motions be
20 modified to nine days).
- 21 • June 7, 2010: Parties must file memorandum of contentions of fact
22 and law, as well as witness lists and joint exhibit list.
- 23 • June 14, 2010: Parties must serve by electronic mail findings of fact
24 and conclusions of law.
- 25 • June 21, 2010: Plaintiff must lodge proposed pretrial order.
- 26 • July 1, 2010: Parties must disclose graphic and illustrative material to
27 illustrate the testimony of a witness.
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- July 2, 2010: Parties must file trial briefs.
- July 2, 2010: Parties must meet and confer on or before this date, and stipulate, to the extent possible, to foundation, waiver of the best evidence rule, and which exhibits may be received into evidence at the start of trial.

Dated: May 11, 2010

WHITE & CASE LLP

By: /s/ Patrick Hunnius
Patrick Hunnius
Attorneys for Plaintiff
Log Cabin Republicans

Dated: May 11, 2010

UNITED STATES DEPARTMENT OF
JUSTICE, CIVIL DIVISION, FEDERAL
PROGRAMS BRANCH

By: /s/ Paul Freeborne
Paul Freeborne
Attorneys for Defendants
United States of America and Robert M.
Gates, Secretary of Defense