

1 1. As the Court is aware, since July 22, 2008, the parties have been engaged in a
2 court-authorized, confidential mediation and settlement process under the guidance of Magistrate
3 Judge Sandra M. Snyder in an effort to reach an agreement that resolves this litigation. The
4 parties met with Judge Snyder on September 8-10 and again on November 13, 2008. The parties
5 are scheduled to hold the next mediation with Judge Snyder by telephone on January 23, 2009.

6 2. On July 25, 2008, the plaintiffs filed a motion for attorneys' fees, costs, and other
7 expenses under the Equal Access to Justice Act (EAJA) in this Court (Doc. 431). The plaintiffs
8 noted their motion for hearing on November 10, 2008.

9 3. The plaintiffs simultaneously filed a similar motion in the U.S. Court of Appeals
10 for the Ninth Circuit for fees, costs, and expenses incurred in connection with the appeals in this
11 action. On August 19, 2008, the Ninth Circuit stayed consideration of that motion for 90 days in
12 light of the ongoing mediation in district court. Since then, the parties have stipulated to an
13 additional extension of time to enable settlement discussions to continue.

14 4. The plaintiffs' claim for EAJA fees, costs, and expenses remains one of the
15 matters under discussion in the mediation. To enable the parties to continue the settlement
16 discussions through the mediation process with Judge Snyder and provide sufficient time for the
17 resolution of the pending motion and other matters without looming litigation deadlines, the
18 parties again request that the Court continue the hearing date on the plaintiffs' motion.

19 5. If the parties are able to settle this matter, including the claim for attorneys' fees,
20 costs, and expenses, then there would be no need for further briefing or hearing on the motion,
21 which would save considerable time and effort and conserve judicial resources. Absent a
22 continuance, however, the hearing remains set for January 26, 2009, with the defendants'
23 response due on January 12, 2009, and the plaintiffs' reply due on January 20, 2009. The parties
24 believe that an additional extension of 60 days' time is appropriate under the circumstances.

25 6. If the parties are unable to resolve the matter and further litigation is required with
26 regard to the plaintiffs' motion, the briefing could be completed in March 2009, with a hearing
27 scheduled for March 30, 2009, or at such time thereafter as the Court's schedule permits.

1 For these reasons, the parties request that the Court continue the hearing on the plaintiffs'
2 motion until March 30, 2009, at 1:30 p.m., with any further briefing deadlines established
3 pursuant to the Local Rules. A proposed order is set forth below for the Court's consideration.

4 Respectfully submitted this 9th day of January, 2009.

5 /s/ Julia A. Olson _____

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15 **ORDER**

16 The Court, having considered the parties' joint stipulation and motion to continue the
17 hearing date on Plaintiffs' Motion for Attorneys' Fees, Costs, and Other Expenses under the
18 Equal Access to Justice Act (Doc. 431), finds that good cause exists to approve the stipulation
19 and grant the motion. Accordingly, IT IS HEREBY ORDERED THAT the hearing on the
20 plaintiffs' motion is continued until Monday, March 30, 2009, at 1:30 p.m., with any further
21 briefing on the Plaintiffs' motion to be conducted in accordance with the Local Rules.

22 IT IS SO ORDERED.

23 **Dated:** January 16, 2009

24 /s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE