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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
9

10 ROBERT GOH, M.D.,

11 Plaintiff,

12 v.

13 UNITED STATES AIR FORCE, et al..

14 Defendants  
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CASE NO. 1:14-cv-00315-LJO-SKO

**STUIPULATION AND ORDER FOR  
EXTENSION OF TIME TO RESPOND  
TO COMPLAINT AND TO CONTINUE  
INTIAL SCHEDULING CONFERENCE**

16 Plaintiff served his Complaint in this matter on April 9, 2014. Pursuant to Federal Rule of  
17 Civil Procedure 4(i), the United States' responsive pleading was originally due on June 9, 2014.  
18 Pursuant to Local Rule 144(a), the parties stipulated and agreed to extend the response date to pursue  
19 settlement, and again to permit Plaintiff to amend his Complaint. The Court granted each such  
20 request, setting a response date for 14-days after Plaintiff amended his complaint. [Dkt. Nos. 8, 10, &  
21 12]. The Court also continued the scheduling conference to August 26, 2014 with a joint status report  
22 due seven days prior. [Dkt. No. 8.] Plaintiff amended his Complaint on August 14, 2014, but added  
23 two individual defendants sued in their official capacities. Under Rule 4(i), their responses would be  
24 due 60-days from service of process; by contrast, the agency-defendants' responses would be due  
25 August 28 under the Court's order. [Dkt. No. 12].

26 All claims in this matter revolve around a common set of facts and circumstances, and both  
27 the agency and individual defendants' defenses will be similar. Thus, it would be inefficient to have  
28 the agency defendants respond on one date and the individual defendants respond weeks later. Thus,

1 the parties hereby stipulate that all Defendants shall respond on or before September 12, 2014, at  
2 which time Defendants anticipate filing a motion to dismiss.

3 In light of the above, the parties also stipulate to continue the initial scheduling conference.  
4 In Defendants' view, this is a record case under the Administrative Procedure Act ("APA") which  
5 should involve no discovery, and simply a review to determine whether the Air Force's final action  
6 was arbitrary and capricious or otherwise not in accordance with the law. Plaintiff has chosen to file  
7 other actions, however, naming the Veterans' Administration as a defendant, and attempting to state  
8 claims under the Constitution against individual federal officers and employees. Thus, it will be  
9 difficult to determine the appropriate schedule for the case until after the motion to dismiss is  
10 decided. If all that is left is an APA claim, then the parties can proceed to assemble and lodge the  
11 record, and brief the merits. If other claims remain, however, discovery might be appropriate (or  
12 necessary) to determine issues such as qualified immunity. Therefore, the parties stipulate to  
13 continue the status conference to a date after the Court issues the order on the forthcoming motion to  
14 dismiss.

15 Respectfully submitted,

16 DATED: August 18, 2014

17 By: /s/ Nicholas Jurkowitz (auth. 08/18/2014)  
18 Nicholas Jurkowitz  
Attorney for Plaintiff

19 DATED: August 18, 2014

BENJAMIN B. WAGNER  
United States Attorney

21 By: /s/ Gregory T. Broderick (auth. 08/18/2014)  
22 GREGORY T. BRODERICK  
Assistant United States Attorney

1 **ORDER**

2 The parties having stipulated, and good cause appearing IT IS HEREBY ORDERED that:

- 3 1. Defendants' response to Plaintiff's Complaint shall be due on or before September  
4 12, 2014;
- 5 2. The initial scheduling conference is CONTINUED to **December 9, 2014, at 10:30**  
6 **a.m.** and will be reset if necessary to the extent any motion to dismiss remains  
7 pending at that time; and
- 8 3. The parties' joint scheduling report shall be filed by no later than **December 2, 2014.**
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10 IT IS SO ORDERED.

11 Dated: August 20, 2014

12 /s/ Sheila K. Oberto  
13 UNITED STATES MAGISTRATE JUDGE

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