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UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

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IN JAMS

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12 SUSAN WYCKOFF, individually, and as  
 Administratrix of the Estate of PETER  
 13 WYCKOFF; ALEXANDER WYCKOFF by  
 and through his Guardian ad Litem, SUSAN  
 14 WYCKOFF,

Plaintiffs

vs.

17 UNITED STATES OF AMERICA; DANIEL  
 EARL SPERL and DOES 1 through 10,

Defendants.

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CHARLIE EAP, heir at law of decedent Holly  
 20 Annie Eap,

Plaintiff

vs.

23 UNITED STATES OF AMERICA, DANIEL  
 EARL SPERL,

Defendants.

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) Case No. C-07-3600 SI  
 ) JAMS REF# 1110011990

) **STIPULATION AND [PROPOSED]**  
 ) **ORDER RE EVIDENCE AND BRIEFING**  
 ) **OF THE WYCKOFF PLAINTIFFS'**  
 ) **MOTION FOR ALLEGED SPOILIATION**  
 ) **OF EVIDENCE**

) Case No. C-07-2301 SI

1 WHEREAS, the motion of Plaintiffs Susan and Alexander Wyckoff (“the Wyckoffs”) for  
2 sanctions for alleged spoliation of evidence by Defendant United States is set for hearing on  
3 August 14, 2009, with Plaintiffs’ opening papers due on July 10, 2009;

4 WHEREAS, on July 2, 2009, the Hon. Read Ambler issued Special Master Order No. 9,  
5 Granting in Part the Wyckoff Plaintiffs’ Motion for Sanctions for Discovery Violations which,  
6 among other things, directs each Coast Guard agency counsel involved in the investigation of the  
7 December 2005 accident, and all U.S. Attorneys involved in the preparation of the Government’s  
8 disclosures and discovery responses in this action, to “provide Plaintiffs with separate  
9 declarations ... specifically detailing the steps taken to preserve evidence relevant to the issues  
10 reasonably evident in this action, including interdiction of any document-destruction program and  
11 any ongoing erasures of e-mails, voice mails, and other electronically-recorded material” (Order  
12 p. 82, ¶ 2), and said declarations are to be provided “no later than July 10, 2009;”

13 WHEREAS, the Wyckoff Plaintiffs, Plaintiff Charlie Eap, the United States and  
14 Defendant Daniel Sperl all wish and presently intend to preserve the existing briefing and hearing  
15 schedules in this matter;

16 WHEREAS, Plaintiffs anticipate, and the United States does not dispute, that the  
17 declarations to be provided are likely to contain evidence relevant to Plaintiffs’ spoliation claims  
18 and should be considered by the Court; and

19 WHEREAS, the United States desires to use the deposition testimony to be given by  
20 witnesses Michael Walker and Karen Naulty on July 7 and 8 in support of its motion for summary  
21 judgment, which is also due to be filed on July 10, 2009;

22 IT IS HEREBY STIPULATED by and between the Wyckoff and Eap Plaintiffs, on the  
23 one hand, and Defendants United States and Daniel Sperl on the other, through their respective  
24 attorneys of record, that:

- 25 1. The Wyckoff Plaintiffs may introduce the declarations ordered by Judge Ambler  
26 (Ret.), along with argument based on the evidence contained in the declarations, as  
27 part of their reply papers in support of their motion for sanctions for alleged spoliation  
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