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7 Attorneys for Defendants

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 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12	JAMES FORSYTHE, M.D.)	No. C-08-5160 MMC
13	EARLENE FORSYTHE,)	
	Plaintiff,)	STIPULATION AND [PROPOSED]
14)	ORDER TO EXTEND TIME FOR
	v.)	FEDERAL DEFENDANTS TO FILE
15)	RESPONSIVE PLEADING
16	MICHAEL MUKASEY, in his official)	
	capacity as ATTORNEY GENERAL,)	
17	UNITED STATES DEPARTMENT OF)	
	JUSTICE; MICHAEL LEAVITT, in his)	
18	official capacity as SECRETARY OF THE)	
	DEPARTMENT OF HEALTH AND)	
19	HUMAN SERVICES, ANDREW C. VON)	
	ESCHENBACH, M.D. in his official)	
20	capacity as the ACTING COMMISSIONER)	
	OF THE UNITED STATES FOOD AND)	
21	DRUG ADMINISTRATION, MARK)	
	GUNDERSON, M.D. an individual,)	
22	ROBERT PERLSTEIN, M.D. an individual,)	
	JOHN ZELINSKY, an individual, and)	
23	DOES 1-10,)	
24	Defendant.)	

25 The parties, plaintiffs James W. Forsythe, M.D. and Earlene Forsythe, (collectively
 26 "Plaintiffs") and the federal defendants Michael Mukasey, Attorney General United States
 27 Department of Justice, Michael Leavitt, Secretary of the Department of Health and Human

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STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME FOR FEDERAL DEFENDANTS TO FILE
 RESPONSIVE PLEADING
 C-08-5160 MMC

1 Services, Andrew C. Von Eschenbach, M.D., Acting Commissioner of the United States Food
2 and Drug Administration, Robert Perlstein, M.D. and John Zelinsky (collectively, "Defendants")
3 by and through their counsel stipulate to the following:

4 WHEREAS Plaintiff's filed their complaint in case on November 13, 2008;

5 WHEREAS the United States Attorneys Office for the Northern District of California, San
6 Francisco received a copy of the complaint via certified mail on November 25, 2008;

7 WHEREAS, the Defendants' responsive pleading is currently due on January 26, 2009;

8 WHEREAS, the individual defendants Robert Perlstein and John Zelinsky are in the process
9 of obtaining approval for representation by the United States Attorney, pursuant to 28 C.F.R.
10 50.15 and this process could take several weeks;

11 The parties hereby agree and stipulate as follows:

12 The Defendants shall have until February 26, 2009 to file a responsive pleading in the
13 action case No. C-08-5160 MMC.

14 Respectfully submitted,

15 JOSEPH P. RUSSONIELLO
16 United States Attorney

17 /s/

17 Dated: January 6, 2009

18 MELISSA K. BROWN
19 Assistant United States Attorney

20 KEVIN MIRCH, ESQ.
21 MARIE MIRCH, ESQ.

22 /s/

23 Dated: January 6, 2009

24 MARIE MIRCH
25 Attorneys for the Plaintiffs

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ORDER

identified above

The Court orders that the Defendants shall have until February 26, 2009, to a file responsive
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pleading to the Complaint in Case No. CV 08-5160 MMC.

DATED: January 7, 2009



HONORABLE MAXINE M. CHESNEY

U.S. DISTRICT COURT JUDGE