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8
 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 ARACELY DE JESUS FAJARDO)
 13 GARCIA,)
 14 Petitioner,)
 15 v.)
 16 MICHAEL CHERTOFF, Secretary,)
 Department of Homeland Security;)
 17 NANCY ALCANTAR, Field Office)
 Director, Immigration and Customs)
 18 Enforcement; and MICHAEL)
 MUKASEY, Attorney General of the)
 19 United States,)
 20 Respondents.)

No. C 08-5729-JF

STIPULATION TO EXTEND DATE OF HEARING; AND {PROPOSED} ORDER

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 22 The parties, by and through their attorneys of record, hereby stipulate, subject to approval of
 23 the Court, to extend the hearing date in the above-entitled matter from May 22, 2009, to July 10,
 24 2009, in light of the fact that the United States Court of Appeals for the Ninth Circuit has not yet
 25 issued an opinion in *Rajinder Singh v. Holder*, Appeal No. 07-16988. In that appeal, the Ninth
 26 Circuit is expected to resolve the question of whether a district court can, as a prudential matter,
 27 dismiss a habeas petition and require an alien to exhaust his or her administrative remedies with
 28 the BIA where, as here, the alien alleges that his or her attorney failed to file a petition for review

1 of a decision by the BIA with the Ninth Circuit. The Ninth Circuit heard oral argument in the
2 appeal on January 13, 2009.

3 In addition, counsel for the respondents will be in trial from May 18 through May 28, 2009.

4 The parties further stipulate to extend the stay of the petitioner's removal through July 24,
5 2009.

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7 Date: May 15, 2009

Respectfully submitted,

8 JOSEPH P. RUSSONIELLO
9 United States Attorney

10
11 /s/
12 EDWARD A. OLSEN
13 Assistant United States Attorney
14 Attorneys for Respondents

15 Date: May 15, 2009

16 /s/
17 JAMES TODD BENNETT, Esq.
18 Attorney for Petitioner

19
20 ~~PROPOSED~~ ORDER

21 Pursuant to stipulation, IT IS SO ORDERED.

22 Dated: May 19, 2009

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JEREMY FOGEL
United States District Judge