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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 ARACELY DE JESUS FAJARDO)

12 GARCIA,)

No. C 08-5729-JF

13 Petitioner,)

**SECOND STIPULATION TO EXTEND
DATE OF HEARING; AND ~~PROPOSED~~
ORDER**

14 v.)

15 MICHAEL CHERTOFF, Secretary,)

16 Department of Homeland Security;)

17 NANCY ALCANTAR, Field Office)

18 Director, Immigration and Customs)

19 Enforcement; and MICHAEL)

20 MUKASEY, Attorney General of the)

United States,)

21 Respondents.)

22 The parties, by and through their attorneys of record, hereby stipulate, subject to approval of
23 the Court, to again extend the hearing date in the above-entitled matter from July 10, 2009, to
24 September 11, 2009, in light of the fact that the United States Court of Appeals for the Ninth
25 Circuit has not yet issued an opinion in *Rajinder Singh v. Holder*, Appeal No. 07-16988. In that
26 appeal, the Ninth Circuit is expected to resolve the question of whether a district court can, as a
27 prudential matter, dismiss a habeas petition and require an alien to exhaust his or her
28 administrative remedies with the BIA where, as here, the alien alleges that his or her attorney

1 failed to file a petition for review of a decision by the BIA with the Ninth Circuit. The Ninth
2 Circuit heard oral argument in the appeal on January 13, 2009.

3 The parties further stipulate to extend the stay of the petitioner's removal through September
4 25, 2009.

5 The parties recognize that they have asked this Court to extend the date of the hearing on a
6 number of prior occasions and appreciate the Court's patience in this matter.

7
8 Date: July 2, 2009

Respectfully submitted,

9 JOSEPH P. RUSSONIELLO
10 United States Attorney

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

15
16 Date: July 2, 2009

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

19 **[PROPOSED] ORDER**

20 Pursuant to stipulation, IT IS SO ORDERED.

21 Dated: July 6, 2009

22 
23 JEREMY FOGEL
24 United States District Judge