

\*\*E-Filed 9/11/2009\*\*

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8 **IN THE UNITED STATES DISTRICT COURT**

9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 **SAN JOSE DIVISION**

11 ARACELY DE JESUS FAJARDO GARCIA,

Case Number C 08-5729 JF

12 Petitioner,

ORDER<sup>1</sup> CONTINUING ORAL  
ARGUMENT ON ORDER TO SHOW  
CAUSE AND EXTENDING STAY OF  
PETITIONER'S REMOVAL

13 v.

14 MICHAEL CHERTOFF, Secretary, Department of  
15 Homeland Security; NANCY ALCANTAR, Field  
16 Office Director, Immigration and Customs  
17 Enforcement; and MICHAEL MUKASEY, Attorney  
18 General of the United States

[Re: Docket No. 1]

19 Respondents.

20 The Court has issued several orders approving the parties' stipulations to extend the date  
21 of oral argument in the instant matter pending a decision by the Ninth Circuit in *Rajinder Singh*  
22 *v. Holder*, Appeal No. 07-16988, a case that presents very similar factual and legal issues. On  
23 August 11, 2009, the Ninth Circuit issued the following order in the case:

24 The case is remanded to the Board of Immigration Appeals for the limited purpose  
25 of ruling upon whether the Board had jurisdiction to hear Singh's ineffective  
26 assistance of counsel claims and what effect, if any, the Attorney General's recent  
opinion in *In re Compean*, 25 I & N Dec. 1, 3 (A.G.2009), has on this case. The

27 <sup>1</sup>This disposition is not designated for publication in the official reports.

1 Board shall advise this court of any action or decision.

2 *Singh v. Napolitano*, No. 07-16988, 2009 WL 2488059, at \*1 (9th Cir. Aug. 11, 2009).

3 This Court, like the Ninth Circuit, concludes that it would be most prudent to await the  
4 Board's response before proceeding. Accordingly, the Court will continue oral argument to  
5 December 11, 2009, at 9:00 a.m. The Court also orders the parties to submit status reports on or  
6 before November 27, 2009.

7 In addition, the Court extends the stay of the petitioner's removal through December 24,  
8 2009, or until future order of the Court.

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10 **IT IS SO ORDERED.**

11 DATED: 9/11/2009

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14 JEREMY FOCHEL  
15 United States District Judge  
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1 This Order has been served upon the following persons:

2 James Todd Bennett            bennettjt13@hotmail.com

3 Edward A. Olsen                edward.olsen@usdoj.gov

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