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

13 JOHN DOE,	)	No. C 09-980 MHP
	)	
14 Plaintiff,	)	<b>E-FILING CASE</b>
	)	
15 v.	)	<b>ADMINISTRATIVE MOTION AND</b>
	)	<b>[PROPOSED] ORDER FOR LEAVE TO</b>
16 MICHAEL J. ASTRUE, Commissioner of	)	<b>FILE MOTION TO DISMISS</b>
17 Social Security	)	<b>PLAINTIFF'S COMPLAINT</b>
	)	
18 Defendant.	)	Date: July 13, 2009
	)	Time: 2:00 p.m.
	)	Courtrm: 15, 18 <sup>th</sup> Floor

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 20 The Federal Defendant seeks this Court's leave to file its motion to dismiss.  
 21 Jurisdictional motions can be raised at any time, even for the first time on appeal. *DBSI/TRI IV*  
 22 *Ltd. Partnership v. U.S.*, 465 F.3d 1031, 1037-38 (9<sup>th</sup> Cir. 2006).

23 Because this case involves potentially time-consuming discovery, the Federal Defendant  
 24 seeks permission to have the threshold jurisdictional issues determined as early as possible.

25 At the most recent case management conference involving the *Davis v. Astrue* case, the  
 26 Court invited the Federal Defendant to file its motion to dismiss and set a hearing date for July  
 27 13, 2009.  
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The Federal Defendant respectfully seeks the Court's permission to file the motion to dismiss.

Respectfully submitted,  
JOSEPH P. RUSSONIELLO  
United States Attorney

Dated: June 8, 2009

\_\_\_\_\_/s/  
ANDREW Y.S. CHENG  
MICHAEL T. PYLE  
Assistant United States Attorneys

**ORDER**

The Court, having considered the Federal Defendant's motion and having previously ordered the Federal Defendant to notice the motion to dismiss for July 13, 2009, hereby grants permission to file the motion to dismiss.

IT IS SO ORDERED.

DATED: June 10, 2009

