1 MELINDA L. HAAG (CSBN 132612) United States Attorney JOANN M. SWANSÓN (CSBN 88143) 2 Assistant United States Attorney DISTRIC 3 Chief. Civil Division JUAN D. WALKER (CSBN 208008) Special Assistant United States Attorney 4 Submitting counsel are 5 450 Golden Gate Avenue, Box 36055 directed to serve this San Francisco, California 94102 order upon all other Telephone: (415) 436-6915 6 Facsimile: (415) 436-6927 non-efiling parties 7 Email: juan.walker@usdoj.gov in this action. Attorneys for Federal Defendant 8 UNITED STATES DISTRICT COUR 9 10 NORTHERN DISTRICT OF CALIFORNIA 11 SAN FRANCISCO DIVISION 12 DEDAN SUNNI ALI. No. C 10-2360 SI 13 Plaintiff. EX PARTE APPLICATION AND 14 [PROPOSED] ORDER TO CONTINUE v. HEARING ON MOTION TO DISMISS 15 AND EXTEND DATES IN SCHEDULING 16 **ORDERS** U.S. DEPARTMENT OF EDUCATION, 17 18 Defendant. 19 On November 30, 2010, Defendant e-filed its Motion to Dismiss for Lack of Subject Matter 20 Jurisdiction and Failure to State a Claim ("Motion to Dismiss"). (Dkt#15.) The Defendant 21 served the Motion to Dismiss on Plaintiff at his general delivery address listed on the Court's 22 docket. Declaration of Juan Walker in Support of Ex Parte Application and [Proposed] Order to 23 Continue Hearing on Motion to Dismiss and Extend Dates in Scheduling Orders ("Walker 24 Decl.") at ¶ 2. On December 1, 2010, the Court, sua sponte, continued the hearing on the Motion 25 to Dismiss from January 14, 2011 to January 28, 2011. (Dkt#18.) On or about December 18, 26 2010, the Motion to Dismiss was returned to Defendant stamped, "Returned to Sender Unclaimed 27 from General Delivery". Walker Decl. at ¶ 3. Other than the information contained on the 28 Court's docket, the Defendant does not have any contact information for Plaintiff. *Id.* at ¶ 4. On December 28, 2010, the Court Clerk filed a notice indicating that its notice to Plaintiff continuing 1 the hearing date also was returned as undeliverable. (Dkt# 19.) However, the Clerk noted that 2 the envelope returning the Clerk's notice contained a new address for the Plaintiff. *Id.* The Clerk 3 updated Plaintiff's address on the Court's docket and re-mailed its notice continuing the hearing 4 date. Id. Since the Plaintiff has not received the original Motion to Dismiss, Defendant intends 5 to re-notice the Motion to Dismiss and serve it on Plaintiff at his new address. 6 Accordingly, in order to allow Plaintiff sufficient notice, the Defendant requests the Court 7 continue the hearing on the Motion to Dismiss to February 18, 2011, and extend the dates in the 8 scheduling order, so that the Initial Case Management Conference will occur on or after March 9 18, 2011, and the ADR Deadlines will be adjusted accordingly. Such an order is authorized 10 under Fed. R. Civ. P. 6(b)(1), which provides discretionary authority to enlarge time "with or without motion or notice. . . . " As the Plaintiff does not have a telephone number listed on the 11 12 Court's docket, Defendant is unable to ascertain whether Plaintiff objects to this request. Walker 13 Decl. at ¶ 6. Respectfully submitted, 14 Dated: January 12, 2011 15 MELINDA HAAG United States Attorney 16 17 JUAN D. WALKER 18 Special Assistant United States Attorney Attorneys for Defendant 19 20 [PROPOSED] ORDER Good cause having been shown, Defendant's Ex Parte Application is hereby GRANTED. 21 22 The scheduling orders are hereby modified as follows: February 18, 2011 at 9:30 a.m. 23 Motion to Dismiss Hearing: March 18, 2011 at 1:30 p.m. 24 Initial Case Management Conference: 25 IT IS SO ORDERED. 26 Dated: SUSAN ILLSTON 27 United States District Judge 28

Ex Parte Application and [Proposed] Order Case No. 10-2360 SI