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 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 OAKLAND DIVISION

12 SUKHWINDER SINGH, ET AL.,
 13 Plaintiffs,

14 v.

15 MICHAEL CHERTOFF, Secretary, et al.,
 16 Defendants.

) No. C 08-2362 WDB

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) **STIPULATION TO A BRIEFING**
SCHEDULE; AND [PROPOSED] ORDER

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 18 Plaintiffs, by and through their attorneys of record, and defendants, by and through their
 19 attorneys of record, hereby stipulate, subject to approval of the Court, to the following:

20 1. Sukhwinder Singh (Singh) is a native and citizen of India who wishes to adjust his status to
 21 that of lawful permanent resident based on an approved I-130 visa petition that his United States
 22 citizen brother, Dharam Singh, filed on his behalf on May 9, 1988.

23 2. The United States Citizenship and Immigration Services (USCIS) approved the I-130 visa
 24 petition on September 6, 1991.

25 3. Singh entered the United States without a valid travel document on November 27, 1991, and
 26 was thereafter placed in removal proceedings on September 22, 1994.

27 4. The defendants maintain that the Department of State notified Singh on September 4, 2000
 28 (through his attorney of record) of the availability of an immigrant visa and the need to come in for

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1 a visa interview appointment; that, on September 4, 2001, the State Department sent Singh
2 (through his attorney of record) a notice of possible termination of registration of the visa; that, on
3 September 5, 2002, the State Department sent Singh (through his attorney of record) a notice that
4 his registration was being terminated and that he had one year to overcome his termination
5 determination; and that, on September 5, 2003, the State Department mailed Singh (through his
6 attorney of record) a final notice of termination.

7 5. The plaintiffs maintain that neither Singh nor his brother ever received a notice that a visa
8 had become available, that further action was required before Singh could apply for a visa, that the
9 defendants were going to terminate Singh's registration for failure to act upon his petition, or that
10 Singh had a right to have the registration reinstated if he could demonstrate that his failure to
11 apply for a visa was due to circumstances beyond his control.

12 6. On February 22, 2005, during the pendency of his removal proceedings in Immigration
13 Court, Singh filed an I-485 application for adjustment of status based on the approved I-130. On
14 August 2, 2006, the Department of Homeland Security filed a brief with the Immigration Judge
15 arguing that Singh was ineligible to adjust his status to lawful permanent resident because the
16 "visa upon which respondent seeks to adjust has been revoked pursuant to sections 203(g) and 205
17 of the Immigration and Nationality Act, as amended ("INA") and 22 C.F.R. § 42.83." The
18 removal proceeding is ongoing.

19 7. The plaintiffs filed the above-captioned action in this Court on May 5, 2008, seeking a
20 declaration that defendants' termination of Singh's visa registration was a violation of the
21 Administrative Procedure Act and an order immediately reinstating the registration of Singh's
22 approved visa petition.

23 8. The parties believe that this case can be resolved on cross-motions for summary judgment
24 and that no case management conference is necessary.

25 9. The parties proposed the following schedule on their cross-motions for summary judgment:

26 Parties' Cross-Motions for Summary Judgment: January 23, 2009

27 Parties' Cross-Oppositions: February 13, 2009

28 Hearing:

~~To set by Court if needed~~

STIPULATION TO A BRIEFING SCHEDULE
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March 4, 2009
at 1:30 p.m.

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Dated: December 1, 2008

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Defendants

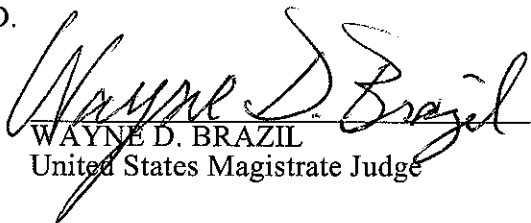
Dated: December 1, 2008

/s/
SARA COPPIN
LAW OFFICE OF ROBERT JOBE
Attorney for Plaintiffs

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: 12/2/08, 2008


WAYNE D. BRAZIL
United States Magistrate Judge