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 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

18 VIETNAM VETERANS OF AMERICA, *et al.*,
 19
 20 Plaintiffs,
 21
 22 v.
 23 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 24
 25 Defendants.

Case No. CV 09-0037-CW

**STIPULATION AND ORDER
 EXTENDING TIME FOR NEW
 DEFENDANTS TO FILE ANSWER
 TO THIRD AMENDED COMPLAINT**

26 Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Civil Local Rules 6-2 and 7-12,
 27 the parties, by and through undersigned counsel, hereby respectfully stipulate, subject to Court
 28 approval, to extend the time for Defendants the Department of Veterans Affairs (“VA”) and its
 Secretary, Eric K. Shinseki (together, the “New Defendants”) to file an Answer to Plaintiffs’

Civil Action No. C 09-0037 CW
 STIP. AND [~~PROPOSED~~] ORDER EXTENDING TIME FOR NEW DEFENDANTS TO FILE ANSWER

1 Third Amended Complaint until the earlier of: (1) 14 days after the Court resolves Defendants'
2 Partial Motion to Dismiss Plaintiffs' Third Amended Complaint, Dkt. No. 187; or (2) April 7,
3 2011. Because the New Defendants intend to respond to the Complaint by filing an Answer and
4 will not file a Rule 12 motion, and because the New Defendants will participate fully in
5 discovery, without waiving any objections to discovery, notwithstanding any delay in filing their
6 Answer, the requested enlargement will not have any effect on the present schedule for the case.
7 In accordance with Civil L.R. 6-2(a), this Stipulation is supported by the accompanying
8 Declaration of Joshua E. Gardner, counsel for Defendants.
9

10 1. Defendants submit that the Declaration of Joshua E. Gardner establishes good cause
11 for the requested enlargement as follows:

- 12 a. On November 18, 2010, Plaintiffs filed their Third Amended Complaint in this
13 case.
14
15 b. Joshua E. Gardner agreed to accept service on behalf of the New Defendants, and
16 Plaintiffs' counsel served the Third Amended Complaint pursuant to that
17 agreement on November 24, 2010.
18
19 c. On December 6, 2010, Defendants filed a partial motion to dismiss Plaintiffs'
20 Third Amended Complaint. Specifically, Defendants moved to dismiss the notice
21 and health care claims against the Central Intelligence Agency; the health care
22 claims against the Department of Defense, and all claims against the Department
23 of Justice. Defendants did not move to dismiss the claim against VA.
24
25 d. On January 10, 2011, the Court, on its own motion, took the Defendants' motion
26 under submission on the papers and vacated the hearing previously scheduled for
27 January 13, 2011.
28

1 e. Accordingly, pursuant to the Federal Rules of Civil Procedure, VA and its
2 Secretary's answer to the Third Amended Complaint is currently due on
3 January 24, 2011; and the answer from the other Defendants, depending upon the
4 resolution of the pending partial motion to dismiss, will be due 14 days after the
5 Court's resolves that motion.

6
7 f. As it did with its prior answer, Defendants intend to file a single answer for all the
8 federal defendants. The parties agree that the interests of orderly case
9 administration will be served by extending the deadline as requested so that the
10 New Defendants will not be required to file their Answer by January 24, 2011,
11 while the partial motion to dismiss filed on behalf of the other defendants still is
12 pending, the outcome of which will determine both the scope of any answer to be
13 filed by those defendants and the due date for that answer.
14

15 2. There have been eleven previous modifications in this case.

16 a. On March 24, 2009, the parties stipulated to a continuance of the case
17 management conference to June 16, 2009, and the deadline for the joint case
18 management statement to June 9, 2009. On March 31, 2009, the Court entered an
19 Order establishing the dates to which the parties had stipulated. (Dkt. No. 15).
20

21 b. On May 11, 2009, the parties stipulated to enlarge the period for Defendants'
22 response to the Complaint in the form of a dispositive motion by thirty-two days –
23 from May 11, 2009 to June 12, 2009 – and a corresponding adjustment of the
24 briefing schedule and hearing date. On May 12, 2009, the Court entered an Order
25 establishing the briefing deadlines and hearing date to which the parties had
26 stipulated. (Dkt. No. 19).
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- 1 c. On June 4, 2009, Defendants filed a Motion for an Extension of Time to File
2 Response to Complaint until June 20, 2009 on the ground that Caroline
3 Wolverton had assumed primary responsibility for the case sixteen days prior to
4 the deadline for submission of a motion to dismiss. Plaintiffs opposed the
5 extension request. The Court entered an Order granting the requested extension
6 on June 12, 2009. (Dkt. No. 27).
- 7
8 d. On September 10, 2009, at the behest of counsel for Plaintiffs, the parties
9 stipulated to an enlargement of the briefing schedule on Defendants' Motion to
10 Dismiss and a continuance on the initial case management conference. On
11 September 15, 2009, the Court entered an Order granting the briefing and hearing
12 schedule to which the parties had stipulated. (Dkt. No. 42).
- 13
14 e. On October 28, 2009, again at the behest of counsel for the Plaintiffs, the parties
15 stipulated to a continuance of the hearing on Defendants' Motion to Dismiss and
16 the initial case management conference. On October 29, 2009, the Court entered
17 an Order granting the continuance of the hearing on Defendants' Motion to
18 Dismiss and the initial case management conference as the parties had stipulated.
19 (Dkt. No. 50).
- 20
21 f. On January 27, 2010, Defendants filed a motion to Enlarge the Time to File
22 Answer until April 19, 2010 on the ground that Defendants wanted to review
23 discovery documents that pertained to the factual allegations in Plaintiffs' Second
24 Amended Complaint. Plaintiffs opposed the extension request. On February 2,
25 2010, the Court entered an Order granting in part the Defendants' Motion to
26 Extend Time, extending the time to file the answer until March 12, 2010.
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- 1 g. On February 18, 2010, at the behest of counsel for Defendants, the parties
2 stipulated to extend Defendants' time to respond to discovery requests and
3 produce documents. On February 23, 2010, the Court entered an Order granting
4 the parties' stipulation. (Dkt. No. 66.)
- 5 h. On June 29, 2010, Plaintiffs filed a motion to enlarge by two weeks the time for
6 filing a reply in support of their motion for leave to file a Third Amended
7 Complaint and sought to reschedule the July 15, 2010 hearing date concerning
8 that motion. On July 1, 2010, the Court entered an Order granting the Plaintiffs'
9 motion. (Dkt. No. 111.)
- 10 i. On September 7, 2010, Defendants filed an unopposed motion to reschedule the
11 hearing date concerning Plaintiffs' motion to compel production of documents;
12 Plaintiffs' motion to compel Rule 30(b)(6) testimony; the entry of a protective
13 order; and Plaintiffs' motion for sanctions. (Dkt. No. 137.) On September 9,
14 2010, the Magistrate Judge entered an order granting the Defendants' motion.
15 (Dkt. No. 138.)
- 16 j. On November 24, 2010, at the behest of counsel for Plaintiffs, the parties
17 stipulated to extend Plaintiffs' time to provide Defendants with a settlement
18 proposal. (Dkt. No. 181.). The Magistrate Judge entered the parties' stipulation
19 on December 6, 2010. (Dkt. No. 182.)
- 20 k. On December 2, 2010, the parties stipulated to extend the parties' time to comply
21 with the Magistrate Judge's November 12, 2010 order regarding certain discovery
22 disputes. (Dkt. No. 184.) The Magistrate Judge entered the parties' stipulation on
23 December 6, 2010. (Dkt. No. 185).
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1 3. Because the New Defendants intend to respond to the Complaint by filing an Answer
2 and will not file a Rule 12 motion, and because the New Defendants will participate
3 fully in discovery, without waiving any objections to discovery, notwithstanding any
4 delay in filing their Answer, the requested enlargement will not have any effect on the
5 present schedule for this case.
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7 NOW THEREFORE, the parties, by and through their undersigned counsel, HEREBY
8 STIPULATE AND AGREE, subject to Court approval, as follows:

- 9 1. The New Defendants shall have until the earlier of: (a) 14 days after the
10 Court resolves Defendants' Partial Motion to Dismiss Plaintiffs' Third
11 Amended Complaint (Docket No. 187); or (b) April 7, 2011, to file their
12 Answer to the Third Amended Complaint.
13
14 2. The New Defendants will not file a Rule 12 motion in response to the Third
15 Amended Complaint, and, without waiving any objections to discovery, will
16 continue to participate fully in discovery notwithstanding the fact that the
17 deadline for filing their Answer is extended as requested in this Stipulation.
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19 **IT IS SO STIPULATED.**

20 Dated: January 21, 2011

21 IAN GERSHENGORN
Deputy Assistant Attorney General

22 MELINDA L. HAAG
United States Attorney
23 VINCENT M. GARVEY
24 Deputy Branch Director

25 /s/Joshua E. Gardner
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9 Dated: January 21, 2011

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16 By: /s/ Timothy W. Blakely
17 Timothy W. Blakely
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19 Attorneys for Plaintiffs

1 **ORDER**

2 PURSUANT TO STIPULATION, IT IS SO ORDERED.

3 Dated: January 25, 2011

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6 The Honorable Claudia Wilken
7 United States District Judge
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