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 11

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION
 15

16 VIETNAM VETERANS OF AMERICA, *et al.*,

17 Plaintiffs,

18 v.

19 CENTRAL INTELLIGENCE AGENCY, *et al.*,

20 Defendants.
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Case No. CV 09-0037-CW

**STIPULATION AND [PROPOSED]
 ORDER EXTENDING BRIEFING AND
 HEARING SCHEDULE ON
 DEFENDANTS' MOTION TO DISMISS
 FIRST AMENDED COMPLAINT AND
 TO CONTINUE INITIAL CASE
 MANAGEMENT CONFERENCE**

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties hereby respectfully stipulate,
2 subject to the Court’s consideration and approval, as follows:

3 1. On August 4, 2009, the Court entered a briefing and hearing schedule in
4 connection with Defendants’ anticipated motion to dismiss Plaintiffs’ First Amended Complaint
5 (the “Motion”) pursuant to a stipulation submitted by the parties. (*See* Docket No. 33.) The
6 Court’s order also continued the Initial Case Management Conference to coincide with the
7 continued hearing date on the Motion. (*Id.*)

8 2. On August 14, 2009, Defendants filed their Motion. (*See* Docket No. 34.)

9 3. In support of the Motion, Defendants filed four declarations (Docket Nos. 34-1–
10 34-4) (the “Declarations”), each of which purported to attach documents consisting of “individual
11 Plaintiffs’ records . . . submitted for filing under seal because they contain sensitive information
12 that is covered by the Privacy Act.” (Defs.’ Mem. in Support of Mot. to Dismiss, at 11 n.9.)

13 4. When Defendants filed their Motion on August 14, 2009, Defendants did not serve
14 upon Plaintiffs a copy of the documents attached to the Declarations because the documents are
15 covered by the Privacy Act. (*See* Declaration of Adriano Hrvatin in Support of Stipulation and
16 [Proposed] Order Extending Briefing and Hearing Schedule on Defendants’ Motion to Dismiss
17 First Amended Complaint and to Continue Initial Case Management Conference (“Hrvatin
18 Decl.”), ¶ 5.)

19 5. On August 31, 2009, the Court issued an order providing in relevant part that
20 “Defendants shall provide copies of the documents [attached to the Declarations] to Plaintiffs’
21 attorneys, who may disclose them only to the Plaintiff that they concern.” (Docket No. 39.)

22 6. On August 31, 2009, pursuant to the Court’s order, Defendants provided Plaintiffs
23 with copies of the documents attached to the four Declarations. (Hrvatin Decl. ¶ 7.)

24 7. Pursuant to the current briefing schedule on Defendants’ Motion, Plaintiffs’
25 opposition is due Friday, September 18, 2009. (*See* Docket No. 33.)

26 8. On September 3, 2009, counsel for Plaintiffs and Defendants met and conferred
27 regarding a proposed extension to the current briefing and hearing schedule on Defendants’
28 Motion. Plaintiffs’ counsel identified two issues to support a modification to the current

1 schedule. *First*, Plaintiffs' counsel identified that it had just three days earlier received for the
2 first time documents on which Defendants rely in support of their contention that four of the six
3 Individual Plaintiffs' claims here are barred in their entirety by the statute of limitations.
4 Plaintiffs' counsel needs time to review those documents and confer with the Individual Plaintiffs
5 to which those documents pertain. *Second*, Plaintiffs' counsel gave notice that Timothy W.
6 Blakely, a senior associate representing Plaintiffs in this matter, recently had emergency surgery
7 for a ruptured appendix. Mr. Blakely has been out of the office and unable to devote any
8 significant amount of time to this matter due to the emergency surgery as well as complications
9 arising from an ongoing infection following the surgery. Defendants' counsel agreed that
10 Defendants would not oppose a request for an extension as to the briefing schedule on
11 Defendants' Motion. (*See* Hrvatin Decl. ¶ 8.)

12 9. On September 9, 2009, counsel for Plaintiffs and Defendants conferred further
13 regarding an extension to the briefing schedule on Defendants' Motion. To address the
14 developments described above, counsel agreed to a modest two-week extension as to the
15 deadlines set forth in the current scheduling order as follows (*id.* ¶ 9):

| | |
|-----------------------------------|---------------------------------|
| 16 Plaintiffs' opposition due: | October 2, 2009 |
| 17 Defendants' reply due: | October 23, 2009 |
| 18 Hearing on Defendants' motion: | November 12, 2009, at 2:00 p.m. |

19 10. Given that the Initial Case Management Conference in this matter has been
20 scheduled via prior stipulations and orders to coincide with the hearing on Defendants' Motion,
21 the parties agree that the Initial Case Management Conference may be similarly continued to
22 November 12, 2009, at 2:00 p.m. (*Id.* ¶ 10.)

23 11. This agreed-upon extension of the briefing and hearing schedule as to Defendants'
24 Motion, as well as the date for the Initial Case Management Conference, is not submitted for the
25 purpose of delay. It instead attempts to provide a reasonable accommodation of the deadlines
26 impacted by Defendants' recent disclosure of documents as well as the medical condition of an
27 integral member of Plaintiffs' litigation team. (*Id.* ¶ 11.)
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1 12. The proposed extension further promotes judicial efficiency in that it will provide
2 both parties with a more complete and fair opportunity to establish a record that sufficiently
3 addresses the various arguments raised by Defendants' Motion. In this connection, the parties
4 agree that the brief extension to the schedule will not cause prejudice to either party. (*See id.*
5 ¶ 12.)

6 **IT IS SO STIPULATED.**

7 Dated: September 10, 2009

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[PROPOSED] ORDER

On the stipulation of the parties, and good cause appearing:

IT IS SO ORDERED.

Dated: September ¹⁴____, 2009

