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 and Wray C. Forrest
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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION
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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 ORDER
 CONTINUING HEARING ON
 DEFENDANTS' MOTION TO DISMISS
 FIRST AMENDED COMPLAINT AND
 INITIAL CASE MANAGEMENT
 CONFERENCE**

1 Pursuant to Civil Local Rules 6-1, 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 14, 2009, Defendants filed a motion to dismiss Plaintiffs' First
4 Amended Complaint (the "Motion"). (*See* Docket No. 34.)

5 2. On September 15, 2009, the Court entered a modified briefing and hearing
6 schedule in connection with the Motion, pursuant to a stipulation submitted by the parties.
7 (Docket No. 42.) The Court's order also continued the Initial Case Management Conference to
8 November 12, 2009 so that it would coincide with the continued hearing date on the Motion.
9 (*Id.*)

10 2.3. Pursuant to the modified briefing schedule, Plaintiffs filed an opposition to the
11 Motion on October 2, 2009 (Docket No. 43), and Defendants filed a reply in support of the
12 Motion on October 23, 2009 (Docket No 47).

13 3.4. On October 27, 2009, counsel for Plaintiffs and Defendants conferred regarding a
14 continuance of the hearing date on Defendants' Motion and the Initial Case Management
15 Conference. Plaintiffs' counsel identified that lead trial counsel for Plaintiffs on this matter,
16 Gordon Erspamer, has a scheduling conflict that will take him out of the country for the majority
17 of the month of November. As lead trial counsel, Mr. Erspamer will argue on behalf of Plaintiffs
18 in opposition to Defendants' Motion (*see* Decl. of A. Hrvatin in Support of Stipulation and
19 [Proposed] Order ("Hrvatin Decl.") ¶ 5), and his attendance at the Initial Case Management
20 Conference is mandatory. *See* Civil L.R. 16-10(a). Defendants' counsel agreed to a continuance
21 of the hearing date on Defendants' Motion as well as the Initial Case Management Conference.
22 (Hrvatin Decl. ¶ 5.)

23 4.5. Counsel agree to a brief three-week extension as to the deadlines set forth in the
24 current scheduling order so that the hearing on Defendants' Motion and the Initial Case
25 Management Conference shall be continued from November 12, 2009 to December 3, 2009, at
26 2:00 p.m. (*Id.* ¶ 6.)

27 5.6. This agreed-upon extension of the hearing schedule as to Defendants' Motion and
28 the Initial Case Management Conference is not submitted for the purpose of delay. The stipulated

1 continuance sets these matters on the first law-and-motion date available on the Court's calendar
2 following Mr. Erspamer's return to the country and the Thanksgiving holiday. (*Id.* ¶ 7.) The
3 stipulated continuance reflects the parties' good-faith and reasonable attempt to accommodate the
4 conflict presented by the schedule of lead trial counsel for Plaintiffs in this matter. (*Id.*)

5 ~~6-7.~~ The stipulated continuance further promotes judicial efficiency in that it will
6 provide both parties, through lead trial counsel, the opportunity to present their respective
7 positions on Defendants' Motion to the Court, and will permit lead trial counsel for Plaintiffs to
8 attend the Initial Case Management Conference. In this connection, the parties agree that the
9 brief extension to the schedule will not cause prejudice to either party. (*Id.* ¶ 8.)

10 **IT IS SO STIPULATED.**

11 Dated: October 28, 2009

GORDON P. ERSPAMER
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Dated: October 28, 2009

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Attorneys for Defendants

ORDER

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

IT IS SO ORDERED.

Dated: October 29, 2009



Honorable Claudia Wilken
United States District Court Judge

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GENERAL ORDER 45 ATTESTATION

I, Gordon P. Erspamer, am the ECF User filing this Stipulation and [Proposed] Order Continuing Hearing on Defendants' Motion to Dismiss First Amended Complaint and Initial Case Management Conference. In compliance with General Order 45, X.B., I hereby attest that Caroline Lewis Wolverton has concurred in this filing.

Dated: October 28, 2009

/s/ Gordon P. Erspamer
Gordon P. Erspamer
Attorneys for Plaintiffs