

s/ Patrick G. Nemeroff
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Civil Division
Department of Justice
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Washington, D.C. 20530-0001

October 6, 2015

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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government's response to that motion is currently due Monday, October 12, 2015. With the requested 30-day extension, the response would be due Thursday, November 12, 2015 (November 11, 2015 is a federal holiday).

3. I have contacted Anna M. Barvir, counsel for appellant, who has authorized me to state that appellant does not oppose this request for a 30-day extension, on the condition that the corresponding deadline for the response of appellees State of California and Kamala D. Harris is similarly extended. I have also contacted Anthony R. Hakl, counsel for appellees State of California and Kamala D. Harris, who has authorized me to state that they similarly do not oppose this request for a 30-day extension of time.

4. The requested extension is necessary in light of the press of other litigation matters. I was recently assigned to handle this case on appeal and am still familiarizing myself with the matter. On Wednesday, October 7, oral argument will be held in *Lorillard v. FDA*, No. 5226 (D.C. Cir.), a case in which I had primary responsibility for preparing the government's briefs. Michael S. Raab is the attorney with supervisory responsibility for this case. Mr. Raab also has supervisory responsibility for numerous other appellate matters, including: *Carlson v. United States*, No. 15-2972 (7th Cir.) (opening brief currently due Oct. 20, 2015); *International Brotherhood of Teamsters v. U.S. Department of Transportation*, No. 15-70754 (9th Cir.) (response brief currently due Oct. 26,

2015); *Electronic Privacy Information Center v. Federal Aviation Administration*, No. 15-1075 (D.C. Cir.) (response brief currently due Oct. 28, 2015); and *Modoc Lassen Indian Housing Authority v. U.S. Department of Housing & Urban Development*, No. 14-1313 (10th Cir.) (reply brief currently due Nov. 19, 2015).

5. For the foregoing reasons, the requested 30-day extension is necessary to ensure an adequate opportunity to prepare the government's response. I have exercised, and will continue to exercise, diligence regarding this appeal and will file the motion by the requested due date.

I declare under penalty of perjury that the foregoing is true and correct.

s/ Patrick G. Nemeroff
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Executed on October 6, 2015