

No. 09-16478

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSE PADILLA et al.,
Plaintiffs-Appellees,
v.
JOHN YOO,
Defendant-Appellant.

*On Appeal from the
United States District Court for the Northern District of California
Case No. 3:08-cv-00035-JSW*

**JOINT MOTION FOR EXTENSION OF TIME TO FILE
PLAINTIFFS'-APPELLEES' ANSWERING BRIEF
AND DEFENDANT-APPELLANT'S REPLY BRIEF;
DECLARATION OF JONATHAN FREIMAN IN SUPPORT THEREOF**

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MOTION

Plaintiffs-Appellees Jose Padilla, et al. (“Appellees”) and Defendant-Appellant John Yoo (“Appellant”), hereby jointly request an extension of the deadlines for the filing of Appellees’ Answering Brief and Appellant’s Reply Brief to January 15 and February 19, 2010, respectively.

There is good cause to grant the motion as set forth in the attached Declaration of Jonathan Freiman.

Dated: November 20, 2009

Respectfully submitted,

s/ Natalie L. Bridgeman

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DECLARATION OF JONATHAN M. FREIMAN

I, Jonathan M. Freiman, declare as follows:

1. I am a member in good standing of the bar of the U.S. Court of Appeals for the Ninth Circuit, to which I was admitted on April 4, 2007. I am counsel for Plaintiffs-Appellees in the matter of *Jose Padilla et al., v. John Yoo*, Appeal No. 09-16478. The facts stated herein are based on my personal knowledge or upon my review of the files kept by my office and my co-counsel in this matter. If called upon to do so, I could and would competently testify thereto.

2. I am making this declaration in support of Plaintiffs'-Appellees' and Defendant-Appellant's Joint Motion for Extension of the Deadlines to File Plaintiffs'-Appellees' Answering Brief and Defendant-Appellant's Reply Brief.

3. The current due date for Plaintiffs'-Appellees' Answering Brief is December 9, 2009.

4. Appellees request a thirty-seven day extension to January 15, 2010 to file their Answering Brief.

5. There is good cause to extend the time for Appellees' Answering Brief. In particular, on November 18, 2009, this Court granted the United States' motion for an extension of time until December 3, 2009 to file an

amicus brief. Appellees anticipate that the amicus brief of the United States will raise issues that will require careful consideration, research and reasoned response. Under the current schedule, Appellees would have only six days to respond to the arguments raised by the United States. In addition, counsel for Appellees have pre-existing deadlines for briefs on dispositive motions in other federal matters, currently due on December 23, 2009 and January 8, 2010, as well as family obligations over the holiday period.

6. Counsel for Appellant is prepared to accommodate the extension for Appellees' Answering Brief but (because of travel plans made with the expectation that briefing in this matter would be completed by early January, as well as preexisting professional commitments) can do so only by obtaining an extension for Appellant's Reply Brief. Under the Court's briefing schedule, Appellant's Reply Brief is due two weeks after Appellees' Answering Brief. If the Court were to grant Appellees' request for an extension, Appellant's Reply Brief would be due on January 29, 2010.

7. Appellant requests a twenty-one day extension of time to February 19, 2010 to file his Reply Brief.

8. There is good cause to extend the time for Appellant's Reply Brief. In particular, counsel for Appellant will be out of the country from January 20 through 31, 2010, during which time the Reply Brief would need to

be prepared and filed if the extension for Appellees' brief were granted. In addition, Appellant's counsel have extensive professional commitments during the remainder of January 2010 and early February 2010, including pre-existing deadlines for briefs on dispositive motions in another federal matter on January 29, 2010 and February 17, 2010.

9. Counsel for both parties have conferred and agreed upon the revised schedule proposed herein.

10. Counsel for both parties represent that they have exercised and continue to exercise diligence in this matter and anticipate that both briefs will be filed within the time requested.

I declare under penalty of perjury under the laws of the United States and the state of California that the foregoing is true and correct.

Signed this 20th day of November, 2009 in New Haven, Connecticut.

/s Jonathan M. Freiman
Jonathan M. Freiman

PROOF OF SERVICE

I, Natalie L. Bridgeman, hereby certify that on November 20, 2009, 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. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document described as:

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PLAINTIFFS'-APPELLEES' ANSWERING BRIEF AND DEFENDANT-
APPELLANT'S REPLY BRIEF**

by First-Class Mail, postage prepaid, for delivery within 3 calendar days to the following non-CM/ECF participants:

Hope R. Metcalf
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on November 20, 2009.

s/ Natalie L. Bridgeman
Natalie L. Bridgeman