# EXHIBIT D

FILED
DEC 22 2009
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

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| IN THE MATTER OF KAREN GOLINSKI et ux. | No. 09-80173<br>**ORDER** |

The time for appeal from my orders in this matter, dated January 13, 2009, and November 19, 2009, has expired. Only the Blue Cross and Blue Shield Association ("Blue Cross") has filed a timely notice of appeal; it petitioned the Judicial Council for review of my November 19, 2009, order on December 17, 2009. My prior orders in this matter are therefore final and preclusive on all issues decided therein as to others who could have, but did not appeal, such as the Office of Personnel Management ("OPM") and the Administrative Office of the United States Courts. Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 398–402 & n.4 (1981); see also Travelers Indem. Co. v. Bailey, 129 S. Ct. 2195, 2205–07 (2009).

As the jurisdictional issues presented in Blue Cross's petition for review are separate and distinct from those concerning my now conclusively-determined

jurisdiction over governmental entities such as OPM, I authorize Ms. Golinski to take what further action she deems fit against any entity other than Blue Cross, without waiting for the Judicial Council's disposition of Blue Cross's appeal.

December 22, 2009

Alex Kozinski
Chief Judge