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9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

12 DANIEL KIM, an individual; GRACE
13 KIM, an individual; HANNAH KIM, a
14 minor through her guardian GRACE
15 KIM; FRANCIS S. LEE, an individual;
16 VIVIAN LEE, an individual,,

17 Plaintiffs,

18 v.

19 U.S. SECRETARY OF THE
20 INTERIOR, U.S. NATIONAL PARK
21 SERVICE, and YOSEMITE
22 NATIONAL PARK; DOES 1-20,

23 Defendants.

Case No. 1:16-cv-01656-LJO-SKO

**ORDER GRANTING JOINT
MOTION TO CONTINUE
SCHEDULING CONFERENCE**

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1 **JOINT MOTION TO CONTINUE SCHEDULING CONFERENCE**
2 **TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN**
3 **DISTRICT OF CALIFORNIA, EACH PARTY, AND TO THE COUNSEL OF**
4 **RECORD FOR EACH PARTY:**

5 Plaintiffs DANIEL KIM, GRACE KIM, HANNAH KIM, a minor through
6 her guardian GRACE KIM, FRANCIS S. LEE, and VIVIAN LEE, together with
7 Defendant the United States of America,¹ hereby submit this joint motion to
8 continue the scheduling conference currently set in this matter for February 23, 2017
9 at 9:45 a.m. in front of Hon. Sheila K. Oberto in the above-captioned Courthouse to
10 a later date for the reasons appearing below.

11 Plaintiffs filed this action on November 2, 2016. [Doc. 1]. On December 1,
12 2016, Plaintiffs filed a Proof that the Summons and Complaint had been served on
13 the U.S. Department of the Interior. [Doc. 8-10]. However, Federal Rule of Civil
14 Procedure 4(i) requires additional steps to be completed in order to perfect service
15 on the United States. Service was perfected on or around January 26, 2017, and
16 proof thereof will be filed forthwith. The United States has 60 days from the date
17 service was perfected to file a response to the complaint. *See* Fed. R. Civ. P.
18 12(a)(2).

19 Counsel for Plaintiffs and counsel for Defendants have met and conferred
20 regarding the upcoming Scheduling Conference. Counsel for the United States has
21 communicated to counsel for Plaintiffs that he will be traveling on official business
22 from February 6 through February 17, 2017. Additionally, because the United
23 States is not required to file a response to the complaint before February 23, 2017,
24 counsel for Plaintiff and counsel for the United States respectfully submit that it will
25 be most efficient to continue the conference currently scheduled for February 23,
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27 ¹ The Complaint names the U.S. Secretary of the Interior, the U.S. National Park Service, and
28 Yosemite National Park as defendants. However, under 28 U.S.C. §§ 1346(b)(1), 2672, and
2679(a), the only proper defendant in this case is the United States.

1 2017 to a later date, after the United States has filed a response to the complaint.
2 Accordingly, the parties respectfully request a three-month continuance.

3 **WHEREFORE**, Plaintiffs DANIEL KIM, GRACE KIM, HANNAH KIM, a
4 minor through her guardian GRACE KIM, FRANCIS S. LEE, and VIVIAN LEE,
5 together with Defendant the United States of America, respectfully request that this
6 Court continue the scheduling conference currently set for February 23, 2017, as
7 well as any corresponding requirements to submit a joint scheduling report. .

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9 Respectfully submitted,

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11 DATED: February 9, 2017

GIRARDI | KEESE

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14 By: /s/ Kelly C. Winter

KELLY CHRISTINA WINTER

Attorneys for Plaintiffs

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17 DATED: February 8, 2017

PHILLIP A. TALBERT

United States Attorney

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21 By: /s/ Philip A. Scarborough

PHILIP A. SCARBOROUGH

Assistant United States Attorney

Attorneys for the United States of America

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CERTIFICATE OF CONFERENCE

I hereby certify that in an attempt to resolve the issues described in the above Motion, I conferred with Philip A. Scarborough, counsel for the United States of America, who joined in the request for the relief identified above.

DATED: February 9, 2017 **GIRARDI | KEESE**

By: /s/ Kelly C. Winter
KELLY CHRISTINA WINTER
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been served on counsel for Defendants by providing same via electronic mail and U.S. mail on this, the 9th day of February, 2017.

DATED: February 9, 2017 **GIRARDI | KEESE**

By: /s/ Kelly C. Winter
KELLY CHRISTINA WINTER
Attorneys for Plaintiffs

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ORDER

Based on the parties' above "Joint Motion to Continue Scheduling Conference" (Doc. 15), the Court GRANTS the parties' request to continue the Scheduling Conference currently set for February 23, 2017.

Accordingly, the Court **CONTINUES the Scheduling Conference to April 25, 2017, at 10:30 a.m. in Courtroom 7 (SKO) before Magistrate Judge Sheila K. Oberto.** The parties shall file their Joint Scheduling Report by no later than April 18, 2017.

IT IS SO ORDERED.

Dated: February 10, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE