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| 6                                                                                                                                                                                         |                                                                                                                                                                                                         |  |  |
| 7                                                                                                                                                                                         |                                                                                                                                                                                                         |  |  |
| 8<br>9 UNITED STATES DISTRICT COURT                                                                                                                                                       |                                                                                                                                                                                                         |  |  |
| UNITED STATES DISTRICT COURT                                                                                                                                                              |                                                                                                                                                                                                         |  |  |
| FOR THE EASTERN DISTRICT OF CALIFORNIA                                                                                                                                                    |                                                                                                                                                                                                         |  |  |
| 11   GARY GAGLIOLO,   Case No. 1:20-cv-01719-N                                                                                                                                            |                                                                                                                                                                                                         |  |  |
| 12 Plaintiff, ORDER DENYING JOINT<br>CONTINUE THE HEARIN                                                                                                                                  | NG DATE ON                                                                                                                                                                                              |  |  |
| 13vs.DEFENDANTS' MOTION<br>12(b)(6) AND MOTION T<br>12(f)) AND CONTINUING14KAWEAH MANOR INC., et al.,12(f) AND CONTINUING                                                                 | O STRIKE (FRCP                                                                                                                                                                                          |  |  |
| SCHEDULE AND MAND                                                                                                                                                                         | DATORY                                                                                                                                                                                                  |  |  |
| 15   Defendants.   SCHEDULING CONFERENT                                                                                                                                                   | ENCE                                                                                                                                                                                                    |  |  |
| 16 (ECF No. 24)                                                                                                                                                                           |                                                                                                                                                                                                         |  |  |
|                                                                                                                                                                                           |                                                                                                                                                                                                         |  |  |
|                                                                                                                                                                                           | On January 21, 2021, Gary Gagliolo ("Plaintiff") filed a motion to remand this removal action                                                                                                           |  |  |
|                                                                                                                                                                                           | to the state court. (ECF No. 14.) A hearing was set in the motion, but on January 25, 2021, an order                                                                                                    |  |  |
| <ul> <li>20 issued informing the parties that no hearing would be calendared and the matte</li> <li>21 the papers. (ECF No. 15.) On February 1, 2021, Kaweah Manor, Inc. and S</li> </ul> |                                                                                                                                                                                                         |  |  |
|                                                                                                                                                                                           | the papers. (ECF No. 15.) On February 1, 2021, Kaweah Manor, Inc. and Spruce Holdings, LLC                                                                                                              |  |  |
|                                                                                                                                                                                           | ("Defendants") filed a motion to dismiss and motion to strike that was set for a hearing before the                                                                                                     |  |  |
|                                                                                                                                                                                           | magistrate judge. (ECF No. 17.) On February 2, 2021, an order was filed informing the parties that                                                                                                      |  |  |
|                                                                                                                                                                                           | the matter would be decided by the district judge on the papers and without a hearing. (ECF No. 20.)                                                                                                    |  |  |
|                                                                                                                                                                                           | Defendant filed an opposition to the motion to remand on February 9, 2021. (ECF No. 21.) On<br>Express 17, 2021, the particle filed a stimulation to continue the bearing data on the motion to diaming |  |  |
| February 17, 2021, the parties filed a stipulation to continue the hearing date on the motion to dismiss                                                                                  |                                                                                                                                                                                                         |  |  |
| <ul> <li>27 and motion to strike. (ECF No. 24.)</li> <li>28</li> </ul>                                                                                                                    |                                                                                                                                                                                                         |  |  |

| 1  | Although the parties seek to continue the hearing on the motion to dismiss, as advised in the            |                                                                                                |  |
|----|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|--|
| 2  | February 2, 2021 order, no hearing is currently set. Accordingly, the request to continue the hearing is |                                                                                                |  |
| 3  | denied.                                                                                                  | However, to the extent that the parties seek to continue the briefing of the motion due to the |  |
| 4  | technica                                                                                                 | l issues raised in the stipulation, the Court shall amend the briefing schedule.               |  |
| 5  | H                                                                                                        | Based on the foregoing, IT IS HEREBY ORDERED that:                                             |  |
| 6  | 1                                                                                                        | . The joint request to continue the hearing on the motion to dismiss and motion to strike      |  |
| 7  |                                                                                                          | is DENIED;                                                                                     |  |
| 8  | 2                                                                                                        | Any opposition to the motion to dismiss and motion to strike shall be filed on or before       |  |
| 9  |                                                                                                          | March 24, 2021;                                                                                |  |
| 10 | 3                                                                                                        | Any reply to the motion to dismiss and motion to strike shall be filed on or before            |  |
| 11 |                                                                                                          | March 31, 2021;                                                                                |  |
| 12 | 4                                                                                                        | The mandatory scheduling conference set for June 24, 2021 is CONTINUED to                      |  |
| 13 |                                                                                                          | October 19, 2021, at 10:30 a.m. in Courtroom 9; and                                            |  |
| 14 | 5                                                                                                        | The parties shall file a joint scheduling report seven (7) days prior to the scheduling        |  |
| 15 |                                                                                                          | conference.                                                                                    |  |
| 16 |                                                                                                          |                                                                                                |  |
| 17 | IT IS SC                                                                                                 | ORDERED.                                                                                       |  |
| 18 | Dated:                                                                                                   | February 17, 2021                                                                              |  |
| 19 |                                                                                                          | UNITED STATES MAGISTRATE JUDGE                                                                 |  |
| 20 |                                                                                                          |                                                                                                |  |
| 21 |                                                                                                          |                                                                                                |  |
| 22 |                                                                                                          |                                                                                                |  |
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