

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 CHI SOO KIM  
 ALYSON BERG  
 3 Assistant United States Attorneys  
 501 I Street, Suite 10-100  
 4 Sacramento, CA 95814  
 Telephone: (916) 554-2700  
 5 Facsimile: (916) 554-2900

6 Attorneys for United States

7 WILCOXEN CALLAHAM, LLP  
 DANIEL E. WILCOXEN  
 8 WILLIAM CALLAHAM  
 BRIAN PLUMMER  
 9 2114 K Street  
 Sacramento, CA 95816  
 10 Telephone: (916) 442-2777  
 Facsimile: (916) 442-4118

11 HALEY & BILHEIMER  
 12 JOHN G. BILHEIMER  
 505 Coyote Street, Suite A  
 13 Nevada City, CA 95959  
 Telephone: (530) 265-6357  
 14 Facsimile: (530) 478-9485

15 Attorneys for Plaintiffs Robyn Holloway  
and Sterling Holloway

17 IN THE UNITED STATES DISTRICT COURT  
 18 EASTERN DISTRICT OF CALIFORNIA

19 ROBYN HOLLOWAY and STERLING  
 20 HOLLOWAY,  
 21 Plaintiffs,  
 22 v.  
 23 UNITED STATES OF AMERICA,  
 24 Defendant.

CASE NO. 2:12-cv-02120 MCE-CKD

**STIPULATION AND ORDER TO  
 CONTINUE TRIAL DATE**

25 Plaintiffs Robyn Holloway and Sterling Holloway and Defendant United States, by and  
 26 through their respective counsel, stipulate and respectfully request the continuation of the dates  
 27 set for trial, the Final Pretrial Conference, and pretrial filings to conserve the resources and time  
 28

1 of the Court, all parties, and all witnesses pending the resolution of two related appeals that may  
2 impact trial and resolution of this action. Dkt 83, 89.

3 There are two appeals related to this Federal Tort Claims Act (“FTCA”) action that have  
4 been fully briefed and are currently pending before the Ninth Circuit: (1) Ninth Circuit Case  
5 No. 14-16079, an appeal of this Court’s denial of a motion to intervene by Security National  
6 Insurance Co. in this action, *Holloway v. United States*, No. 2:12-cv-2120 MCE-CKD; and  
7 (2) Ninth Circuit Case No. 14-15479, an appeal of this Court’s grant of the United States’ motion  
8 to dismiss the complaint in the related action, *Security National Insurance Co. v. United States*,  
9 No. 2:13-cv-1594 MCE-CKD. Both appeals have been assigned to the same merits panel. On  
10 October 22, 2015, the Ninth Circuit issued notices that both appeals are being considered for the  
11 February 2016 oral argument calendar. Because the resolution of either appeal may affect the  
12 trial and resolution of this lawsuit and because the appeals are now being considered for oral  
13 argument in February 2016, the same month in which trial in this action is currently scheduled,  
14 the parties respectfully request continuing the dates set for trial, the Final Pretrial Conference,  
15 and pretrial filings to conserve the resources and time of the Court, all parties, and all witnesses.  
16 The current and proposed schedules are provided below for the Court’s reference.

17 Further, the United States is not aware of any five-year rule regarding the length of time  
18 in which an FTCA action must be brought to trial in federal court, and as such, does not object to  
19 continuing the trial in this action pending the resolution of the two related appeals.

20 The United States will promptly inform Plaintiffs regarding the resolution of the pending  
21 appeals. If the pending appeals are not resolved by May 31, 2016, the parties will then meet and  
22 confer regarding a trial schedule and will contact chambers regarding available trial dates. The  
23 parties will file a Joint Status Report by June 7, 2016 to update the Court regarding the pending  
24 appeals and to either confirm the August 8, 2016 trial date or provide a revised proposed  
25 schedule for the Final Pretrial Conference and trial of this action, *Holloway v. United States*,  
26 No. 2:12-cv-2120 MCE-CKD.

27 Current

28 Proposed

1	Joint Pretrial Statement	December 4, 2015	May 26, 2016
2	Evidentiary or Procedural Motions	December 4, 2015	May 26, 2016
3	Oppositions	December 11, 2015	June 2, 2016
4	Replies	December 18, 2015	June 9, 2016
5	Joint Status Report Re: Trial Date	n/a	June 7, 2016
6	Final Pretrial Conference	January 14, 2016	June 16, 2016
7	Trial Brief	February 16, 2016	June 2, 2016
8	Trial (bench trial, 15 days)	February 29, 2016	August 8, 2016

Respectfully submitted,

Dated: November 2, 2015

BENJAMIN B. WAGNER  
United States Attorney

By: /s/ Chi Soo Kim  
CHI SOO KIM  
Assistant U.S. Attorney

Dated: November 2, 2015

WILCOXEN CALLAHAM, LLP

By: /s/ Daniel E. Wilcoxen  
DANIEL E. WILCOXEN  
Attorney for Plaintiffs Robyn Holloway and  
Sterling Holloway

**ORDER**

**IT IS SO ORDERED.**

Dated: November 10, 2015

  
\_\_\_\_\_  
MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT