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United States of America

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

|                         |   |                                   |
|-------------------------|---|-----------------------------------|
| 11 SVEN HEMMERT et al., | ) | CASE NO. 15-4904 WHO              |
|                         | ) |                                   |
| 12 Plaintiffs,          | ) | STIPULATION AND ORDER TO CONTINUE |
|                         | ) | DEADLINE FOR UNITED STATES OF     |
| 13 v.                   | ) | AMERICA TO RESPOND TO FIRST       |
|                         | ) | AMENDED COMPLAINT AND CASE        |
| 14 DAVID FINN et al.,   | ) | MANAGEMENT CONFERENCE DATE        |
|                         | ) |                                   |
| 15 Defendants.          | ) |                                   |
|                         | ) | Hon. William H. Orrick            |
|                         | ) |                                   |
| 17                      | ) |                                   |

18  
19  
20 **RECITAL**

21 Whereas Plaintiffs Sven Hemmert and Sue-Ellen Speight (collectively, "Plaintiffs") filed their  
22 First Amended Complaint on December 14, 2015 against the United States of America ("the United  
23 States") and the David and Amy Finn (collectively, "Finn Defendants");

24 Whereas the Court previously approved the parties' stipulation to Continue the Deadline for  
25 Responses to First Amended Complaint and Case Management Conference in Light of Agreement to  
26 Mediate Case in Docket No. 23 and approved another stipulation in Docket No.33;  
27

1           Whereas Plaintiffs, the United States, and Finn Defendants mediated this case with Michael G.  
2 Ornstil of JAMS on February 11, 2016, but did not resolve the case in that initial mediation session;

3           Whereas the Finn Defendants filed an answer and third-party complaint on March 11, 2016  
4 naming a new party, Terence Talen, who owns property uphill to the property of the United States, Finn  
5 Defendants and Plaintiffs;

6           Whereas Mr. Talen would have at least 21 days following service of a complaint and summons  
7 to respond to the third-party complaint;

8           Whereas the Finn Defendants have not yet served the third-party complaint because of the Finn  
9 Defendants' counsel's desire to meet with Mr. Talen before serving the document;

10           Whereas the parties do not think a Case Management Conference without the participation of  
11 Mr. Talen or his counsel would be productive and believe the Conference should be continued so that all  
12 parties can participate;

13           Whereas the mediation with Mr. Ornstil is not concluded and the current parties to the suit will  
14 seek to hold a further mediation session with Mr. Talen in the next 30 to 60 days;

15           Whereas the mediator, Mr. Ornstil, has facilitated recent discussions with certain of the parties  
16 and has expressed his view that further discussions among the parties would be productive and should be  
17 pursued;

18           Whereas discussions about resolving this matter involves discussions of various plans that  
19 require input from expert consultants and others that is time consuming;

20           Whereas the United States is prepared to file a motion to dismiss the claims against it but  
21 Plaintiffs and the United States desire to continue discussing the potential for the resolution of some or  
22 all of the claims in this case rather than engaging in motion practice at this time;

23           Whereas the United States and Plaintiffs want to continue these discussions over the next 60  
24 days, including assistance from the mediator, and have agreed that the United States should have until  
25 June 17, 2016 to answer, move or respond to Plaintiffs' First Amended Complaint, and

26           Whereas the parties agree that the Case Management Conference should be continued from May  
27 3, 2016 to June 21, 2016; and,

1           Whereas the Finn Defendants agree to use their best efforts to serve their third-party complaint  
2 on the newly named third-party defendant on or before May 6, 2016 so that that party can participate in  
3 the continued CMC and in mediation efforts.

4           In full consideration and exchange, the parties agree and stipulate as follows:

5   **STIPULATION**

6           IT IS HEREBY STIPULATED by and between the parties hereto through their respective  
7 attorneys of record that the United States shall have until June 17, 2016 to answer, move or respond to  
8 Plaintiffs’ First Amended Complaint and the Case Management Conference shall be continued from  
9 May 3, 2016 to June 21, 2016 so that the newly named third-party defendant can participate in the  
10 Conference. The Finn Defendants shall serve the third-party complaint on the newly named third-party  
11 defendant on or before May 6, 2016.

12   **IT IS SO STIPULATED,**

13 Dated: April 21, 2016

WEISBERG & MILLER

14  
15   /s/ William S. Weisberg  
16 By: \_\_\_\_\_  
  Craig S. Miller  
  William S. Weisberg  
17 Attorneys for Plaintiffs,  
18 SVEN HEMMERT and SUE-ELLEN SPEIGHT

19 Dated: April 21, 2016

BRIAN J. STRETCH  
United States Attorney

20  
21 By: /s/ Michael T. Pyle\*\*\*  
22 \_\_\_\_\_  
23 MICHAEL T. PYLE  
  Assistant United States Attorney  
24 Attorneys for Defendant United States of America

25   \*\*\* I have been authorized to place electronic  
26 signatures on this document for other counsel and to  
27 file this document.

1 Dated: April 21, 2016

LAW OFFICES OF JOHN A. BIARD

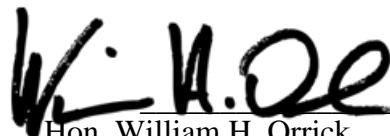
3 /s/ David J. DeMordaunt

4 By: \_\_\_\_\_  
5 David J. DeMordaunt  
6 Attorneys for Defendants,  
7 DAVID FINN and AMY FINN

8 **PURUSANT TO STIPULATION, IT IS SO ORDERED.**

9 The United States shall have until June 17, 2016 to answer, move or respond to Plaintiffs' First  
10 Amended Complaint. The Case Management Conference is continued from May 3, 2016 to June 21,  
11 2016. The parties shall file a Joint Case Management Statement no less than 7 days prior to the  
12 Conference. The Finn Defendants shall serve the third-party complaint on the newly named third-party  
13 defendant on or before May 6, 2016.

14 DATED: April 25, 2016

15   
16 \_\_\_\_\_  
17 Hon. William H. Orrick  
18 United States District Judge