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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

STEVEN M. SEOANE, an Individual,
Plaintiff,

v.

LEXISNEXIS RISK DATA
MANAGEMENT, INC., a Florida
Corporation; LEXISNEXIS RISK
SOLUTIONS FL, INC., a Minnesota
Corporation; LEXISNEXIS RISK
SOLUTIONS BUREAU, LLC, a Delaware
Corporation; and LEXISNEXIS RISK DATA
RETRIEVAL SERVICES, LLC, a Georgia
Corporation,
Defendants.

Civil No. 11cv0908 L (WMc)

**ORDER DENYING PLAINTIFF'S
REQUEST FOR AN EARLY NEUTRAL
EVALUATION CONFERENCE**

Background

On May 20, 2011, Plaintiff filed an *ex parte* motion requesting an expedited Early Neutral Evaluation Conference (“ENE”) under Civil Local Rule 16.1(c)(1). [Doc. No. 11.] Defendants filed a response to the motion on May 23, 2011, and an amended response to the motion on May 24, 2011. [Doc. Nos. 14 & 15.] Defendants also filed a motion to dismiss on May 24, 2011. [Doc. No. 16.] The Court has not yet ordered an ENE because the Defendants have not filed an Answer.

Additionally, the parties are currently litigating similar issues in a Florida state court.

1 **Plaintiff's Argument**

2 Plaintiff has requested an ENE before the filing of the answer in this matter *or* shortly thereafter.
3 Plaintiff argues that an expedited ENE will permit early settlement discussions and an expedited
4 scheduling order, if needed. [Doc. No. 11, pg. 2.] Plaintiff asserts that this *ex parte* application is
5 necessary to protect his rights as a California resident and employee. *Id.* Plaintiff further asserts that
6 “[t]his case presents a paradigm for the application of Civil Local Rule 16.1(c)(1).” Plaintiff does not
7 cite any case law to support this assertion.

8 **Defendant's Argument**

9 Defendants oppose Plaintiff's *ex parte* application for the following reasons: (1) the California
10 litigation is duplicative of the Florida litigation, (2) the parties have already engaged in settlement
11 discussions, (3) various dispositive motions have been filed or will be filed shortly, and (4) the
12 Defendants have not yet filed an answer. [See Doc. No. 15.]

13 **Legal Standard For Ordering An Expedited ENE**

14 In this District, Magistrate Judges typically conduct ENEs within forty-five days of the filing of
15 an answer. *See* Local Civil Rule 16.1(c)(1); *see Yang v. DTS Financial Group*, 570 F.Supp.2d 1257,
16 1261 (S.D.Cal. 2008). However, Local Civil Rule 16(c)(1) provides that counsel for either party may
17 make a request, in writing, to the judicial officer in charge of discovery, to conduct an ENE conference
18 *before* an answer has been filed. Upon such a request, the Magistrate Judge will examine the circum-
19 stances of the case and the reasons asserted for the request, and determine whether an expedited ENE
20 would reduce the expense and delay of litigation. *See* Local Civil Rule 16(c)(1).

21 **Granting Plaintiff's Motion Would Not Reduce Expense or Delay**

22 Plaintiff has failed to specify why conducting an ENE before Defendants file an answer will
23 reduce the expense and delay of litigation. Rather, it appears to the Court, that scheduling an ENE
24 before Defendants file an answer would increase costs without any corresponding benefit to the parties.
25 Engaged in similar litigation in Florida, the parties would certainly duplicate their efforts and costs if the
26 Court ordered the parties to appear at an expedited ENE in California.

27 Furthermore, conducting an ENE before the Defendant file answers could delay resolution of the
28 case. Local Civil Rule 16.1(c)(1)(a) provides that “the judicial officer and the parties shall discuss the
claims and defenses and seek to settle the case” at an ENE conference. In order to effectively and

1 efficiently discuss the claims and defenses in this matter, the parties must have the opportunity to
2 finalize the pleadings, which includes having an operative complaint on file that identifies the claims at
3 issue as well as an answer that lists all applicable defenses. Here, the Defendants have not filed an
4 answer to Plaintiff's complaint. Furthermore, ordering the Defendants to participate in an expedited
5 ENE despite their unwillingness to do so would likely increase costs and delay. Therefore, the Court
6 finds that it cannot conduct a meaningful discussion of the claims and defenses in this case until the
7 Defendants file an answer.

8 **Conclusion**

9 For the foregoing reasons, Plaintiff's Request for an expedited Early Neutral Evaluation
10 Conference is **DENIED**.

11 **IT IS SO ORDERED.**

12 DATED: May 26, 2011

13 

14 Hon. William McCurine, Jr.
U.S. Magistrate Judge, U.S. District Court

15 Copy to:

16 HONORABLE M. JAMES LORENZ, U.S. DISTRICT JUDGE
17 ALL COUNSEL OF RECORD
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