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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA  
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12 MARTHA AL-KUDSY, et al.,  
13 Plaintiffs,  
14 v.  
15 VONS COMPANIES INC., et al.,  
16 Defendants.

Case No.: 3:23-cv-01065-GPC-AHG  
**ORDER GRANTING JOINT  
MOTION TO CONTINUE EARLY  
NEUTRAL EVALUATION  
CONFERENCE AND CASE  
MANAGEMENT CONFERENCE**  
**[ECF No. 6]**

18 Before the Court is the parties' joint motion to continue the Early Neutral Evaluation  
19 Conference ("ENE") and Case Management Conference ("CMC"), presently scheduled for  
20 July 19, 2023. ECF No. 6. The parties request that the ENE and CMC be rescheduled  
21 because Defendants' counsel will be travelling on a preplanned family vacation on that  
22 date. *Id.* at 2; ECF No. 6-1 at 2. The Court appreciates the parties' thorough motion and  
23 declaration, and finds good cause to **GRANT** the joint motion. The Court orders as follows:

24 1. The ENE and CMC scheduled for July 19, 2023, are **RESET** for  
25 **August 29, 2023** at **2:00 p.m.** *via videoconference* before Magistrate Judge  
26 Allison H. Goddard. In accordance with the Local Rules, the Court requires attendance of  
27 all parties, party representatives, including claims adjusters for insured defendants, and the  
28 primary attorney(s) responsible for the litigation via videoconference. CivLR 16.1(c)(1).

1           2.     **Purpose of the Conference:** The purpose of the ENE is to permit an informal  
2 discussion between the attorneys and the settlement judge of every aspect of the lawsuit in  
3 an effort to achieve an early resolution of the case. All conference discussions will be  
4 informal, off the record, and confidential.

5           3.     **Full Settlement Authority Required:** A party or party representative with  
6 **full and complete authority to enter into a binding settlement** must be present via  
7 videoconference. Full authority to settle means that a person must be authorized to fully  
8 explore settlement options and to agree at that time to any settlement terms acceptable to  
9 the parties. *Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir.  
10 1989). The person needs to have “unfettered discretion and authority” to change the  
11 settlement position of a party. *Pitman v. Brinker Int’l, Inc.*, 216 F.R.D. 481, 485–86 (D.  
12 Ariz. 2003). Limited or sum certain authority is not adequate. *Nick v. Morgan’s Foods,*  
13 *Inc.*, 270 F.3d 590, 595–97 (8th Cir. 2001). **A person who needs to call another person**  
14 **who is not present on the videoconference before agreeing to any settlement does not**  
15 **have full authority.**

16           4.     **Confidential ENE Statements Required:** No later than **August 22, 2023**,  
17 the parties shall submit confidential statements of five (5) pages or less directly to the  
18 chambers of Magistrate Judge Goddard outlining the nature of the case, the claims, and the  
19 defenses. **These statements shall not be filed or served on opposing counsel.** They shall  
20 be lodged via email at [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov). The ENE statement is limited to  
21 **five (5) pages or less, and up to five (5) pages of exhibits or declarations.** Each party’s  
22 ENE statement must outline:

- 23           A.     the nature of the case and the claims,
- 24           B.     position on liability or defense,
- 25           C.     position regarding settlement of the case with a **specific**<sup>1</sup>

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27           <sup>1</sup> A general statement, such as that a party “will negotiate in good faith,” is a not a specific  
28 demand or offer.

1                    **demand/offer for settlement,**<sup>2</sup> and

2                    D.     any previous settlement negotiations or mediation efforts.

3                    5.     **Case Management Conference:** In the event the case does not settle at the  
4 ENE, the Court will immediately thereafter hold a Case Management Conference (“CMC”)  
5 pursuant to Fed. R. Civ. P. 16(b). Appearance of the parties at the CMC is not required.  
6 The Court orders the following to occur before the CMC:

7                    A.     The parties must meet and confer pursuant to Fed. R. Civ. P. 26(f) no  
8 later than **June 27, 2023**. Although, due to the present continuance, the  
9 ENE is not set within the standard 45-day timeframe after the filing of  
10 the first Answer, the Court will consider discovery to be open after the  
11 parties have met and conferred pursuant to Rule 26, and will take this  
12 deadline into account when setting the case schedule during the CMC.

13                    B.     The parties must file a Joint Case Management Statement by  
14 **August 18, 2023**. The Joint Case Management Statement must  
15 address all points in the “Joint Case Management Statement  
16 Requirements for Magistrate Judge Allison H. Goddard,” which can  
17 be found on the court website at:  
18 [https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Join](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Joint%20Case%20Management%20Statement%20Rules.pdf)  
19 [t%20Case%20Management%20Statement%20Rules.pdf](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Joint%20Case%20Management%20Statement%20Rules.pdf).

20                    C.     Initial disclosures pursuant to Rule 26(a)(1)(A-D) must occur by  
21 **July 11, 2023**.

22                    6.     **Appearances via Videoconference Required:** All named parties, party  
23 representatives, including claims adjusters for insured defendants, as well as principal  
24 attorney(s) responsible for the litigation must attend the ENE via videoconference. All who

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27                    <sup>2</sup> If a specific demand or offer cannot be made at the time the ENE statement is submitted,  
28 then the reasons as to why a demand or offer cannot be made must be stated. Further, the  
party must explain when they will be in a position to state a demand or offer.

1 attend the ENE must be legally and factually prepared to discuss and resolve the case.  
2 Counsel appearing without their clients (whether or not counsel has been given settlement  
3 authority) will be subject to immediate imposition of sanctions. To facilitate the  
4 videoconference ENE, the Court hereby orders as follows:

5 A. The Court will use its official Zoom video conferencing account to hold  
6 the ENE. **If you are unfamiliar with Zoom:** Zoom is available on  
7 computers through a download on the Zoom website  
8 (<https://zoom.us/meetings>) or on mobile devices through the  
9 installation of a free app.<sup>3</sup> Joining a Zoom conference does not require  
10 creating a Zoom account, but it does require downloading the .exe file  
11 (if using a computer) or the app (if using a mobile device). Participants  
12 are encouraged to create an account, install Zoom and familiarize  
13 themselves with Zoom in advance of the ENE.<sup>4</sup> There is a cost-free  
14 option for creating a Zoom account.

15 B. Prior to the start of the ENE, the Court will email each participant an  
16 invitation to join a Zoom video conference. Again, if possible,  
17 participants are encouraged to use laptops or desktop computers for the  
18 video conference, as mobile devices often offer inferior performance.  
19 Participants shall join the video conference by following the ZoomGov  
20 Meeting hyperlink in the invitation. **Participants who do not have**  
21 **Zoom already installed on their device when they click on the**  
22 **ZoomGov Meeting hyperlink will be prompted to download and**  
23 **install Zoom before proceeding.** Zoom may then prompt participants  
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26 <sup>3</sup> If possible, participants are encouraged to use laptops or desktop computers for the video  
27 conference, rather than mobile devices.

28 <sup>4</sup> For help getting started with Zoom, visit: <https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started>

1 to enter the password included in the invitation.

2 C. Each participant should plan to join the Zoom video conference **at least**  
3 **five minutes before** the start of the ENE to ensure that the conference  
4 begins promptly at 2:00 p.m.

5 D. Zoom's functionalities will allow the Court to conduct the ENE as it  
6 ordinarily would conduct an in-person one. The Court will divide  
7 participants into separate, confidential sessions, which Zoom calls  
8 Breakout Rooms.<sup>5</sup> In a Breakout Room, the Court will be able to  
9 communicate with participants from a single party in confidence.  
10 Breakout Rooms will also allow parties and counsel to communicate  
11 confidentially without the Court.

12 E. No later than **August 22, 2023**, each party shall send an e-mail to the  
13 Court at [efile\\_goddard@casd.uscourts.gov](mailto:efile_goddard@casd.uscourts.gov) containing the following:

- 14 i. The **name and title of each participant**, including all parties  
15 and party representatives with full settlement authority, claims  
16 adjusters for insured defendants, and the primary attorney(s)  
17 responsible for the litigation;
- 18 ii. An **e-mail address for each participant** to receive the Zoom  
19 video conference invitation;
- 20 iii. A **telephone number where each participant** may be reached;  
21 and
- 22 iv. A **cell phone number for that party's preferred point of**  
23 **contact** (and the name of the individual whose cell phone it is)  
24 for the Court to use during the ENE to alert counsel via text  
25 message that the Court will soon return to that party's Breakout  
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27 <sup>5</sup> For more information on what to expect when participating in a Zoom Breakout Room,  
28 visit: <https://support.zoom.us/hc/en-us/articles/115005769646>

1 Room, to avoid any unexpected interruptions of confidential  
2 discussions.

3 F. All participants shall display the same level of professionalism during  
4 the ENE and be prepared to devote their full attention to the ENE as if  
5 they were attending in person, i.e., cannot be driving or in a car while  
6 speaking to the Court. Because Zoom may quickly deplete the battery  
7 of a participant's device, each participant should ensure that their  
8 device is plugged in or that a charging cable is readily available during  
9 the video conference.

10 G. Counsel are advised that although the ENE will take place on Zoom, all  
11 participants shall appear and conduct themselves as if it is proceeding  
12 in a courtroom, i.e., all participants must dress in appropriate courtroom  
13 attire.

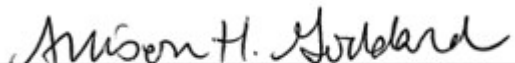
14 H. If the case does not settle during the ENE, the Court will hold the CMC  
15 immediately following the ENE with counsel only in the main session.

16 7. **The failure of any party to follow these mandatory procedures shall result**  
17 **in the imposition of sanctions.**

18 8. Questions regarding this case or these mandatory guidelines may be directed  
19 to Judge Goddard's law clerks at (619) 557-6162. Lodged statements should be emailed to  
20 efile\_goddard@casd.uscourts.gov.

21  
22 **IT IS SO ORDERED.**

23 Dated: June 28, 2023

24   
25 \_\_\_\_\_  
26 Honorable Allison H. Goddard  
27 United States Magistrate Judge  
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