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 2 **CIVIL DIVISION**  
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 7 *Attorneys for Defendant Clark County*

8 UNITED STATES DISTRICT COURT  
 9 DISTRICT OF NEVADA

|  |   |                                |
|--|---|--------------------------------|
| 10 STACY LUXENBERG,                    | } |                                |
| 11 Plaintiff,                          | } | Case No:2:16-cv-001762-JAD-CWH |
| 12 vs.                                 | } |                                |
| 13 CLARK COUNTY, NEVADA, ex rel, Clark | } |                                |
| 14 County Justice Court,               | } |                                |
| 15 Defendant.                          | } |                                |

16 **REQUEST FOR EXEMPTION FROM ENE ATTENDANCE REQUIREMENT**

17 TO: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA,  
 18 Honorable Cam Ferenbach, United States Magistrate Judge;

19 TO: STACY LUXENBERG, Plaintiff;

20 TO: ANDREW L. REMPFHER, Esq., Her Attorney:

21 Defendant CLARK COUNTY through its attorney STEVEN B. WOLFSON, District  
 22 Attorney, by Scott Davis, Deputy District Attorney, in accordance with the Order Scheduling  
 23 Early Neutral Evaluation Session (ECF No. 6), requests exemption to the attendance  
 24 requirements set forth therein as follows:

25 The authority of the Court to schedule an Early Neutral Evaluation (“ENE”)is found  
 26 in LR 16-6. The issue of representation by a public body defendant at a settlement  
 27 conference was addressed by the Advisory Committee to the Federal of Rules of Civil  
 28

1 Procedure in 1993. The Advisory Committee noted with regard to ordering the appearance of  
2 a governmental entity, as follows:

3 Particularly in litigation in which governmental agencies or large  
4 amounts of money are involved, there may be no one with on-  
5 the-spot settlement authority, and the most that should be  
6 expected is **access to a person who would have a major role in  
submitting a recommendation to the body** or board with  
ultimate decision-making authority. The selection of the  
appropriate representative should ordinarily be left to the party  
and its counsel.

7 Advisory Committee Note to 1993 Amendments to Fed. R. Civ. P. 16(c)(9) (emphasis  
8 added.)

9 In this case, a seven-member Board of County Commissioners for Clark County has  
10 the ultimate authority to settle the case. However, this Defendant requests exception from  
11 attendance by the Board of County Commissioners pursuant to LR 16-6(e). Les Lee Shell,  
12 the Risk Manager for Clark County is the appropriate representative and will attend the  
13 ENE.

14 CONCLUSION

15 Based upon the foregoing, Defendant requests an exception to the attendance  
16 requirements for the ENE to allow the attendance of Les Lee Shell, as the authorized  
17 representative of Defendant.

18 DATED this 3<sup>rd</sup> day of October, 2016.

19 STEVEN B. WOLFSON  
20 DISTRICT ATTORNEY

21 By: 

22 Scott Davis  
Deputy District Attorney  
State Bar No. 004434  
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Las Vegas, Nevada 89155-2215  
Attorney for Defendant  
CLARK COUNTY

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 10-4-2016

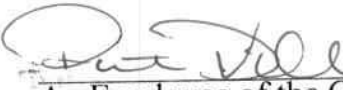
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Clark County District Attorney and that on this 3<sup>rd</sup> day of October, 2016, I served a true and correct copy of the foregoing REQUEST FOR EXEMPTION FROM ENE ATTENDANCE REQUIREMENT through CM/ECF Electronic Filing system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Andrew L. Rempfer, Esq  
Jennifer D. Golanics, Esq.  
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An Employee of the Clark County District  
Attorney's Office – Civil Division

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