

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHANTELL ORTIZ,

Plaintiff(s),

vs.

LOGISTICARE SOLUTIONS, LLC,

Defendant(s).

Case No. 2:16-cv-01805-MMD-VCF

ORDER

(Docket No. 34)

Pending before the Court is the parties' stipulation to continue the Early Neutral Evaluation ("ENE") set for January 27, 2017. Docket No. 34. The parties ask the Court to continue the ENE to a date after the Court rules on Defendant's motion to dismiss Plaintiff's first amended complaint. *Id.* at 1-2.

The purpose of an ENE is for the evaluating magistrate judge to give the parties a candid evaluation of the merits of the case. LR 16-6(a). The ENE is required to proceed not later than 90 days after the first responding party appears in the case, unless good cause is shown. LR 16-6(d).

In the instant case, Defendant first appeared on August 30, 2016. Docket No. 8. Accordingly, the ENE was required to have been held no later than November 28, 2016. LR 16-6(d). Accordingly, the Court scheduled the ENE in the instant case for November 3, 2016. Docket No. 12.

On October 26, 2016, the parties filed a stipulation to continue the ENE, because a representative was unavailable. Docket No. 24. On October 27, 2016, the Court continued the ENE to December 16, 2016, one of the dates submitted by the parties. Docket No. 25.

On December 7, 2016, the parties submitted a second stipulation to continue the ENE, as argument on the motion to dismiss was set for December 13, 2016. Docket No. 27. On December

1 8, 2016, the Court granted the parties' stipulation and continued the ENE to January 27, 2017.
2 Docket No. 28.

3 On December 13, 2016, United States District Judge Miranda M. Du granted the motion to
4 dismiss with leave to amend. Docket No. 29. Defendant has now filed a motion to dismiss
5 Plaintiff's amended complaint. Docket No. 32. The motion is not yet fully briefed. *See* Docket.

6 On January 23, 2017, four days before the ENE, the parties filed a stipulation to continue the
7 ENE to an indeterminate date, after the motion to dismiss is decided, stating that they believe the
8 ENE will not be fruitful at this time. Docket No. 34. Continuing the ENE at this point defeats the
9 entire purpose of the ENE program, though the Court is cognizant of the parties' position that an
10 ENE will not be fruitful at this time.

11 Accordingly, the parties' stipulation to continue the ENE, Docket No. 34, is **DENIED**. The
12 ENE in this case is hereby **VACATED**, and this case is **EXEMPTED** from the ENE program. *See*
13 LR 16-6(c).

14 IT IS SO ORDERED.

15 Dated: January 24, 2017

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19 NANCY J. KOPPE
20 United States Magistrate Judge
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