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9 Attorneys for the United States

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 \* \* \*

13 DREE ANN CELLEMME, )  
14 )  
15 Plaintiff, )  
16 )  
17 v. )  
18 )  
19 JEFF SESSIONS, ATTORNEY )  
20 GENERAL, U.S. DEPARTMENT OF )  
21 JUSTICE; and FEDERAL BUREAU )  
22 OF INVESTIGATION, )  
23 )  
24 Defendants. )

Case No. 2:16-CV-02539-JAD-CWH

**UNOPPOSED MOTION FOR LEAVE TO  
FILE UNOPPOSED MOTION FOR RELIEF  
FROM REQUIREMENT THAT PERSON  
WITH SETTLEMENT AUTHORITY  
ATTEND SETTLEMENT CONFERENCE**  
**EXPEDITED REVIEW REQUESTED**

18  
19 Defendants hereby move for leave to file the attached Unopposed Motion for Relief from  
20 Requirement that Person with Settlement Authority Attend Settlement Conference. Plaintiff Dree Ann  
21 Cellemme (“Plaintiff”) was contacted and has advised that she does not object to Defendants’ motion for  
22 leave.

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**BACKGROUND**

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2 On February 10, 2017, the Court scheduled an early neutral evaluation (“ENE”) session in this  
3 case for April 13, 2017, at 1:30 p.m. before United States Magistrate Judge Peggy A. Leen. (ECF No.  
4 18). The order setting the ENE conference requires a government representative with “full [settlement]  
5 authority” to attend the conference. (ECF No. 18 p. 1). The order also requires that any request for an  
6 exception to the attendance requirement be filed within seven days after the issuance of the Court’s order.  
7 (ECF No. 18 p. 2). The order scheduling the ENE session issued on February 10, 2017, and thus the  
8 deadline for seeking exceptions to the Court’s attendance requirements was February 17, 2017. (ECF No.  
9 18 p. 2).

**ARGUMENT**

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11 Defense counsel has been out of the office on business and for numerous health issues and medical  
12 appointments over the last month and was unable to file a timely motion for relief from the Court’s ENE  
13 attendance requirements. (Vance Decl. ¶ 4). Defense counsel contacted Plaintiff via e-mail and Plaintiff  
14 advised that she does not object to Defendants’ request for leave to file their Unopposed Motion for  
15 Relief from Requirement that Person with Settlement Authority Attend Settlement Conference. (Vance  
16 Decl. ¶ 3). Moreover, no prejudice would result from the granting of the motion because both parties  
17 wish for the ENE session to proceed. Under the circumstances, the motion for leave should be granted so  
18 that Defendants’ underlying motion can be considered and decided before the ENE session takes place.

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1 **CONCLUSION**

2 For the reasons argued above, Defendants respectfully request that Defendants' Unopposed  
3 Motion for Leave to File Unopposed Motion for Relief from Requirement that Person with Settlement  
4 Authority Attend Settlement Conference be granted.

5 Respectfully submitted,

6 STEVEN W. MYHRE  
Acting United States Attorney

7 /s/ Holly A. Vance  
8 HOLLY A. VANCE  
Assistant United States Attorney

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10 IT IS SO ORDERED this 27th day of  
11 March, 2017.

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13 Peggy A. Leen  
14 United States Magistrate Judge

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**CERTIFICATE OF SERVICE**

It is hereby certified that service of the foregoing **UNOPPOSED MOTION FOR LEAVE TO FILE UNOPPOSED MOTION FOR RELIEF FROM REQUIREMENT THAT PERSON WITH SETTLEMENT AUTHORITY ATTEND SETTLEMENT CONFERENCE** was made through the Court’s electronic filing and notice system or, as appropriate, by sending a copy of same by first class mail, addressed to the following addressees, on this 21st day of March, 2017.

Addressee:

Dree Ann Cellemme  
10755 Scripps Poway Parkway, Ste 403  
San Digeo, CA 92131

/s/ Holly A. Vance  
HOLLY A. VANCE

1 STEVEN W. MYHRE  
Acting United States Attorney

2 HOLLY A. VANCE  
3 Assistant United States Attorney  
4 100 West Liberty Street, Suite 600  
5 Reno, Nevada 89501  
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19 JEFF SESSIONS, ATTORNEY )  
20 GENERAL, U.S. DEPARTMENT OF )  
21 JUSTICE; and FEDERAL BUREAU )  
22 OF INVESTIGATION, )  
23 Defendants. )  
24 )

Case No. 2:16-CV-02539-JAD-CWH

**DECLARATION OF HOLLY A. VANCE**

18 I, Holly A. Vance, hereby declare as follows pursuant to 28 U.S.C. § 1746:

19 1. I serve as an Assistant United States Attorney with the Department of Justice, United  
20 States Attorney's Office in Reno, Nevada. I have served in that capacity since October 2008.

21 2. I have been assigned to defend the litigation entitled *Cellemme v. Sessions et al.*, Case No.  
22 2:16-CV-02539-JAD-CWH.

23 ///



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6 Attorneys for the United States  
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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

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11 DREE ANN CELLEMME, )  
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12 Plaintiff, )  
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14 JEFF SESSIONS, ATTORNEY )  
GENERAL, U.S. DEPARTMENT OF )  
15 JUSTICE; and FEDERAL BUREAU )  
OF INVESTIGATION, )  
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Defendants. )  
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Case No. 2:16-CV-02539-JAD-CWH

**UNOPPOSED MOTION FOR RELIEF  
FROM REQUIREMENT THAT PERSON  
WITH SETTLEMENT AUTHORITY  
ATTEND SETTLEMENT CONFERENCE**  
**EXPEDITED REVIEW REQUESTED**

18  
19 An early neutral evaluation (“ENE”) session is scheduled in this case for April 13, 2017, at 1:30  
20 p.m. before United States Magistrate Judge Peggy A. Leen. (ECF No. 18). The order setting the ENE  
21 conference requires a government representative with “full [settlement] authority” to attend the  
22 conference. (ECF No. 18 p. 1). For the reasons argued below, Defendants respectfully request that the  
23 Court authorize Assistant United States Attorney (“AUSA”) Holly A. Vance to participate in the  
24

1 settlement conference in person as the sole representative for the government. Plaintiff Dree Ann  
2 Cellemme (“Plaintiff”) was contacted and has advised that she has no objection to Defendants’ request.

3 **ARGUMENT**

4 The federal government is unlike any other litigant. *U.S. v. U.S. Dist. Court for the N. Mariana*  
5 *Islands*, 694 F.3d 1051, 1059 (9th Cir. 2012). Because the government handles a very large number of  
6 cases, it would be impractical, if not physically impossible, for those with settlement authority to prepare  
7 for — and appear at — all settlement conferences. *Id.* The Advisory Committee notes that accompany the  
8 1993 amendments to Federal Rule of Civil Procedure 16 acknowledge the unique position that the federal  
9 government occupies as a litigant: “Particularly in litigation in which governmental agencies \* \* \* are  
10 involved, there may be no one with on-the-spot settlement authority, and the most that should be expected  
11 is access to a person who would have a major role in submitting a recommendation to the body or board  
12 with ultimate decision-making responsibility.”

13 The government delegates settlement authority to select individuals in order to promote  
14 centralized decision-making. *U.S. Dist. Court for the N. Mariana Islands* at 1059-6060. Centralized  
15 decision-making promotes three important government objectives. *Id.* First, it allows the government to  
16 act consistently in important cases. *Id.* Second, centralized decision-making allows the executive branch  
17 to pursue policy goals more effectively by placing ultimate authority in the hands of a few officials. *Id.*  
18 Third, by giving authority to high-ranking officials, centralized decision-making better promotes political  
19 accountability. *Id.* In light of these principles, the Ninth Circuit has determined that the district court  
20 should adopt a “practical approach” in deciding whether to require a government representative with full  
21 settlement authority to attend a pre-trial conference. According to the Ninth Circuit, only as a “last resort”  
22 should the district court require an official with full settlement authority to participate in a pre-trial  
23 conference in person. *Id.*

1 Consistent with *U.S. Dist. Court for the N. Mariana Islands*, the government routinely requests  
2 that the district court allow the line attorney assigned to the case to appear in person at an ENE conference  
3 as the sole representative for the government. Before the settlement conference, that line attorney  
4 discusses the case thoroughly with those government representatives who do have settlement authority  
5 in order to determine the range of settlement offers that would be acceptable to the government. This  
6 approach has not hampered settlement discussions or created an impediment to settlement in the hundreds  
7 of ENE conferences in which the government has participated over the years. In fact, hundreds of cases  
8 involving the government have settled over the years utilizing this approach. Accordingly, Defendants  
9 respectfully request that the Court authorize AUSA Vance to participate in the settlement conference as  
10 the sole representative for the government. Defense counsel contacted Plaintiff who advised that she does  
11 not object to Defendants' request. (Vance Decl ¶ 3).

12 **CONCLUSION**

13 For the reasons argued above, Defendants respectfully request that the Court grant Defendants'  
14 Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend  
15 Settlement Conference.

16 Respectfully submitted,

17 STEVEN W. MYHRE  
Acting United States Attorney

18 /s/ Holly A. Vance  
19 HOLLY A. VANCE  
Assistant United States Attorney

1 **CERTIFICATE OF SERVICE**

2 It is hereby certified that service of the foregoing **UNOPPOSED MOTION FOR RELIEF**  
3 **FROM REQUIREMENT THAT PERSON WITH SETTLEMENT AUTHORITY ATTEND**  
4 **SETTLEMENT CONFERENCE** and **EXPEDITED REVIEW REQUESTED** was made through the  
5 Court's electronic filing and notice system or, as appropriate, by sending a copy of same by first class  
6 mail, addressed to the following addressees, on this 21st day of March, 2017.

7 Addressee:

8 Dree Ann Cellemme  
9 10755 Scripps Poway Parkway, Ste 403  
San Digeo, CA 92131

10 /s/ Holly A. Vance  
HOLLY A. VANCE