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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 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

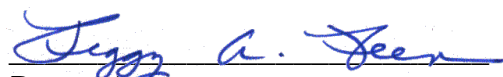
13 For the reasons argued above, Defendants respectfully request that the Court grant Defendants'  
14 Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend  
15 Settlement Conference.

16 Respectfully submitted,

17 STEVEN W. MYHRE  
Acting United States Attorney

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

20 IT IS SO ORDERED this 27th day  
21 of March, 2017.

22 

23 Peggy A. Leen  
United States Magistrate Judge

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

1 STEVEN W. MYHRE  
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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 ///

