

DICKINSON WRIGHT PLLC

Cynthia L. Alexander

Nevada Bar No. 6718

Email: calexander@dickinson-wright.com

Taylor Anello

Nevada Bar No. 12881

Email: tanello@dickinson-wright.com

8363 West Sunset Road, Suite 200

Las Vegas, Nevada 89113-2210

Tel: (702) 550-4400

Attorneys for Defendant DROCK GAMING, LLC,

dba The D fka Fitz and/or Fitzgeralds

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RICHARD COOPER, and individual;

Plaintiff,

vs.

DROCK GAMING, LLC, dba The D fka Fitz and/or Fitzgerald's a limited liability company; DOES 1 through 10; and ROE Corporations 11 through 20, inclusive,

Defendants

CASE NO. 2:16-cv-02961-RFB-NJK

**DEFENDANT DROCK
GAMING, LLC'S MOTION FOR
EXCEPTION TO EARLY NEUTRAL
EVALUATION SESSION ATTENDANCE
REQUIREMENTS**

COMES NOW Defendant DROCK GAMING, LLC, dba The D fka Fitz and/or Fitzgeralds ("Defendant") through undersigned counsel, the law firm of Dickinson Wright, PLLC, and hereby submits this Motion for Exception to Early Neutral Evaluation Session Attendance Requirements (the "Motion").

///

////

///

///



1 This Motion is supported by the following Memorandum of Points and Authorities and
2 the papers and pleadings on file in this matter.

3 DATED this 7th day of February 2017.

4 DICKINSON WRIGHT PLLC

5
6 /s/ Cynthia L. Alexander

7 Cynthia L. Alexander

8 Nevada Bar No. 6718

9 Taylor Anello

10 Nevada Bar No. 12881

11 8363 West Sunset Road, Suite 200

12 Las Vegas, Nevada 89113-2210

13 Tel: (702) 550-4400

14 *Attorneys for Defendant DROCK GAMING,
15 LLC, dba The D fka Fitz and/or Fitzgeralds*

16
17
18
19
20
21
22
23
24
25
26
27
28
MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

On January 11, 2017, this matter was assigned to the Early Neutral Evaluation (“ENE”) Program. The ENE session is scheduled for March 17, 2017 in the chambers of U.S. Magistrate Judge Peggy A. Leen. The purpose of this Motion is to seek approval of the Court for the insurance carrier to appear at the ENE session telephonically. Plaintiff’s counsel has indicated that he will not oppose this Motion.

II. Argument

Pursuant to the Order Scheduling Early Neutral Evaluation Session issued by this Court on January 11, 2017 (the “Order”), “[i]n the case of non-individual parties, counsel shall arrange for a representative with binding authority to settle this matter up to the full amount of the claim to be present for the duration of the ENE session.” [Dkt. No. 11]. Additionally, pursuant to the Order, “[i]f any party is subject to coverage by an insurance carrier, then a representative of the

1 insurance carrier with authority to settle this matter up to the full amount of the claim must also
2 be present for the duration of the ENE session.” [Id.]

3 The claims in Plaintiff’s Complaint are subject to an insurance policy, which has a
4 substantial retention amount that is the responsibility of Defendant. This retention amount must
5 be exhausted before the insurance policy can be utilized. A representative of Defendant will
6 attend the ENE session in person and have full authority for the retention amount. The
7 insurance representative assigned to this matter works and resides out of state. In order to attend
8 the ENE in person, the insurance representative would have to expend additional time and travel
9 costs. In order to avoid these expenses, Defendant requests that the insurance representative be
10 permitted to attend the ENE telephonically. The insurance representative will be able to
11 participate in the entire ENE via telephone and will have appropriate settlement authority
12 relating to the insurance policy.
13

14 Counsel for Defendant has contacted Plaintiff’s counsel regarding its request to have the
15 insurance representative appear telephonically. Plaintiff’s counsel has indicated that he is has no
16 opposition to the insurance representative appearing telephonically.
17

18 If the Court grants this Motion, it will not hinder the ENE session in any way. First, a
19 representative of Defendant with full authority as to the retention amount will be present at the
20 ENE session. Second, the insurance representative will actively be participating in the ENE
21 session telephonically. As such, the parties will have all of the authority necessary to participate
22 in a good faith settlement discussion. Finally, counsel for Plaintiff has no objection to the
23 telephonic appearance.
24

25 ///

26 ///

27 ///

28

1 **III. Conclusion**

2 Defendant respectfully requests that this Court allow the insurance representative to
3 appear at the March 17, 2017 ENE session telephonically.
4

5 DATED this 7th day of February 2017.

6
7 DICKINSON WRIGHT PLLC

8 /s/ Cynthia L. Alexander

9 Cynthia L. Alexander

10 Nevada Bar No. 6718

11 Taylor Anello

12 Nevada Bar No. 12881

13 8363 West Sunset Road, Suite 200

14 Las Vegas, Nevada 89113-2210

15 Tel: (702) 550-4400

16 *Attorneys for Defendant DROCK GAMING,*
17 *LLC, dba The D fka Fitz and/or Fitzgeralds*

18 IT IS ORDERED that Defendant's insurance representative shall be available
19 telephonically for the duration of the ENE session.

20 Dated this 8th day of February, 2017.

21 

22 Peggy A. Leen

23 United States Magistrate Judge
24
25
26
27
28

CERTIFICATE OF SERVICE

1
2
3 The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on the
4 7th day of February 2017, she served a copy of the foregoing **DEFENDANT DROCK**
5 **GAMING, LLC'S MOTION FOR EXCEPTION TO EARLY NEUTRAL EVALUATION**
6 **SESSION ATTENDANCE REQUIREMENTS** by filing through electronic service to all
7 interested parties, through the Court's **ECF** system addressed to:

8 Christian Gabroy (#8805)
9 Gabroy Law Offices
10 The District at Green Valley Ranch
11 170 South Green Valley Parkway, Suite 280
12 Henderson, Nevada 89012

Attorney for Plaintiff

13
14
15
16 *s/ Angelica V. Jimenez*
17 _____
18 An employee of Dickinson Wright PLLC
19
20
21
22
23
24
25
26
27
28