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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE BETANCOURT,)
)
Plaintiff,)
)
vs.)
)
NEVADA PROPERTY 1 LLC,)
)
Defendant.)
_____)

Case No. 2:17-cv-02452-RFB-NJK
ORDER

On September 7, 2018, the Court issued an order setting an Early Neutral Evaluation (ENE) in the instant case. Docket No. 23. The order specified, inter alia, the time, date, and required personal appearances for the ENE. Id. at 1-2. Specifically, the Court ordered that “[a]ll counsel of record who are participating in trial” must attend. Id. at 1. The ENE was subsequently continued to October 4, 2018, at 9:30 a.m. Docket No. 27. The Court made clear in its order that the appearance requirements of its prior order remain. Id.

On the eve of the ENE, the parties filed a stipulation to continue the start time of the ENE to 10:30. Docket No. 28. In the stipulation, the parties represented that Plaintiff has a late-scheduled hearing in state court. Id. at 2. The Court denied the parties’ stipulation, and noted that a hearing scheduled after the scheduling of the instant ENE does not constitute good cause to delay the start time of the ENE. Docket No. 29.

1 Now, despite the Court's order, Plaintiff's attorney of record (Jenny Foley) has filed notice
2 that she has a scheduling conflict arising from a later-set hearing in state court, and notifying the
3 Court that she may arrive late to the ENE. Docket No. 30. The Court has already set aside time
4 to conduct the ENE at the scheduled time and has already indicated those participants that the
5 Court finds necessary to make the ENE fruitful. In addition, it is not appropriate to waste the time
6 of the opposing party and counsel, or require them to alter their schedules on the eve of the ENE.
7 The Court hereby **DENIES** the pending notice to the extent it seeks implicitly either (a) a
8 continuance of the ENE to begin at a later time; or 2) an order that the ENE can begin without Ms.
9 Foley, Plaintiff's attorney of record.

10 The Court hereby **ORDERS** Ms. Foley to appear for the ENE at 9:30 a.m. tomorrow as
11 previously ordered. To the extent Ms. Foley has created conflicting duties for herself, she should
12 make arrangements to either seek a continuance of the state court hearing or have another attorney
13 handle that hearing. Notwithstanding that counsel may prefer to appear in a later-set state court
14 hearing, she is required to appear in this Court as ordered. See *Burrage-Simon v. State Farm Mut.*
15 *Auto. Ins. Co.*, 2015 WL 5224885, at *6 (D. Nev. Sept. 8, 2015) (sanctioning counsel for failing
16 to appear at a settlement conference to instead attend a state court hearing he thought was more
17 important). **FAILURE TO COMPLY WITH THE COURT'S ORDER MAY RESULT IN**
18 **SANCTIONS.**

19 IT IS SO ORDERED.

20 DATED: October 3, 2018.

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23 _____
NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE