

1 ADAM PAUL LAXALT
2 Attorney General
3 GERRI LYNN HARDCASTLE, Bar No. 13142
4 Deputy Attorney General
5 State of Nevada
6 Bureau of Litigation
7 Public Safety Division
8 100 N. Carson Street
9 Carson City, NV 89701-4717
10 Tel: (775) 684-1134
11 E-mail: ghardcastle@ag.nv.gov
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13 *Attorneys for Defendants*
14 *Brian Ward*
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JUN 07 2018	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

10 TODD M. HONEYCUTT,

11 Plaintiff,

12 vs.

13 ISIDRO BACA, et al.,

14 Defendants.

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Case No. 3:17-cv-00230-MMD-VPC

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**DEFENDANT'S MOTION FOR
ENLARGEMENT OF TIME TO SUBMIT
CONFIDENTIAL EARLY MEDIATION
CONFERENCE STATEMENT
(First Request)**

10 Defendants, by and through counsel, Adam Paul Laxalt, Attorney General of the State of
11 Nevada, and Gerri Lynn Hardcastle, Deputy Attorney General, hereby move this honorable Court for an
12 enlargement of time to submit their Confidential Early Mediation Conference Statement. This motion
13 is based on Fed. R. Civ. P. 6(b)(1), the following memorandum of points and authorities, and all papers
14 and pleadings on file herein.

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MEMORANDUM OF POINTS AND AUTHORITIES

10 This case is a pro se civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 4 at 1. Plaintiff,
11 Todd Honeycutt (Plaintiff), is an inmate in the lawful custody of the Nevada Department of Corrections
12 (NDOC). *Id.* Plaintiff alleges that Defendants violated his rights under the Fourteenth Amendment to
13 the United States Constitution. ECF No. 3 at 3-5. Specifically, Plaintiff claims that John Doe
14 intentionally submitted a false risk of reoffending assessment to the Nevada Parole Board (NPB). *Id.* at
15 3. Plaintiff alleges that John Doe's assessment gave Plaintiff a score of "5," which mandated that he be
16 denied parole. *Id.* at 3-4. Plaintiff claims that, upon seeing the score, Defendant Powers (Powers)

1 believed the score was incorrect and asked another NDOC psychologist to assess Plaintiff. *Id.* at 4. In
2 the subsequent assessment, Plaintiff received a score of "2." *Id.* Powers informed Defendant-
3 caseworker Moyle (Moyle) of the difference in the scores, and, Plaintiff alleges, Moyle instructed
4 Powers not to contact the NPB or assist Plaintiff further. *Id.* Plaintiff then sought assistance from other
5 NDOC staff members, but they refused to correct the error. *Id.*

6 The early mediation conference (EMC) in this case is scheduled to occur on Tuesday, June 12,
7 2018, at 11:30 a.m. ECF No. 6 at 1. Defendants' confidential early mediation statement is due today,
8 June 5, 2018, at 4:00 p.m. *Id.* at 5. Regrettably, counsel's assistant neglected to put the deadline for
9 Defendants' EMC statement and the EMC itself on counsel's calendar. Accordingly, counsel was
10 unaware her client's EMC statement was due today at 4:00 p.m. Counsel regrets this oversight.
11 Regardless, she wishes to correct the error and requests that this honorable Court allow her until Friday,
12 June 8, 2018, at 12:00 p.m. to submit her clients' EMC statement. If necessary, counsel will take the
13 statement directly to the mediator.

14 **II. DISCUSSION**

15 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*
16 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.
17 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

18 When an act may or must be done within a specified time, the court may,
19 for good cause, extend the time: (A) with or without motion or notice if
the court acts, or if a request is made, before the original time or its
20 extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

21 Therefore, a party requesting an enlargement of time to complete an act after the expiration of
22 the time to do so must show "excusable neglect." Fed. R. Civ. P. 6(b)(1)(B). The Supreme Court has
23 outlined several factors for determining when neglect is excusable for the purposes of FRCP 6(b)(1)(B).
24 *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship.*, 507 U.S. 380, 395 (1993). Those factors are
25 as follows: "the danger of prejudice to the [non-movant], the length of the delay and its potential
26 impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable
27 control of the movant, and whether the movant acted in good faith." *Id.*

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1 In the instant case, Defendants can show excusable neglect for their failure to seek an
2 enlargement of time prior to the expiration of the deadline for the EMC statement. As stated, counsel's
3 assistant neglected to calendar the deadline for the EMC statement and the EMC.¹ Counsel's assistant
4 was unaware of the omissions to the calendar until approximately 3:10 p.m. today. At that time, the
5 assistant informed counsel and asked counsel how she wished to proceed. Therefore, counsel was
6 ignorant to her inability to comply with this Court's order to submit Defendants' EMC statement until
7 approximately 3:15 p.m. today. Immediately thereafter, counsel began drafting this motion.

8 Calendaring errors, although significant and potentially problematic, are unfortunately quite
9 common in the legal community. Moreover, this error can be rectified if this Court will allow
10 Defendants additional time to submit their EMC statement. If this Court grants Defendants' motion,
11 Defendants will submit their statement no later than Friday, June 8, 2018, at 12:00 p.m. This should
12 allow the mediator sufficient time to review the statement and prepare for the upcoming mediation.
13 Thus, the EMC can proceed as planned on June 12, 2018, at 11:30 a.m., and Plaintiff will not be
14 unfairly prejudiced.

15 **III. CONCLUSION**

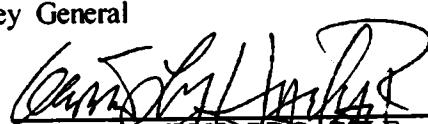
16 Based on the error in Defendants' counsel's calendar, Defendants respectfully move this
17 honorable Court to enlarge the time allowed for them to submit their EMC statement.

18 Dated: this 5th day of June, 2018.

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22 IT IS SO ORDERED
23 _____
24 U.S. MAGISTRATE JUDGE
25 DATED: June 7, 2018
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ADAM PAUL LAXALT
Attorney General

By:


GERRI LYNN HARDCastle
Deputy Attorney General
Bureau of Litigation
Public Safety Division

Attorneys for Defendants
Brian Ward

28 ¹ Although counsel's legal assistant is tasked with maintaining her calendar, counsel is ultimately responsible for
ensuring that the calendar is correct and that she fulfills the obligations set forth in the calendar.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 5th day of June, 2018, I caused to be served a copy of the foregoing, **DEFENDANT'S MOTION FOR ENLARGEMENT OF TIME TO SUBMIT CONFIDENTIAL EARLY MEDIATION CONFERENCE STATEMENT**, by U.S. District Court CM/CEF Electronic Filing on:

Todd Honeycutt #63545
C/O NNCC Law Librarian
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

Mackenzie Hodges
An employee of the
Office of the Attorney General