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 8 Division of Healthcare Finance & Policy

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FEB 26 2018

CLERK US DISTRICT COURT
 DISTRICT OF NEVADA

BY: _____ DEPUTY

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 10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF NEVADA**

12 SYLVIA GIANCONTIERI & VICTORIO)
 13 JIMENEZ,)
)
 14 Plaintiff,)
)
 15 v.)
)
 16 STATE OF NEVADA, ex. rel. Division of)
 Health Care Finance & Policy, and DOE)
 17 Defendants I-X,)
)
 18 Defendants.)

Case No. 3:17-cv-00722-LRH-WGC

**DEFENDANT'S MOTION TO RESET EARLY
 NEUTRAL EVALUATION DATE**

19
 20 Defendant, State of Nevada ex rel. Division of Health Care Financing & Policy, (hereinafter the
 21 "Division") through its counsel, Adam Paul Laxalt, Attorney General, Gabriel D. Lither, Senior Deputy
 22 Attorney General, and Mercedes S. Menendez, Deputy Attorney General, hereby submits this Motion to
 23 Continue the Early Neutral Evaluation Date, presently set for March 21, 2018.

24 This Motion to made and based upon the Memorandum of Points & Authorities set forth below,
 25 the Declaration of Mercedes S. Menendez, Esq., and any oral argument allowed by the Court should this
 26 matter be set for hearing.

Office of the Attorney General
 555 East Washington Avenue, Suite 3900
 Las Vegas, Nevada 89101-1068

MEMORANDUM OF POINTS & AUTHORITIES

I. RELEVANT PROCEDURAL HISTORY

This is a Title VII action involving two Plaintiffs, Sylvia Giancontieri and Victorio Jimenez. On The Early Neutral Evaluation (“ENE”) is presently set for March 21, 2018 at 1:30 p.m. The parties were provided several dates by the Court’s clerk and the March 21, 2018 date was scheduled. (See Declaration of Mercedes S. Menendez, attached hereto as Exhibit “A.”). Unfortunately, the Torts Claim Manager for the State of Nevada Office of the Attorney General is unable to attend as she has another ENE scheduled in Las Vegas that same day. The only other available date for the Plaintiffs is March 22, 2018.

The undersigned has been in contact with Plaintiffs’ counsel’s office and they are available March 22, 2018, one possible date provided by the Court. Plaintiffs’ counsel is in agreement to continue the ENE one day. Id. In light of the foregoing, Defendants respectfully request the ENE be rescheduled for March 22, 2018 at 1:30 p.m. or another mutually available date.

II. LEGAL DISCUSSION

LR 6-1 provides in relevant part:

- (a) Every motion requesting a continuance, extension of time, or order shortening time shall be “Filed” by the Clerk and processed as an expedited matter. Ex parte motions and stipulations shall be governed by LR 6-2.
- (b) Every motion or stipulation to extend time shall inform the Court of any previous extensions granted and state the reasons for the extension requested.

Good cause exists for a brief continuance for the ENE. As stated above, due to scheduling conflicts, a new date is required for the Defendants. There was some delay in filing the Motion at bar because the undersigned was out of the office for medical reasons and was looking at possible substitutions in order to accommodate the original March 21, 2018 date. Furthermore, Plaintiffs will not be prejudiced by a short one day continuance of the ENE, should the Court be available.

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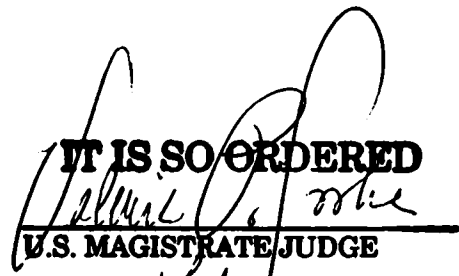
III. CONCLUSION

Defendants' request for the ENE to be reset is in good faith and not for the purposes of delay. Plaintiff will not suffer prejudice. As good cause has been shown, Defendants respectfully request the ENE be reset to March 22, 2018 or another date in the future.

DATED this 22nd day of February, 2018.

ADAM PAUL LAXALT
Attorney General

By: /s/ MERCEDES S. MENENDEZ
MERCEDES S. MENENDEZ
Deputy Attorney General
Attorneys for Defendants
Sean Bloomfield, Cheryl Burson, Julio Calderin,
Loren Chapulin, Brian Connert, Francis Dreesen,
Rene Galvan, Ron Jaeger, Jimmy Jones, Ryan
Klein, Joseph Lewis, Douglas Orr, and Vincent
Rabourn

IT IS SO ORDERED

U.S. MAGISTRATE JUDGE

DATED: February 24, 2018.

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CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of February, 2018, I served the foregoing, **MOTION TO RESET EARLY NEUTRAL EVALUATION**, by causing a true and correct copy thereof to be filed with the Clerk of the Court, using the electronic filing system, and by causing a true and correct copy thereof to be electronically delivered to the following:

MARK MAUSERT ESQ.
930 Evans Avenue
Reno, Nevada 89512
mark@markmausertlaw.com

/s/ Mercedes S. Menendez
An employee of the Office of the Attorney General

Office of the Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101-1068

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DECLARATION OF MERCEDES S. MENENDEZ PURSUANT TO 28 U.S.C. § 1746

1. I, Mercedes S. Menendez, present this Declaration in the United States District Court for the District of Nevada in support of Defendants' Motion to Reset the Early Neutral Evaluation date in *Giancontieri & Jimenez v. State of Nevada, et al.*, Case Number 3:10-cv-00162-LRH-WGC. I have personal knowledge of and am competent to testify regarding the matters stated in this Declaration.
2. I am an attorney licensed to practice in the State of Nevada, and I am admitted to practice in the United States District Court for the District of Nevada.
3. I am currently employed as a Deputy Attorney General at the Nevada Office of the Attorney General, in Las Vegas Nevada.
4. On January 29, 2018, Lisa Mann, Magistrate Judge Cooke's clerk, emailed the parties and provided multiple dates for the Early Neutral Evaluation.
5. On February 1, 2018, Plaintiffs' counsel's office responded, stating they were only available on March 21st or March 22nd.
6. On February 2, 2018, an Order was issued setting the ENE for March 21, 2018.
7. The undersigned has been in and out of the office for medical reasons and returned back to the office on February 12, 2018.
8. On February 14, 2018, the undersigned was made aware the Torts Claims Manager was unavailable for the March 21, 2018 conference.
9. Since that time the undersigned attempted to find alternatives in order to make the March 21, 2018 ENE work but was unable to do so.
10. On February 22, 2018, the undersigned spoke with Plaintiffs' counsel's office to discuss available dates and they were agreeable and available for March 22, 2019.
11. The Torts Claims Manager is available on March 22, 2019.
12. Due to the issues raised in the accompanying Motion and this Declaration, Defendants respectfully request the ENE be continued to March 22, 2018 or another mutually convenient time.

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13. Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 22nd day of February, 2018.

/s/ Mercedes S. Menendez

MERCEDES S. MENENDEZ

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