

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 STANDING ORDER RE: EARLY  
5 NEUTRAL EVALUATIONS

Magistrate Judge Brenda Weksler  
Effective April 10, 2020

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9 **NOTE: The Court made significant changes to its scheduling order.**

10 This Order applies to cases referred to the undersigned magistrate judge to conduct an  
11 Early Neutral Evaluation (“ENE”) as outlined in LR 16-6. Unless otherwise noted, ENEs will  
12 take place at the Lloyd D. George United States Courthouse, 333 Las Vegas Boulevard South,  
13 Las Vegas, Nevada. Parties and counsel should prepare to be at the ENE for the entire business  
14 day unless Judge Weksler indicates otherwise.

15 **I. Pre-ENE telephonic conference.**

16 A pre-ENE telephonic conference may be scheduled before the day of the ENE. This  
17 telephonic conference is for Judge Weksler and counsel only. Counsel must call 877-810-9415,  
18 access code 2365998, five minutes before the telephonic conference.

19 **II. Exemption from the ENE program.**

20 Pursuant to the Local Rules, a motion for exemption from the ENE program must be filed  
21 no later than 7 days after entry of the order scheduling the ENE. LR 16-6(c). A response to the  
22 motion must be filed within 14 days after service of the motion, and a reply is not allowed. *Id.*  
23 The undersigned has final authority to grant or deny the motion, and the order is not appealable.  
24 *Id.*

25 **III. Timeliness.**

26 All parties and counsel are expected to check in with Judge Weksler’s chambers at least  
27 five minutes prior to the ENE. If anyone anticipates arriving after the ENE’s scheduled start  
28 time, they must give **prior** notice by contacting chambers at 702-464-5570.

1           **IV. Attendance requirements.**

2           The in-person attendance of each of the following individuals is required for the entire  
3 duration of the ENE: an attorney of record who will be participating in the trial of the case; all  
4 parties appearing pro se; all individual parties; for non-individual parties, a representative with  
5 settlement authority up to the full amount of the claim. If any party is subject to coverage by an  
6 insurance carrier, then a representative of the insurance carrier with settlement authority up to the  
7 full amount of the claim must also be present for the entire duration of the ENE.

8           The Court **may impose sanctions** if any of the above individuals are not present for the  
9 ENE.

10           **V. Confidential written evaluation statement.**

11           In preparation for the ENE, each party must submit a confidential written evaluation  
12 statement for the Court's in-camera review. The purpose of the written evaluation is to assist the  
13 undersigned in preparing for and conducting the ENE. To facilitate a meaningful discussion, the  
14 parties' utmost candor is required. The written evaluation will not be seen by or shared with the  
15 district or magistrate judge presiding over this matter. Each written evaluation will be securely  
16 maintained and will be destroyed following the conclusion of the ENE.

17           The evaluation statement must adhere to the following requirements:

- 18           • The first paragraph must contain the names and titles of all attendees. For non-  
19 individual parties present through a representative, you must indicate if there is a  
20 dollar value above which you will need the approval of a board or similar body  
21 and what that dollar value is. Each party may identify any persons connected with  
22 a party opponent (including an insurer representative) whose presence might  
23 substantially improve the utility of the ENE or the prospects of settlement.
- 24           • **The written evaluation must not exceed 10 written pages, not including**  
25 **exhibits. The entire written evaluation must not exceed 50 pages, including**  
26 **exhibits.** The parties should not include as exhibits any items available on the  
27 case docket. A citation to the ECF No. will suffice. If either party desires to  
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1 exceed these page limits, they must seek the Court's approval. The Court will not  
2 grant approval unless the requesting party can establish how the additional pages  
3 will aid the Court in helping the parties reach settlement.

- 4 • The written evaluation must briefly describe the substance of the suit and address  
5 the party's views on the key liability and damages issues. **Each written**  
6 **evaluation must contain the elements of each claim and an analysis discussing**  
7 **how the facts relate to those elements.** Further, each party must discuss the  
8 strongest and weakest points of their case, both factually and legally, including a  
9 candid evaluation of the merits of their positions.
- 10 • The written evaluation must also address whether there are legal or factual issues  
11 whose early resolution would reduce significantly the scope of the dispute or  
12 contribute to settlement negotiations.
- 13 • The parties must each include a comprehensive history, if any, of settlement  
14 negotiations occurring before the ENE. **The final paragraph of the evaluation**  
15 **statement must contain the opening offer or demand that the party will make**  
16 **at the ENE.**
- 17 • If there are documents, pictures, recordings, etc., out of which the underlying suit  
18 arose, or whose availability would materially advance the purpose of the  
19 evaluation session, the parties must include copies of those items as exhibits to  
20 their evaluation statements. If a party desires to include deposition transcripts as  
21 an exhibit, the party should include only excerpts that the party desires to  
22 emphasize.
- 23 • Each party must certify that they have made initial disclosures under FED. R. CIV.  
24 P. 26(a)(1), and plaintiff must certify that he or she has provided a computation of  
25 damages pursuant to FED. R. CIV. P. 26(a)(1)(A)(iii).
- 26 • The written evaluation must estimate the costs (including attorney's fees and costs)  
27 of taking the case through summary judgment and then through trial.

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- Each party’s written evaluation must be submitted via email to emily\_gesmundo@nvd.uscourts.gov. No physical copies will be accepted. Do not deliver or mail the written evaluations to the clerk’s office and do not serve a copy on opposing counsel.

**VI. Electronic devices.**

**Recording the ENE proceedings is expressly prohibited.** All attendees are permitted to bring electronic devices, which they may use to access information necessary to participate in the ENE or while the undersigned caucuses with other parties. Wi-fi connection information will be provided during the ENE.

**VII. Sanctions.**

Failure to comply with this order’s requirements may subject the noncompliant party to sanctions under Local Rule IA 11-8 or Rule 16(f) of the Federal Rules of Civil Procedure.

DATED: April 10, 2020

  
BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE