

Marc J. Randazza, NV Bar No. 12265
 Ronald D. Green, NV Bar No. 7360
 Alex J. Shepard, NV Bar No. 13582
 Randazza Legal Group, PLLC
 8991 W. Flamingo Rd., Ste. B
 Las Vegas, NV 89147
 Telephone: 702-420-2001
 ecf@randazza.com

Attorneys for Defendants
 Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

Case No. 2:25-cv-01858-APG-BNW

PASTOR STEVE SMOTHERMON,

Plaintiff,

v.

KEITH HODGE, an individual; KEVIN
 HODGE, an individual; HODGETWINS, LLC,
 a limited liability company,

Defendants.

**DEFENDANTS' REPLY
 IN SUPPORT OF
 MOTION TO RECONSIDER
 ORDER DENYING MOTION
 TO CONTINUE HEARING**

[ECF NO. 60]

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC respectfully submit this brief reply to Plaintiff's Response (ECF No. 61).

1.0 DEFENDANTS DO NOT SEEK SANCTIONS AGAINST ANYONE.

Plaintiff's Response states that Defendants' motion asks the Court to "sanction Plaintiff's counsel for incivility." ECF No. 61 at 1. That is not even true. They just made that up. Defendants' motion contains no request for sanctions, fees, costs, or any finding of misconduct against Plaintiff's counsel.¹ It wasn't even contemplated. Two related clarifications may be useful. Plaintiff takes issue with the phrase "manifestly unjust." But this is the standard set out in Local Rule 59-1(b)(2), and a party invoking that standard must identify the ground on which

¹ To the extent any reader could interpret the language in ECF No. 60 as seeking sanctions, Defendants disclaim that interpretation. The only relief Defendants seek is a continuance.

reconsideration is sought. Second, Defendants do not ask the Court to referee counsel's conduct or to make any finding about it (although some reminder of what civility requires would not be out of order). The civility authorities are cited as context for the request, not a request for relief against opposing counsel. However, those authorities are important because if a lack of civility is rewarded, it will reap more incivility.

2.0 DEFENDANTS' CANDOR ABOUT REMOTE APPEARANCE IS NOT A CONCESSION THAT THE ORDER SHOULD STAND.

Plaintiff's principal argument is that Defendants conceded counsel *can* appear remotely, and that this concession forecloses relief. ECF No. 61 at 2–3. Defendants did say that, and they meant it: Counsel will find a way to comply with whatever the Court orders. But candor about the possibility of compliance is not an admission that the denial was right. Every continuance request involves a party who *could*, at some cost, manage without one.

If an attorney were on vacation in Nepal, that attorney *could* fly back to Las Vegas and handle the hearing, or *could* appear remotely in the middle of the night. But it would be unreasonable to deny a continuance simply based on the rationale that it is possible to comply.

The last time that Mr. Randazza had to resort to motion practice to get a short continuance was a decade ago, because his wife had major surgery and the opposing attorney lacked the civility to agree.² Certainly, Randazza *could have* abandoned his wife and shown up at a hearing. But given that the request was reasonable and the refusal to stipulate was not, Judge Rosenberg granted the extension over the objection of the opposing counsel. She also made it clear that she expected civility between the attorneys, at the very least when continuances and extensions were requested.

If the actual possibility of compliance (regardless of the effect on other aspects of an attorney's life) defeated reconsideration, no scheduling ruling would ever be subject to revision absent attorney incarceration or incapacity. The question remains whether a timely and good-faith request, supported by good cause and unaccompanied by any identified prejudice, should have been granted. Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258–59, 1263 (9th Cir. 2010).

² See Tobinick v. Novella, CASE NO. 9:14-cv-80781 (S.D. Fla. 2016)

3.0 THE MOTION RESPONDS TO THE ORDER’S STATED RATIONALE RATHER THAN REPEATING THE ORIGINAL REQUEST.

Plaintiff characterizes the motion as a rehash. ECF No. 61 at 2. Defendants disagree. The Order denying the continuance rested on the availability of remote appearance as a “seemingly viable alternative.” A motion addressed to the stated basis of a ruling is not a repetition of the arguments that preceded it. Defendants also note that Plaintiff’s Response, like Plaintiff’s meet-and-confer position, still identifies no prejudice from a brief reset, and confirms that no trial date or scheduling-order deadline is implicated.

4.0 CONCLUSION

Had the Court denied the motion on the basis that the court simply cannot change the date due to Court unavailability, there would have been no motion to reconsider. Sometimes a court’s schedule is truly an immovable object. But that is not why it was denied. Defendants do not ask that the Plaintiff’s counsel’s surprising lack of civility be punished. Defendants only ask that it not be encouraged with rewards. Perhaps if positive reinforcement for incivility is withheld, there will be less of it. Certainly, if this positive reinforcement is administered, there will be more.

Defendants respectfully request that the Court vacate ECF No. 59 and reset the August 3, 2026, hearing to August 5, 6, 7, 12, 13, 14, or 18, 2026, or to any other date convenient to the Court after those dates. Other dates in August are not available for various reasons including cancer follow up appointments (July 27-29). If the Court prefers to keep the current date, counsel will find a way, no matter the cost, to comply. But the fact remains that there is no reason to reward the incivility of a refusal to agree to a two-week continuance (or less, should the court find the time) by prejudicing the Defense.

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Dated: July 24, 2026.

Respectfully submitted,

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

RANDAZZA LEGAL GROUP, PLLC

8991 W. Flamingo Rd., Ste. B

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LLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 24, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Marc J. Randazza
Marc J. Randazza

RANDAZZA | LEGAL GROUP