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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America ex rel. Bryan Quesenberry,

Plaintiffs,

v.

Passive Income Advisors, LLC, and Gena Lofton,

Defendants.

Case No. 2:20-cv-01537-RFB-MDC

PLAINTIFF UNITED STATES OF AMERICA AND DEFENDANTS' STIPULATED STATUS REPORT

On September 11, 2025, the Court set a settlement conference in this case for 9:00 a.m. on November 14, 2025 in person (the "Mediation"). (ECF No. 67 at 1.) On October 17, 2025, the Court vacated the Mediation and ordered the parties to file a stipulated status report on or before December 16, 2025 regarding: (1) the status of federal government budget and funding; (2) resumption of the federal government operations; and (3) availability of a representative of the United States with binding settlement authority to participate in, or be available during, the settlement conference remotely. (ECF No. 76 at 1.)

I. Status of Federal Funding and Operations

On November 12, 2025, Congress passed the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, 2026, Pub. L. No. 119-37 (2025), which was subsequently signed into law by the President. Accordingly, the federal government budget has been funded through at least January 30, 2026, and the Department of Justice has fully resumed operations.

II. Availability of United States Officials During a Remote Settlement Conference

As discussed in the United States' request for an attendance exception, the official with full settlement authority for this case is the Director of the Commercial Litigation Branch, Fraud Section, Jamie Ann Yavelberg. (ECF No. 69 at 4.) Trial Attorneys Jared S. Wiesner and Patrick T. O'Hare will have authority to make a settlement recommendation. In general, trial attorneys' recommendations with respect to a settlement are given great weight.

Prior to making a settlement recommendation, the Trial Attorneys will need to seek approval from Deputy Director Colin M. Huntley of the Department of Justice's Civil Division, Commercial Litigation Branch, who has supervisory responsibility over this case. Mr. Huntley will be available during a remote settlement conference.

Ms. Yavelberg oversees a staff of over one hundred attorneys and other professionals handling thousands of cases. If officials such as her were required to be present or available during settlement conferences in the many cases under their authority, the work of the Department of Justice would be paralyzed. *See United States v. U.S. Dist. Court for N. Mariana Islands*, 694 F.3d 1051, 1059 (9th Cir. 2012), as amended (Oct. 16, 2012) ("The Assistant Attorney General is the lowest-ranking government official with authority to settle those claims under the Department's regulations. For her to prepare for and appear at all

settlement conferences for all of those cases would be highly impractical, if not physically impossible."). Remote mediation would not reduce this burden on officials such as Ms. Yavelberg, since a remote mediation would still require significant preparation time and could take a full workday, during which time Ms. Yavelberg would be unable to oversee her staff.

Accordingly, the United States requests that it be allowed to participate in a remote mediation through the appearance of Trial Attorneys Jared S. Wiesner and Patrick T. O'Hare, during which time Deputy Director Colin M. Huntley will be available.

III. Defendants' Position

Defendants also request that they be allowed to participate in a remote mediation through the appearance of attorneys Theo Watson and Carolyn Oliver. Defendants also note that the parties engaged in a settlement conference on October 29, 2025. Defendant Gena Lofton has provided all of her financial information requested by the government and is waiting for the government to respond. All parties are awaiting the Magistrate Judge's new date and schedules.

Respectfully submitted this 19th day of November, 2025.

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Civil Division

/s/ Patrick T. O'Hare
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*/s/ Carolyn L. Oliver**
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signed with permission by Patrick T. O'Hare

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2025, I electronically transmitted the within and foregoing **PLAINTIFF UNITED STATES OF AMERICA AND DEFENDANTS' STIPULATED STATUS REPORT** to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants listed as counsel in this case.

/s/ Patrick T. O'Hare
PATRICK T. O'HARE
Trial Attorney, Civil Division