

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CH2E NEVADA LLC, <div style="text-align: right; padding-right: 20px;">Plaintiff(s),</div>)))))))))))	Case No. 2:15-cv-00694-JCM-NJK ORDER (Docket No. 97)
vs. LATIF MAHJOOB, et al., <div style="text-align: right; padding-right: 20px;">Defendant(s).</div>		

Pending before the Court is Plaintiff’s motion for status conference. Docket No. 97. Plaintiff filed its motion for status conference on November 2, 2017. *Id.* Plaintiff requests the Court to hold a status conference to discuss Defendant American Combustion Technologies of California, Inc.’s (“ACTI”) failure to confirm a noticed deposition set to take place on November 7, 2017. *Id.* at 2. Plaintiff also requests the status conference to discuss ACTI’s “threatened bankruptcy and fraudulent conveyances to its new company....” *Id.* The Court construes Plaintiff’s motion for status conference as an attempt to file an emergency motion. However, Plaintiff failed to follow the appropriate technical and substantive requirements for an emergency motion.

Emergency motions must as a threshold matter meet several technical requirements outlined in the local rules. *See, e.g.,* Local Rule 26-7(d) (emergency discovery motions must satisfy the requirements outlined in Local Rule 7-4). First, the face of the motion itself must be entitled an “Emergency Motion” so the Court has prompt notice that expedited relief is being requested. Local Rule 7-4(a). Second, the emergency motion must be accompanied by an affidavit providing several key facts

1 necessary for the Court to determine whether, in fact, an emergency exists and allowing the Court to
2 provide the fairest, most efficient resolution. *Id.* This affidavit must include a detailed description of
3 the nature of the emergency. *See id.* The affidavit must also provide the contact information (telephone
4 number and office addresses) of the movant and all other affected parties. *See id.* The affidavit must
5 also provide a certification that, despite personal consultation and sincere effort to do so, the movant was
6 unable to resolve the matter without court action. *See, e.g.,* Local Rule 7-4(a)(3). If the circumstances
7 are such that personal consultation is truly not possible, the movant must provide a detailed explanation
8 why that is the case so the Court can evaluate whether to exercise its discretion to decide the motion
9 despite the lack of a proper pre-filing conference. *See id.* Similarly, if no notice whatsoever was
10 provided to the opposing party regarding the filing of the motion, the affidavit must include a detailed
11 explanation of why it was not practicable to provide that notice. *See id.* Concurrently with the filing
12 of an emergency motion, or promptly thereafter, the movant must inform the courtroom administrators
13 of the assigned judges that the motion was filed. Local Rule 7-4(d).

14 If these technical requirements are not met, the emergency motion may be denied. Local Rule
15 7-4(b). If these technical requirements are met, the Court will turn to the substantive requirements for
16 filing an emergency motion. When a party files a motion on an emergency basis, it is within the sole
17 discretion of the Court to determine whether any such matter is, in fact, an emergency. *See* Local Rule
18 7-4(c). Generally speaking, an emergency motion is properly presented to the Court only when the
19 movant has shown (1) that it will be irreparably prejudiced if the Court resolves the motion pursuant to
20 the normal briefing schedule; and (2) that the movant is without fault in creating the crisis that requires
21 emergency relief or, at the very least, that the crisis occurred because of excusable neglect. *Cardoza v.*
22 *Bloomin' Brands*, 141 F. Supp. 3d 1137, at 1142 (D. Nev. 2015) (citing *Mission Power Eng'g Co. v.*
23 *Continental Cas. Co.*, 883 F. Supp. 488, at 492 (C.D. Cal. 1995)). If there is no irreparable prejudice,
24 sufficient justification for bypassing the default briefing schedule does not exist and the motion may be
25 properly decided on a non-expedited basis. *Cardoza*, 141 F. Supp. 3d at 1142-43. If there is irreparable
26 prejudice but the movant created the crisis, the Court may simply deny the relief sought. *Id.* at 1143.
27 The relevant inquiry is not whether the opposing party was at fault with respect to the underlying
28 dispute, but rather “it is the creation of the crisis—the necessity for bypassing regular motion

1 procedures—that requires explanation.” *Mission Power*, 883 F. Supp. at 493. For example, when an
2 attorney knows of the existence of a dispute and unreasonably delays in bringing that dispute to the
3 Court’s attention until the eleventh hour, the attorney has created the emergency situation and the request
4 for relief may be denied outright. *See Cardoza*, 141 F. Supp. 3d at 1143 (collecting cases). Quite
5 simply, emergency motions “are not intended to save the day for parties who have failed to present
6 requests when they should have.” *Intermagnetics America*, 101 B.R. 191, at 193 (C.D. Cal. 1989); *see*
7 *also* Local Rule 7-4(b) (“[The] failure to effectively manage deadlines, discovery, trial, or any other
8 aspect of litigation does not constitute an emergency”).

9 In this instance, Plaintiff has failed to comply with any of the requirements for filing an
10 emergency motion.¹ Accordingly, the Court **DENIES** Plaintiff’s motion for status conference.

11 IT IS SO ORDERED.

12 DATED: November 6, 2017

13 
14 _____
15 NANCY J. KOPPE
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26

27 _____
28 ¹ The motion also suffers from numerous substantive deficiencies, which the Court does not reach herein.