

Nos. 22O145 & 22O146, Original (Consolidated)

In the Supreme Court of the United States

DELAWARE,

Plaintiff,

v.

PENNSYLVANIA AND WISCONSIN,

Defendants.

ARKANSAS, *et al.*,

Plaintiffs,

v.

DELAWARE,

Defendant.

On Bill of Complaint in Original Action

**PENNSYLVANIA'S MOTION FOR LEAVE TO FILE BILL OF
THIRD PARTY COMPLAINT, BILL OF THIRD PARTY
COMPLAINT, AND BRIEF IN SUPPORT OF MOTION FOR
LEAVE TO FILE BILL OF THIRD PARTY COMPLAINT**

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Dated: November 11, 2016

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DELAWARE, *Defendant*.

**PENNSYLVANIA'S MOTION FOR LEAVE TO
FILE BILL OF THIRD PARTY COMPLAINT**

The Commonwealth of Pennsylvania hereby respectfully moves the Court for leave to file the Bill of Third Party Complaint submitted herewith. For the reasons more fully set forth in the accompanying Brief in Support of Motion for Leave to File Bill of Third Party Complaint, the resolution of the claims in the Bill of Third Party Complaint would serve the efficient and complete administration of justice. Therefore, this Motion should be granted. Before filing this Motion with the Court Pennsylvania sought the concurrence of proposed third-party defendant MoneyGram Payment Systems, Inc. in the Motion; MoneyGram does not concur.

Respectfully submitted,

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DELAWARE, *Defendant*.

**PENNSYLVANIA'S BILL OF
THIRD PARTY COMPLAINT**

Third-party plaintiff Commonwealth of Pennsylvania, for its bill of third party complaint against third-party defendant MoneyGram Payment Systems, Inc., alleges as follows:

1. Pennsylvania seeks to take custody of sums erroneously submitted to Delaware by MoneyGram Payment Systems, Inc. in violation of the Disposition of Abandoned Money Orders and Traveler's Checks Act, 12 U.S.C. §§ 2501-03.
2. In the alternative, Pennsylvania seeks modification of the secondary federal common law rule set forth in *Texas v. New Jersey*, 379 U.S. 674 (1965).

I. Jurisdiction

3. The underlying civil action involves a dispute between two states, hence the Court has original and exclusive subject matter jurisdiction under 28 U.S.C. § 1251(a).

4. Pennsylvania's claims in this bill of third party complaint against MoneyGram Payment Systems, Inc. are so related to Delaware's claims in the complaint that they form part of the same case or controversy.

5. Under the due process principles of *Western Union Telegraph Company v. Commonwealth of Pennsylvania*, 368 U.S. 74 (1961), MoneyGram is properly a party to the interstate dispute in this Court as this is the only forum where MoneyGram's due process interests can be protected. *Cf. Texas v. New Jersey*, 379 U.S. 674, 675 (1965) (Sun Oil Company was party in original jurisdiction suit by Texas against New Jersey, Pennsylvania, and Sun Oil).

II. Parties

6. Plaintiff the State of Delaware is a state of the United States.

7. Third-party plaintiff the Commonwealth of Pennsylvania is a state of the United States.

8. Third-party defendant MoneyGram Payment Systems, Inc. is a business incorporated in Delaware and has its principal place of business in Texas (hereafter, "MoneyGram"). MoneyGram Payment Systems is a wholly owned subsidiary of MoneyGram International, Inc.

III. Facts

A. MoneyGram Money Orders and Official Checks

9. MoneyGram sells money orders and what it markets as “official checks.”

10. Money orders are purchased from a participating MoneyGram location.

11. In general, the customer pays a transaction fee and pays the value the customers seeks to have reflected on the money order.

12. After receiving payment, the money-order seller issues an instrument that is pre-printed with the value of the payment remitted by the customer.

13. MoneyGram is directly liable for the pre-printed value of the money order.

14. Similar to money orders, MoneyGram official checks are purchased at a participating MoneyGram location.

15. Similar to the customer for a money order, in general, the customer for a MoneyGram official check pays a transaction fee and pays the value the customer seeks to have reflected on the official check.

16. After receiving payment, the MoneyGram official-check seller issues an instrument that is pre-printed with the value of the payment remitted by the customer.

17. MoneyGram is directly liable for the pre-printed value of the official check.

18. The only apparent differences between MoneyGram money orders and MoneyGram official checks are where they are sold and the amounts that can be reflected on them.

19. No material commercial difference exists between MoneyGram money orders and MoneyGram official checks.

20. As to place of sale, MoneyGram money orders are generally sold in traditional retail locations, e.g., drug stores; whereas, MoneyGram official checks are generally sold at financial institutions, e.g., banks.

21. As to the amounts, MoneyGram money orders are generally subject to low face-value amount limits; whereas, MoneyGram official checks are not.

22. Save for where they are sold and the face-value limits, MoneyGram money orders and MoneyGram official checks are indistinguishable.

23. With both money orders and MoneyGram official checks, and as is also the case with traveler's checks, the customer pre-pays the value reflected on the instrument; that is, the funds for the value are immediately taken from the customer's custody.

24. Money orders, traveler's checks, and MoneyGram official checks are all purchased instruments.

25. The scenario for issuing a money order, a traveler's check, or a MoneyGram official check is unlike the scenario for issuing a personal check to a third party: in the former the value for the instrument is immediately taken from the customer's custody,

whereas in the latter the value remains in the customer's custody until the instrument is presented for payment at a financial institution.

26. Money orders, traveler's checks, and MoneyGram official checks are similar written instruments.

27. In the alternative, MoneyGram official checks are money orders by a different name.

28. MoneyGram is directly liable for paying the sums owed on MoneyGram official checks.

29. When a MoneyGram official check is sold in Pennsylvania, MoneyGram ultimately becomes the holder of the value of the official check as a matter of Pennsylvania law and is not required to pay the value of the official check until it is processed for payment by a financial institution.

30. If a MoneyGram official check is never presented for payment, MoneyGram never releases the value of the official check.

31. This results in MoneyGram amassing large sums of money each year for which it is not the owner, but a mere holder.

32. With both MoneyGram money orders and MoneyGram official checks, sellers of the instruments typically do not record the address of the purchaser of the instruments.

B. Pennsylvania's Disposition of Abandoned and Unclaimed Property Act

33. Pennsylvania's Disposition of Abandoned and Unclaimed Property Act (the "Pennsylvania Unclaimed Property Act"), 72 P.S. § 1301.1 *et seq.*, defines which property is subject to placement with, or deposit in, the Pennsylvania Treasury, and subject to the custody and control of Pennsylvania through the Pennsylvania Treasurer.

34. The Pennsylvania Unclaimed Property Act defines a "financial institution," in relevant part, as "any issuer of travelers checks, money orders, or similar monetary obligations or commitments[.]" 72 P.S. § 1301.1.

35. MoneyGram issues money orders or similar monetary obligations or commitments.

36. MoneyGram is a "financial institution" under the Pennsylvania Unclaimed Property Act.

37. For MoneyGram official checks issued in Pennsylvania for which MoneyGram does not have the last known address of the owner of the check, the address of the owner of the official check is presumed to be in Pennsylvania. 72 P.S. § 1301.2(a)(2).

38. Under the Pennsylvania Unclaimed Property Act, the sums payable on checks or written instruments on which a financial institution is directly liable are presumed abandoned after being outstanding for a period of at least three years for checks/instruments generally, and seven years for money orders issued in 2004 and thereafter. 72 P.S. § 1301.3(3).

39. All statutorily abandoned property under the Pennsylvania Unclaimed Property Act is subject to the custody and control of the Commonwealth. 72 P.S. § 1301.11(a).

40. Pennsylvania abandoned property under the Pennsylvania Unclaimed Property Act must be reported to the Pennsylvania Treasurer in the year after it is abandoned and must eventually also be remitted to the custodial care of the Treasurer. 72 P.S. §§ 1301.11(a), 1301.13(a).

41. The Pennsylvania Treasury Department retained an outside auditor to perform an audit of MoneyGram to determine if any abandoned property held by MoneyGram should have been remitted to Pennsylvania.

42. As a result of the audit, the Treasury Department learned MoneyGram sent to Delaware the sum of \$10,293,869.50, which represents the value paid for 151,022 official checks issued in Pennsylvania but never cashed in the period 2000 through 2009 (hereafter, “the Pennsylvania Checks”).

43. All of the Pennsylvania Checks were issued in Pennsylvania.

44. All of the Pennsylvania Checks were outstanding for at least three years.

45. MoneyGram claims it does not have the last known address for the owners of the Pennsylvania Checks.

46. Under the Pennsylvania Unclaimed Property Act, the last known address of the owner of each of the Pennsylvania Checks is presumed to be Pennsylvania.

47. Under the Pennsylvania Unclaimed Property Act, the value held by MoneyGram for the Pennsylvania Checks was and is subject to the custody and control of Pennsylvania via the Pennsylvania Treasury Department and the Pennsylvania Treasurer.

48. Under the Pennsylvania Unclaimed Property Act, MoneyGram is obligated by law to remit into the custodial care of the Pennsylvania Treasurer, via deposit in a Treasury account, all of the \$10,293,869.50 remitted to Delaware and the Delaware State Escheator for the Pennsylvania Checks.

49. MoneyGram is also obligated to submit a holder report, containing such information as the place where the instrument was purchased, the date of purchase, the amount of the purchase, the check number, and other relevant information related to the property.

50. Prior to its incorporation in Delaware, MoneyGram was incorporated in Minnesota.

51. During its incorporation in Minnesota, MoneyGram remitted payment for the sums due on abandoned MoneyGram official checks issued in Pennsylvania to Minnesota.

52. In 2015, Minnesota remitted to the Pennsylvania Treasurer the sum of \$209,840.30.

53. The sum remitted by Minnesota to Pennsylvania was for the sums payable on abandoned

official checks issued by MoneyGram in Pennsylvania, which sums MoneyGram had previously remitted to Minnesota.

C. Disposition of Abandoned Money Orders and Traveler's Checks Act

54. In *Pennsylvania v. New York*, 407 U.S. 206 (1972), this Court held that in the absence of record evidence of the address of the owner of an un-cashed money order, the state of the holder's corporate domicile had the right to escheat the sums owed on the money order.

55. In direct response to the decision in *Pennsylvania v. New York*, Senator Hugh Scott of Pennsylvania introduced bill S. 1895 in the United States Senate, styled as the Federal Disposition of Unclaimed Property Act of 1973.

56. In support of his proposed legislation, Senator Scott entered into the official Senate Record an explanatory memorandum. In the memorandum, Senator Scott explained that the *Pennsylvania* decision inequitably resulted in millions of dollars generated in all 50 states being remitted to but 1 state:

The difficulty with the Supreme Court's decision is that in the case of travelers checks and commercial money orders where addresses do not generally exist large amounts of money will, if the decision applies to such instruments, escheat as a windfall to the state of corporate domicile and not to the other 49 states where purchasers of travelers checks and money orders actually reside.

....

Finally, Congress should note that the problem to which this bill is directed is a matter of important public concern in that the bill would, in effect, free for distribution among the states several million dollars in proceeds from abandoned property now being claimed by one state. The bill is eminently fair and equitable because it would permit the state where a travelers check or money order was purchased and which is the state of the purchasers' actual residence in over 90% of the transactions to escheat the proceeds of such instruments.

119 Cong. Rec. S9749-9750 (daily ed. May 29, 1973).

57. With some modifications, Senator Scott's proposed bill was eventually enacted into law (under another bill number) as the Disposition of Abandoned Money Orders and Traveler's Checks Act (the "Federal Disposition Act"), 12 U.S.C. §§ 2501-03.

58. In relevant part under the Federal Disposition Act, "[w]here any sum is payable on a money order, traveler's check, or similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable," the state where the money order, traveler's check, or similar written instrument was purchased "shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum[.]" 12 U.S.C. § 2503(1).

59. Under the Federal Disposition Act, a "business association" is defined as "any corporation

(other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals[.]” 12 U.S.C. § 2502(1).

60. MoneyGram is a business association under the Federal Disposition Act.

61. MoneyGram’s books and records show Pennsylvania as the state where the Pennsylvania Checks were purchased.

62. MoneyGram official checks are not third party bank checks.

63. Pennsylvania’s Unclaimed Property Act permits Pennsylvania to take custody of the sums payable on the Pennsylvania Checks.

64. Under the Federal Disposition Act, Pennsylvania has the exclusive right to take custody of the sums payable on the Pennsylvania Checks.

D. Pennsylvania’s Demands for Payment

65. Pennsylvania in mid-2015 contacted representatives of Delaware regarding the sums payable on abandoned MoneyGram official checks issued in Pennsylvania.

66. By way of letter on September 29, 2015, Delaware indicated its “preliminary analysis” showed that Delaware was rightfully in custody of the sums payable on the MoneyGram official checks at issue.

67. After having heard nothing further from Delaware regarding a “final analysis,” via letter dated January 25, 2016, Pennsylvania demanded that

Delaware and MoneyGram remit to Pennsylvania the sums payable on the Pennsylvania Checks.

68. Pennsylvania included with the demand letter a spreadsheet showing each of the Pennsylvania Checks and showing the total amount payable on the Pennsylvania Checks: \$10,293,869.50.

69. In the letter, Pennsylvania also demanded that MoneyGram immediately cease remitting sums payable on official checks purchased in Pennsylvania to Delaware.

70. In response to the January 26 letter, Delaware, by letter dated February 3, 2016, still refused to take a final position on whether the sums payable on the Pennsylvania Checks were payable to Pennsylvania, though it indicated its skepticism that state and federal law required payment to Pennsylvania.

71. In response to the January 26 letter, MoneyGram indicated that it would abide by a decision by Delaware and Pennsylvania, or by a court's declaration, regarding which state is entitled to the sums payable on the Pennsylvania Checks.

72. MoneyGram also indicated that it would consider paying future sums payable on uncashed official checks purchased in Pennsylvania to the Pennsylvania Treasurer.

73. Despite Pennsylvania's demands, through the present date, Delaware has refused to remit payment for the Pennsylvania Checks, initially taking the position that the MoneyGram official checks are "third party bank checks" and thus the sums payable on the

Pennsylvania Checks are not subject to custody by the Pennsylvania Treasurer.

74. MoneyGram has also refused to remit to the custodial care of Pennsylvania the funds payable on the Pennsylvania Checks.

E. Federal Common Law

75. Delaware has taken the alternative position that the MoneyGram official checks are not instruments subject to the Federal Disposition Act at all, and are thus subject to Delaware's custody under the federal common law rules in *Texas v. New Jersey*, 379 U.S. 674 (1965).

76. *Texas* established a "primary" and "secondary" rule for interstate escheat priority regarding intangible property. Under the primary rule, the property escheats to the State of the creditor's last known address as shown by the debtor's books and records. *Id.* at 680-81. Under the secondary rule, if no address is known or the State of address does not have law providing for the escheat of such property, then the property is escheated to the state of the holder's "corporate domicile." *Id.* at 682.

77. In adopting the rules in *Texas*, this Court noted that they were ones of "equity" under the circumstances, and not ones dictated by the Constitution, statutes, or precedent:

We realize that this case could have been resolved otherwise, for the issue here is not controlled by statutory or constitutional provisions or by past decisions, nor is it entirely one of logic. It is fundamentally a question of

ease of administration and of equity. We believe that the rule we adopt is the fairest, is easy to apply, and in the long run will be the most generally acceptable to all the States.

Texas, 379 U.S. at 683.

78. The “ease of administration and of equity” identified by the Court in 1965 is no longer true today, and the common law escheat rules in *Texas* are no longer “the most generally acceptable to all States.”

79. The escheat industry for Delaware now nets it approximately \$500 million each year; upon information and belief, the bulk of that money represents property escheated to Delaware from other states under the *Texas* secondary rule.

80. Escheated property is presently Delaware’s third largest source of budget revenue.

81. As has been recently observed, “advances in technology make it easier and easier to identify and locate property owners,” yet certain “[c]ash-strapped States undoubtedly have a real interest in taking advantage of truly abandoned property to shore up state budgets.” *Taylor v. Yee*, 136 S. Ct. 929, 930 (2016) (Alito, J. and Thomas, J., concurring in denial of certiorari).

82. In light of, among other things, advances in technology since this Court established the secondary rule in 1965 (and since it was last meaningfully revisited in 1993, *see Delaware v. New York*, 507 U.S. 490, 498-99 (1993)), the common law rule on which Delaware relies to justify taking control of the sums

payable on the Pennsylvania Checks is no longer warranted or equitable.

IV. Claims for Relief

Third-Party Claim I: Declaratory Judgment Act, 28 U.S.C. § 2201

83. Pennsylvania incorporates the foregoing paragraphs as if fully set forth herein.

84. There exists an actual, immediate controversy between Pennsylvania and MoneyGram regarding whether MoneyGram official checks are subject to the custody and control of Pennsylvania or Delaware under the Federal Disposition Act and the Pennsylvania Unclaimed Property Act.

85. The interests of Pennsylvania and MoneyGram are adverse: Pennsylvania has demanded custodial care of the sums payable on the Pennsylvania Checks and demanded that future sums payable on abandoned MoneyGram official checks be remitted to the custodial care of the Pennsylvania Treasurer; MoneyGram has refused to comply with Pennsylvania's demands.

86. A ruling by this Court on whether MoneyGram official checks are subject to the custody of Pennsylvania under the Federal Disposition Act and the Pennsylvania Unclaimed Property Act will conclusively resolve the disputes between the parties.

87. A decision by this Court on the issues presented will render practical help to the parties in that a decision will determine which party is entitled to custody of which sums now and going forward.

88. Pennsylvania seeks a declaration that the MoneyGram official checks are “similar written instruments” under the Federal Disposition Act.

89. In the alternative, Pennsylvania seeks a declaration that the MoneyGram official checks are “money orders” under the Federal Disposition Act.

90. Pennsylvania seeks a declaration that the MoneyGram official checks are not “third party bank checks.”

91. Pennsylvania seeks a declaration that MoneyGram stands in violation of the Federal Disposition Act since Pennsylvania is the state “exclusively entitled” to custody of the sums payable on the Pennsylvania Checks.

92. Pennsylvania seeks a declaration that MoneyGram is liable to Pennsylvania for the sum of \$10,293,869.50, plus interest and fines.

93. Pennsylvania seeks a declaration that all future sums payable on abandoned MoneyGram official checks that were purchased in Pennsylvania shall be remitted to the custodial care of Pennsylvania.

**Third-Party Claim II: Declaratory Judgment Act,
28 U.S.C. § 2201**

94. Pennsylvania incorporates the foregoing paragraphs as if fully set forth herein.

95. There exists an actual, immediate controversy between Pennsylvania and MoneyGram regarding whether MoneyGram official checks are subject to the custody and control of Pennsylvania or

Delaware under the secondary rule in *Texas v. New Jersey*.

96. The interests of Pennsylvania and MoneyGram are adverse: Pennsylvania has demanded custodial care of the sums payable on the Pennsylvania Checks and demanded that future sums payable on abandoned MoneyGram official checks be remitted to the custodial care of the Pennsylvania Treasurer; MoneyGram has refused to comply with Pennsylvania's demands.

97. A ruling by this Court that the secondary rule in *Texas* is no longer equitable will conclusively resolve the disputes between the parties.

98. A decision by this Court on the issues presented will render practical help to the parties in that a decision will determine which parties are entitled to custody of which sums now and going forward.

99. Pennsylvania seeks a declaration that the secondary rule in *Texas* is no longer equitable and is therefore overruled.

100. Pennsylvania seeks a declaration that the secondary rule as applied to the MoneyGram official checks at issue should be the same as the rule established by Congress in the Federal Disposition Act; namely, that the sums payable on the abandoned Pennsylvania Checks are subject to the custody of the Pennsylvania Treasurer since the books and records of MoneyGram show Pennsylvania as the state where the checks were purchased.

101. Pennsylvania seeks a declaration that MoneyGram is liable to Plaintiff for the sum of \$10,293,869.50, plus interest and fines.

Third-Party Claim III: Violation of 12 U.S.C. § 2503

102. Pennsylvania incorporates the foregoing paragraphs as if fully set forth herein.

103. The Federal Disposition Act was intended to provide federal priority rules between competing states regarding which state has a superior claim to certain un-cashed instruments, such as the Pennsylvania Checks.

104. It was also, on its face, intended to give a state an implied remedy to seek payment if sums subject to the priority rules under the Federal Disposition Act were not remitted to the custodial care of the state that has the “exclusive[]” right to take custody of the sums at issue.

105. MoneyGram has violated the Federal Disposition Act by remitting to Delaware the sums payable on the Pennsylvania Checks, since Pennsylvania has the exclusive right to take custody of the sums payable on the Pennsylvania Checks.

Prayer for Relief

WHEREFORE, Pennsylvania respectfully requests that the Court enter judgment as follows:

A. On Third-Party Claim One, entering judgment in favor of Pennsylvania and against MoneyGram and entering the following declarations:

- i. The MoneyGram official checks are “similar written instruments” under the Federal Disposition Act.
- ii. In the alternative, the MoneyGram official checks are “money orders” under the Federal Disposition Act.
- iii. MoneyGram official checks are not “third party bank checks.”
- iv. MoneyGram stands in violation of both the Federal Disposition Act and the Pennsylvania Unclaimed Property Act since the sums payable on the Pennsylvania Checks should have been remitted to the custodial care of the Pennsylvania Treasurer.
- v. MoneyGram is liable to Plaintiff for the sum of \$10,293,869.50, plus interest and fines.
- vi. All future sums payable on abandoned MoneyGram official checks that were purchased in Pennsylvania shall be remitted to the Pennsylvania Treasurer.

B. On Third-Party Claim Two, entering judgment in favor of Pennsylvania and against MoneyGram and entering the following declarations:

- i. The secondary rule in *Texas v. New Jersey* is no longer equitable and is therefore overruled.

- ii. The secondary rule as applied to the MoneyGram official checks at issue should be the same as the rule established by Congress in the Federal Disposition Act; namely, that the sums payable on the abandoned Pennsylvania Checks are subject to the custody of the Pennsylvania Treasurer since the books and records of MoneyGram show Pennsylvania as the state where the checks were purchased.
- iii. MoneyGram is liable to Plaintiff for the sum of \$10,293,869.50, plus interest and fines.

C. On Third-Party Claim Three, entering judgment in favor of Pennsylvania and against MoneyGram and entering the following declarations:

- i. The MoneyGram official checks are “similar written instruments” under the Federal Disposition Act.
- ii. In the alternative, the MoneyGram official checks are “money orders” under the Federal Disposition Act.
- iii. MoneyGram official checks are not “third party bank checks.”
- iv. MoneyGram stands in violation of both the Federal Disposition Act and the Pennsylvania Unclaimed Property Act since the sums payable on the Pennsylvania Checks should have

been remitted to the custodial care of the Pennsylvania Treasurer.

- v. MoneyGram is liable to Plaintiff for the sum of \$10,293,869.50, plus interest and fines.
- vi. All future sums payable on abandoned MoneyGram official checks that were purchased in Pennsylvania shall be remitted to the Pennsylvania Treasurer.

D. Granting Pennsylvania such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Dated: November 11, 2016

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RULE

Fed. R. Civ. P. 1 2

I. INTRODUCTION

This Court has already taken the extraordinary step of accepting original jurisdiction over competing State claims to unclaimed property generated by non-party MoneyGram Payment Systems, Inc. The various States' claims place MoneyGram at the center of the dispute. In consequence, to ensure the efficient and complete administration of justice, the Commonwealth of Pennsylvania respectfully submits it should be granted leave to file its Bill of Third Party Complaint against MoneyGram.

II. STATEMENT

On May 26, 2016, Delaware presented this Court with a Motion for Leave to File a Bill of Complaint, asserting claims against Pennsylvania and Wisconsin. Delaware's allegations center on which State has the right to take custody of abandoned property held, but not owned, by MoneyGram Payment Systems, Inc., a Delaware corporation with its principal place of business in Texas. In general, MoneyGram markets a financial instrument it nominates an "Official Check." That instrument is purchased by customers who immediately remit to MoneyGram authorized sellers the full payment for the sum that will be pre-printed on the Official Check. This results in MoneyGram amassing sums of money for which it is liable once the instrument is tendered for payment. On occasion, purchased MoneyGram Official Checks are never tendered for payment, and, after a period of time set by State law, the moneys received by MoneyGram for the uncashed Official Checks are deemed abandoned, making the sums subject to custody of an appropriate

State. Which State is the “appropriate” State is the crux of the dispute before the Court.

By order dated October 3, 2016, this Court accepted jurisdiction over Delaware’s Bill of Complaint and consolidated this case with a related case pending at Original 146 (a case presented by various States seeking the same relief sought by Delaware: namely, a declaration of which State is entitled to custody of the sums amassed by MoneyGram for the abandoned Official Checks).

In neither the Bill of Complaint filed by Delaware nor in the related Bill of Complaint from the consolidated matter is MoneyGram made a party to the dispute before the Court. In the attached Bill of Third Party Complaint, Pennsylvania proposes to remedy this issue by bringing MoneyGram before the Court. Before filing the Motion for Leave to File Bill of Third Party Complaint with the Court Pennsylvania sought the concurrence of MoneyGram in the Motion; MoneyGram does not concur.

III. ARGUMENT

The Court should grant Pennsylvania’s Motion for Leave to File Bill of Third Party Complaint to ensure the efficient and complete administration of justice. To illustrate, while this Court is not bound by the Federal Rules of Civil Procedure, *see Utah v. U.S.*, 394 U.S. 89, 95 (1969), they supply persuasive support for the present Motion. Under Rule 1, the guide star for district courts in construing the rules and advancing cases is “secur[ing] the just, speedy, and inexpensive determination of every action and proceeding.” Fed.R.Civ.P. 1. Here, with Pennsylvania’s proposed

claims against MoneyGram in the Bill of Third Party Complaint, Pennsylvania seeks to guarantee that the final order of this Court once-and-for-all resolves all claims by Pennsylvania against Delaware *and* MoneyGram related to MoneyGram's Official Checks. Having MoneyGram before the Court is just and appropriate because it ensures both that MoneyGram's due process rights are protected, *see Western Union Telegraph Company v. Commonwealth of Pennsylvania*, 368 U.S. 74, 75 (1961), and that secondary or additional litigation is unnecessary to ultimately receive payment from the appropriate party (Delaware or MoneyGram). And, notably, having a private third-party in a dispute between two states over the proper escheat of unclaimed property is not novel; indeed, in *Texas v. New Jersey*, 379 U.S. 674, 675 (1965), the Sun Oil Company was a party-defendant in Texas's original jurisdiction suit against New Jersey and Pennsylvania. In light of the foregoing, Pennsylvania should be permitted to add MoneyGram to this dispute by way of the attached Bill of Third Party Complaint.

IV. CONCLUSION

The Motion for Leave to File Bill of Third Party Complaint should be granted.

Respectfully submitted,

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