

# Supreme Court of the United States

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DELAWARE, *Plaintiff*,

v.

Nos. 22O145 & 22O146 (Consolidated)

ARKANSAS, *ET AL.*, *DEFENDANTS*

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SEPTEMBER 6, 2017

## NOTICE TO THE PARTIES

The Special Master is in receipt of the Parties' Joint Proposal for Case Management Order No. 2. The Special Master intends to adopt the proposed order with modifications as shown in the attached proposed order. Please advise whether the proposed modifications are consistent with the parties' intentions and whether there is any objection to them.

The Special Master does not understand the intended functional significance of the listing in Section I of Counsel of Record (indicated by asterisk in Schedule A) and of Lead Counsel, who do not correspond in all respects with the identification by asterisk of Counsel of Record.

Please respond within a week, preferably in a single joint submission.



PIERRE N. LEVAL, *Special Master*  
Thurgood Marshall United States  
Courthouse  
40 Foley Square, Room 1901  
New York, New York 10007  
(212) 857-2310

**ATTACHMENT 1**

**SPECIAL MASTER'S PROPOSED CASE MANAGEMENT ORDER  
NO. 2**

In light of this Court's July 24, 2017, Realignment and Motions Order, Delaware and Arkansas, *et al.* (the "Parties") have met and conferred to discuss the procedural rules and case schedule for the liability phase of the above captioned matter. The Parties agree to comply with, and the Special Master hereby **ORDERS**, the following:

**I. WHO WILL BE SERVED AND METHOD OF SERVICE**

The Parties have agreed that all communications and service will be made by email on the service list (as revised) that was previously filed with the Clerk of the Second Circuit, Catherine Wolfe, and which is also attached hereto as Exhibit A. Counsel of Record are indicated on the service list by asterisk (\*).

Lead counsel for the various state groups are as follows:

Counsel for Delaware:

Steven S. Rosenthal (srosenthal@loeb.com)

Tiff Moseley (tmoseley@loeb.com)

Counsel for Pennsylvania:

Matthew H. Haverstick (mhaverstick@kleinbard.com)

Counsel for Wisconsin:

Misha Tseytlin (tseytlinm@doj.state.wi.us)

Counsel of Record for Plaintiff States in 22O146:

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Counsel for Texas:

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Craig Rust (craig.rust@doj.ca.gov)

**II. PROCEDURAL RULES TO BE FOLLOWED**

The Parties agree that this matter should be generally governed by the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District

of New York. The Parties agree that all submissions to the Special Master as well as discovery requests exchanged between the Parties will use the caption attached hereto as Exhibit B and will be served and filed electronically. The Parties further agree that the discovery process and proposed case schedule set out below may be amended by stipulation of all the Parties, subject to the approval of the Special Master, or upon motion demonstrating good cause.

### **III. DISCOVERY PROCESS**

#### **A. Process Generally**

The Parties agree as follows:

1. The ordinary tools of discovery available under the Federal Rules of Civil Procedure should be used in this matter.
2. All discovery shall be coordinated with the lead case counsel identified in Section I above, including any necessary discovery from third parties.
3. Plaintiff will prepare a uniform set of discovery requests to serve on each Defendant state, but Plaintiff is not waiving its right to send individualized requests should the need arise.
4. Defendants will prepare a uniform set of discovery requests on behalf of all Defendant states to serve on Plaintiff, but Defendants are not waiving their right to send individualized requests should the need arise.
5. The Parties agree to discuss and propose in a separate document terms governing the confidentiality of documents produced.
6. The Parties agree to discuss and propose in a separate document terms governing the production of electronically stored information ("ESI").

#### **B. Case Schedule**

The Parties request that the Special Master enter a Case Management Order setting the following schedule:

1. **Initial disclosures due:** 21 days from the entry of the Case Management Order.
2. **Final date for joining additional parties:** 30 days from the entry of the Case Management Order.

3. **Final date for amending pleadings:** 30 days from the entry of the Case Management Order.
4. **Initial written discovery demands to be served:** 45 days from the entry of the Case Management Order.
5. **Discovery, including fact depositions and third party practice, to be completed by:** 150 days following the initial service of written discovery demands.
6. **Reports from Retained Experts Due:** 60 days following the close of discovery.
7. **Expert Deposition Deadlines:** 60 days following the filing of expert reports.
8. **Dispositive Motions Due:** 45 days following the close of expert depositions.
9. **Tentative Trial Date:** Q3 2018, subject to the availability of the Special Master.

**IT IS SO ORDERED.**

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PIERRE N. LEVAL, *Special Master*  
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Courthouse  
40 Foley Square, Room 1901  
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(212) 857-2310

**EXHIBIT A**Service List for *Delaware v. Arkansas, et al.*, 220145 & 220146 (consolidated)

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\* Lead Counsels for Arkansas et al.

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\*\*\* Lead Counsel for Pennsylvania

\*\*\*\* Lead Counsel for Delaware

**EXHIBIT B**

**Supreme Court of the United States**

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ARKANSAS, *ET AL., DEFENDANTS*

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