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SUPREME COURT OF THE UNITED STATES

NO. 134, ORIGINAL

STATE OF NEW JERSEY, )  
 )  
Plaintiff )  
 )  
V. )  
 )  
STATE OF DELAWARE, )  
 )  
Defendant )

ORIGINAL

TELEPHONE CONFERENCE before SPECIAL MASTER

RALPH I. LANCASTER, JR., ESQ., held at the law offices of  
Pierce Atwood at One Monument Square, Portland, Maine, on  
April 11, 2006, commencing at 10:05 a.m., before  
Claudette G. Mason, RMR, CRR, a Notary Public in and for  
the State of Maine.

APPEARANCES:

For the State of New Jersey: RACHEL J. HOROWITZ, ESQ.  
AMY C. DONLON, ESQ.  
DEAN JABLONSKI, ESQ.  
EILEEN P. KELLY, ESQ.

For the State of Delaware: DAVID C. FREDERICK, ESQ.  
SCOTT H. ANGSTREICH, ESQ.  
SCOTT K. ATTAWAY, ESQ.  
COLLINS J. SEITZ, JR., ESQ.  
MATTHEW F. BOYER, ESQ.

Also Present: MARK E. PORADA, ESQ.



1 continued cooperation with and your obvious  
2 civility towards one another.

3 It appears from this perspective that the  
4 matter is on track. For good reasons, the  
5 briefing on the New Jersey motion to strike has  
6 slipped to May 5 and May 22. But, otherwise, we  
7 appear to be on schedule.

8 Having read the progress reports, it appears  
9 to me that we're going to have a very brief  
10 conversation this morning; but I will now ask  
11 counsel if there are any other new matters to  
12 discuss that are not reflected in those progress  
13 reports, starting with New Jersey.

14 MS. HOROWITZ: Mr. Lancaster, we do not have  
15 any new matters.

16 SPECIAL MASTER: And, Delaware;  
17 Mr. Frederick?

18 MR. FREDERICK: We don't have any new matters  
19 either.

20 SPECIAL MASTER: The present schedule calls  
21 for a progress report to be filed on May 4 with a  
22 conference call on May 10; and June 2 and June 7;  
23 and I would propose July 7 and July 11 for the  
24 progress report and the conference call in July,  
25 if that is acceptable to counsel.

1 Start with New Jersey.

2 MS. HOROWITZ: That's fine.

3 SPECIAL MASTER: And, Delaware?

4 MR. FREDERICK: This is David Frederick. I  
5 thought we moved the May 10 conference call to  
6 May 5?

7 SPECIAL MASTER: I'm sorry, you're right. We  
8 did, and I apologize for that. Half -- I was half  
9 right.

10 MR. FREDERICK: And, I'm sorry, because I was  
11 trying to make sure I got that correct, I missed  
12 the date for the proposed call.

13 SPECIAL MASTER: Right. I suggest July 7 for  
14 the progress report and July 11 for the conference  
15 call.

16 MR. FREDERICK: That -- that's fine with us.

17 SPECIAL MASTER: All right. Fine. Then  
18 we'll mark it down, and we will continue to have a  
19 rolling schedule.

20 We will -- we'll be in the midst of discovery  
21 in June and July; and I expect that counsel will  
22 do what they have been doing all along, and that  
23 is confer if there are any questions or any  
24 potential problems, and continue to cooperate with  
25 each other. As the Case Management Plan

1 indicates, I am available if you need me; but I'm  
2 hopeful that you won't.

3 Let me just say, if there is nothing else --  
4 let me just say, as we're winding up, it may  
5 appear to counsel that these progress reports and  
6 these conference calls are, at best, an annoyance,  
7 and, at worst, a waste of time; but I want to  
8 assure you that from my past experience they are  
9 not. The reason that these are -- have been brief  
10 calls is principally because of the way that  
11 counsel have been behaving, and that I find  
12 admirable. In the end, these exchanges are going  
13 to be of great assistance in keeping all of us on  
14 our toes and assuring that we stay as close as  
15 humanly possible to the schedule we have agreed to  
16 try to adhere to.

17 So I -- this little soliloquy is to thank you  
18 for humoring me with this process; and I will look  
19 forward to receiving the remaining briefs on the  
20 motion to strike, and then to talking with you  
21 next month if -- assuming that there aren't any  
22 other problems.

23 MR. SEITZ: Mr. Lancaster, this is C. J.  
24 Seitz.

25 SPECIAL MASTER: Yes, Mr. Seitz?

1 MR. SEITZ: I just wanted to bring to your  
2 attention something that has occurred, and that is  
3 BP yesterday has produced its first set of  
4 documents pursuant to the subpoena that Delaware  
5 served upon BP. And as I think we alluded to in  
6 our status report, we are working with BP to get  
7 through some discovery issues regarding our  
8 subpoena, but there will be some motion practice  
9 with regard to BP's assertion of a common interest  
10 privilege with New Jersey. We're discussing with  
11 BP's attorneys the schedule on which to present  
12 that.

13 But I just wanted to alert you that BP had  
14 produced a number of documents to us as of  
15 yesterday. And they anticipate continuing to  
16 produce documents to us, except for those that  
17 will be subject to a common interest privilege.

18 SPECIAL MASTER: And I appreciate the  
19 heads-up. I'm hopeful that you will be able to  
20 resolve those questions, but I have been around  
21 long enough to know that you probably won't be 100  
22 percent successful, and I will be here as you need  
23 me.

24 MR. SEITZ: Thank you very much.

25 SPECIAL MASTER: New Jersey, anything else?

1 MS. HOROWITZ: No. No thank you.

2 SPECIAL MASTER: Delaware?

3 MR. FREDERICK: Just a question,  
4 Mr. Lancaster, whether on the New Jersey motion to  
5 strike you contemplate having a special telephone  
6 conference at which counsel can address any  
7 matters that might be raised in those papers?

8 SPECIAL MASTER: Sure. I'm going to reserve  
9 on that until I have seen both the Delaware brief  
10 and the New Jersey response. It is -- I'm going  
11 to reserve on that and not speculate at this  
12 point. It may be so strikingly clear that I  
13 conclude that it's not necessary. Again,  
14 unlikely; but let me wait until I have read what  
15 you submit, and then I will let you know.

16 Is there anything else, counsel?

17 New Jersey?

18 MS. HOROWITZ: No, nothing else.

19 SPECIAL MASTER: Delaware?

20 MR. FREDERICK: Nothing else, sir.

21 SPECIAL MASTER: All right. Thank you.

22 Have a nice day, counsel.

23 MR. FREDERICK: Thank you.

24 MS. HOROWITZ: Thank you.

25 (The conference was concluded at 10:10 a.m.)

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CERTIFICATE

I, Claudette G. Mason, a Notary Public in and for the State of Maine, hereby certify that the foregoing pages are a correct transcript of my stenographic notes of the above-captioned Proceedings that were reduced to print through Computer-aided Transcription.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

IN WITNESS WHEREOF I subscribe my hand this 11<sup>th</sup> day of April, 2006.

Claudette G. Mason

Notary Public

My Commission Expires  
June 9, 2012.