

No. 141, Original

IN THE
SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS,
Plaintiff,

v.

STATE OF NEW MEXICO and
STATE OF COLORADO,
Defendants.

OFFICE OF THE SPECIAL MASTER

JOINT MOTION REGARDING MEDIATION COSTS

The parties in this matter, Texas, New Mexico, Colorado, and the United States, present this joint motion to the Special Master to enter an order regarding mediation costs.

At the status conference on October 23, 2024, the Special Master ordered the parties to conduct mediation with the Honorable Judge Arthur Boylan. Counsel for Colorado suggested that the parties could submit a proposed order to the Special Master setting out the process for paying for the mediation. The parties and amici

conducted mediation with Judge Boylan from December 10-12, 2024, and plan to conduct additional mediation in February 2025.

The parties have come to an agreement on a proposed order and submit it for entry as an order of the Special Master. Among other things, the order provides for Judge Boylan to submit invoices to the Special Master to order payment by the mediation participants. Further, the payment allocations are similar to those previously used by the mediation participants in this matter.

The parties respectfully request the Special Master to enter the proposed order submitted with this motion.

Respectfully submitted this 13th day of January 2025.

By: /s/ Stuart L. Somach

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CERTIFICATE OF SERVICE

This is to certify that on the 13th day of January 2025, I caused a true and correct copy of the foregoing **JOINT MOTION REGARDING MEDIATION COSTS** to be served on the parties and filed with the Special Master through Third Circuit Case Management and Electronic Case Filing (CM/ECF) System.

Respectfully submitted,

/s/ Stuart L. Somach

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[PROPOSED] ORDER REGARDING MEDIATION INVOICES

[PROPOSED] ORDER

On October 25, 2024, the Special Master ordered the parties, and the amici who elect to participate, to attend a mediation in Washington, D.C., on a date no later than December 16, 2024. ECF No. 21. The Honorable Arthur Boylan is to conduct the mediation. *Id.* This [Proposed] Order addresses the format and procedure for approval of the Mediator's invoices.

I. Format of Mediator Invoices

- A. Time is to be itemized by task, date, and the number of hours.
- B. The Mediator's time, except travel time, shall be billed in increments of 0.25 hours at a rate of \$700.00 per hour. The Mediator's door-to-door travel time shall be billed in increments of 0.25 hours at a rate of \$350.00 per hour.
- C. Travel, lodging, mediation facilities, and other costs shall be billed at the incurred amount. The Mediator shall make a good faith effort to coordinate with the parties to keep costs reasonable.
- D. The final dollar amount to be invoiced to each party shall be specified, and allocated as follows: 30% Texas, 30% New Mexico, 30% United States, 10% Colorado.
- E. The Mediator *shall not* revise his previously billed invoices for work in 2024 prior to this order to conform to the above requirements.
- F. The Mediator shall submit future finalized invoices in periodic increments to the Special Master for approval as an order. The Mediator is not required to submit monthly invoices but shall itemize the invoices chronologically by date.

II. Procedure for Approval of Mediator Invoices

- A. The Mediator's invoices shall be submitted to the Special Master for approval as an order.
- B. Before submitting any invoice to the Special Master for approval, the Mediator shall email the parties who participated in the mediation a draft of the invoice and receipts for expenses.
- C. The parties may email the Mediator with any comments on the draft invoice within five (5) business days of receipt. The Mediator shall consider comments before submitting an invoice to the Special Master and note whether any comments remain unresolved.
- E. Upon receipt of the request for approval, the Special Master will set a deadline for submission of objections to the request. Objections shall be submitted to the Special Master by email in letter format.

III. Costs for the December 10-12, 2024 Mediation

- A. The Mediator's time, travel, lodging, and personal expenses shall be invoiced as described above.
- B. The mediation facility, audio-visual, and related hosting costs shall be invoiced by Somach Simmons & Dunn to New Mexico and Colorado with the allocation: 40% Texas, 40% New Mexico, and 20% Colorado.

Date: _____

Honorable D. Brooks Smith
Special Master
United States Circuit Judge
1798 Plank Road, Suite 203
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Tel: (814) 693-0570

SUBMITTED AND APPROVED AS TO FORM:

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