

**In the  
SUPREME COURT OF THE UNITED STATES**

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STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO and

STATE OF COLORADO,

Defendants,

UNITED STATES OF AMERICA,

Intervenor.

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**ORDER**

On October 25, 2024, I 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 Special Master directed that the Honorable Arthur Boylan continue to provide mediation services. *Id.* By this Order, I further

direct that the following procedure be followed 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 in amounts actually incurred. The Mediator shall make a good faith effort to coordinate with the parties to assure that time and process are managed in a manner that assures that costs incurred are 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 performed in 2024, prior to entry of this order to conform to the above requirements.
- F. The Mediator shall submit future finalized invoices in periodic increments to the Special Master for review. 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. Approval of all invoices shall be set forth by an Order of the Special Master which directs payment of the approved amount.
- B. Before submitting any invoice to the Special Master for approval, the Mediator shall email to 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 to the Special Master his invoice, accompanied by any comments from the parties that remain unresolved.
- D. Upon receipt of the request for approval, the Special Master shall 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: January 15, 2025

By the Special Master:



Honorable D. Brooks Smith  
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