

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**GOVERNMENT OF THE UNITED STATES
VIRGIN ISLANDS,**

Plaintiff,

v.

HESS CORPORATION,

Defendant.

Removed from:
SUPERIOR COURT OF THE
VIRGIN ISLANDS
SX-15-CV-358

Case No.: 2015-66

**PLAINTIFF GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS'
MOTION FOR REMAND**

The Government of the United States Virgin Islands (“Government”), by its Attorney General, brought this state law enforcement action in state court to punish, stop, and deter violations of state law by Defendant Hess Corporation (“Hess Corp”). Hess Corp’s long-standing fraudulent and intentional misconduct has thrown 2,000 people out of work, wiping out roughly 25% of private income in St. Croix, and devastated the Virgin Islands’ economy. In an effort to delay the state enforcement action, Hess Corp removed this purely state law case between non-debtor parties to federal court, asserting that it is “related to” the bankruptcy of third-party HOVENSA under 28 U.S.C. § 1452(a) and seeking referral to the Bankruptcy Division. Hess Corp also alleges that this Court has jurisdiction under 28 U.S.C. § 1441 and 48 U.S.C. § 1612(b).

Hess Corp cannot meet its heavy burden to show that removal of this local enforcement action was proper. There is no bankruptcy jurisdiction because the indemnification provision on which Hess Corp relies explicitly excludes the Government’s claims for fraudulent and intentional misconduct. In addition, the Government’s fraud action to protect the economic welfare of the Virgin Islands and its people is precisely the type of police and regulatory power

action exempted from removal under section 1452(a). There is no independent basis for federal jurisdiction that would allow removal under 28 U.S.C. § 1441 and 48 U.S.C. § 1612(b).

Even assuming this matter is related to non-party HOVENSA's bankruptcy—which it is not—remand is warranted under 28 U.S.C. § 1452(b) because this case satisfies the requirements for mandatory and permissive abstention under 28 U.S.C. §§ 1334(c)(2) and 1334(c)(1). Further, the matter cannot be referred because the bankruptcy court lacks authority to conduct the jury trial which the Government has demanded and to which it is entitled.

For the reasons as more fully set forth in the memorandum being filed with this motion, which is hereby incorporated by reference, the Government respectfully moves the Court to remand this matter to the Superior Court of the Virgin Islands without delay.

Dated: November 12, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and served the same upon the following counsel of record who have not yet noticed their appearances in this case by email and placing the same in the United States mail, postage paid, addressed to:

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**MEMORANDUM OF LAW (1) IN SUPPORT OF PLAINTIFF'S MOTION FOR
REMAND AND (2) IN OPPOSITION TO DEFENDANT'S MOTION FOR AN ORDER
REFERRING THIS CASE TO THE BANKRUPTCY DIVISION**

The Government of the United States Virgin Islands ("Government"), by its Attorney General, brought this state law enforcement action in state court to punish, stop, and deter violations of state law by Defendant Hess Corporation ("Hess Corp"). Hess Corp's long-standing fraudulent and intentional misconduct has thrown 2,000 people out of work, wiping out roughly 25% of private income in St. Croix, and devastated the Virgin Islands' economy. In an effort to delay the state enforcement action, Hess Corp removed this purely state law case between non-debtor parties to federal court, asserting that it is "related to" the bankruptcy of third-party HOVENSA under 28 U.S.C. § 1452(a) and seeking referral to the Bankruptcy Division.

Hess Corp cannot meet its burden to prove that removal of this local enforcement action was proper. The indemnification provision on which Hess Corp relies for bankruptcy jurisdiction explicitly excludes the Government's claims for fraudulent and intentional misconduct. In addition, the Government's fraud action to protect the economic welfare of the Virgin Islands and its people is precisely the type of police and regulatory power action excepted

from removal under section 1452(a). Finally, Hess Corp's efforts to establish removal under 28 U.S.C. § 1441 and 48 U.S.C. § 1612(b) is defective and based on arguments that mischaracterize the Complaint and the relevant local laws.

Even assuming this matter is related to non-party HOVENSA's bankruptcy—which it is not—remand is warranted under 28 U.S.C. § 1452(b) because this case satisfies the requirements for mandatory and permissive abstention under 28 U.S.C. §§ 1334(c)(2) and 1334(c)(1). Further, the matter cannot be referred because the bankruptcy court lacks authority to conduct the jury trial which the Government has demanded and to which it is entitled. This case should be remanded to the Superior Court without further delay.

FACTUAL AND PROCEDURAL BACKGROUND

On September 13, 2015, Plaintiff, the Government of the United States Virgin Islands, by its Attorney General brought an enforcement action in the public interest against Defendant Hess Corporation in the Superior Court of the Virgin Islands. The Complaint specifically and solely alleges six causes of action under state civil conspiracy and tort laws: Count I – Civil CICO – 14 V.I.C. § 605(a) – Causing HOVENSA to Violate the Law and its Contract with the Government; Count II – Civil CICO – 14 V.I.C. § 605(a) – Fraudulently Inducing the Government to Execute the Third and Fourth Extension Agreements; Count III – Intentional Interference with Existing Contractual Relations; Count IV – Prima Facie Tort; Count V – Fraud in the Inducement; and Count VI – Fraudulent Non-Disclosure, Deceit and Concealment. The Complaint demands a jury trial.

The Complaint describes decades-long fraudulent and intentional misconduct by Hess Corp that has devastated the Virgin Islands and its economy. In 1965, to catalyze its economy and develop a stable source or significant employment in the Virgin Islands, the Government

exercised its statutory authority to provide Hess Corp's wholly-owned subsidiary, Hess Oil Virgin Islands ("HOVIC"), with tax concessions, now valued in the billions of dollar, in return for building and operating an oil refinery in St. Croix. Through legislation, HOVIC was obligated to operate the St. Croix refinery through 2022 and provide various other benefits to the Virgin Islands and its people. Hess Corp returned to the Government to seek additional concessions and, ultimately, for permission to convert the oil refinery into an oil storage facility that would provide a fraction of the promised jobs and other benefits. Hess Corp made deceptive representations about the financial straits of the refinery and threatened to close or pursue the bankruptcy of HOVIC's local operations if the Government did not meet its demands. Hess Corp acted in violation of law and through improper interference with HOVIC's obligations to the Government, to render the oil refinery inoperable—siphoning off more than \$1 billion in assets and burdening it with unsustainable operating expenses. In 2012, despite having drawn hundreds of millions of dollars of profits from the oil refinery, Hess Corp announced to the Government, on one day's notice, that the refinery would be closing. Hess Corp's fraudulent and intentional course of conduct has thrown 2,000 people out of work, wiping out roughly 25% of private income in St. Croix, and was orchestrated to leave the Government with little choice but to submit to Hess Corp's plan to convert the refinery to an oil storage facility, leaving it with a massive eyesore of a facility, severe environmental damage, and a toll of economic hardship. The Government seeks three times the damages caused by Hess Corp's fraudulent enterprise, disgorgement of Hess Corp's unlawful profits, civil penalties, and injunctive relief to prevent continuing violations of law. Compl. ¶¶ 1-5.

After the Government filed its state court action, non-party HOVENSA—a Virgin Islands LLC created in 1998 as a joint venture between Hess Corp and Petroleos de Venezuela S.A.

(“PDVSA”) through each of their wholly owned Virgin Islands subsidiaries, HOVIC and PDVSA-VI—filed for bankruptcy protection under Chapter 11 and seeking liquidation. HOVIC and PDVSA’s subsidiary have asserted almost \$2 billion of pre-petition general unsecured claims against HOVENSA. *See In re HOVENSA L.L.C.*, Case No. 1:15-bk-10003, *Certification of Thomas E. Hill in Support of Chapter 11 Petition and First Day Motions*, ¶ 30 (Bankr. D.V.I. Sept. 15, 2015 [ECF No. 3]) (“Hill Certification”). HOVENSA’s goal in the bankruptcy is to pursue a sale of its assets to maximize their value of the benefit of creditors. *Id.* ¶ 63.

On October 16, 2015, Hess Corp removed this case to this Court asserting “related to” bankruptcy jurisdiction under 28 U.S.C. § 1452(a) and federal jurisdiction under 28 U.S.C. § 1441 and 48 U.S.C. § 1612(b). Notice of Removal at 1, ECF No. 1 (“Removal”). On the same day, Hess Corp filed a motion for referral to the Bankruptcy Division. Def. Hess Corp.’s Mot. Order Referring Case Bankruptcy Division (“Referral Motion”), ECF No. 2. Hess states that this is not a “core” proceeding under 28 U.S.C. § 157(b) or Federal Rule of Bankruptcy Procedure 9027. Removal at 8. The Government denies bankruptcy jurisdiction but in the event this is deemed a non-core proceeding, the Government does not consent to entry of final orders or judgment by the bankruptcy court.

ARGUMENT

I. HESS CORP FAILS TO ESTABLISH THAT REMOVAL WAS PROPER.

Federal courts are courts of limited jurisdiction. *See United States v. Merlino*, 785 F.3d 79, 82 (3d Cir. 2015) (citations omitted). Removal statutes “are to be strictly construed and all doubts should be resolved in favor of remand.” *O’Reilly v. Bd. of Elections*, No. 2014-0107, 2014 WL 7365942, at *2 (D.V.I. Dec. 23, 2014) (citations omitted). “The party seeking removal bears the burden of establishing federal jurisdiction.” *Id.* at *2; *see also Danner v. Tower*

Acquisition, LLC, No. 06-2270, 2007 WL 914172, at *4 (M.D. Pa. March 23, 2007) (“Defendant, as the removing party, has the burden of establishing bankruptcy jurisdiction.”)

There is a higher hurdle for removal of actions brought by a State—as here.¹ “[T]he importance of [judicial] scrutiny is at its zenith where, as here, the suit was brought by a State itself, as the claim of sovereign protection from removal in such circumstances arises in its most powerful form. . . .” *In re Gen. Motors LLC Ignition Switch Litig.*, 69 F. Supp. 3d 404, 409 (S.D.N.Y. 2014) (analyzing removal under Section 1452). “In fact, in light of the congressional intent to restrict federal court jurisdiction, as well as the importance of preserving the independence of state governments, federal courts construe the removal statute narrowly, resolving any doubts against removability.” *Id.* (quoting *Purdue Pharma L.P. v. Kentucky*, 704 F.3d 208, 213 (2d Cir. 2013)). “Considerations of comity make us reluctant to snatch cases which a State has brought from the courts of that State, unless some clear rule demands it.” *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 21 n.22 (1983).

A. Hess Corp Fails To Prove that the Indemnification Provision Gives Rise to “Related To” Jurisdiction.

Hess Corp argues that the indemnification provision in the HOVENSA LLC Agreement gives rise to “related to” jurisdiction because “the outcome of the lawsuit between the GVI and Hess Corp could have an immediate effect on the bankruptcy estate of HOVENSA.” Removal at 10. But the Third Circuit is clear that “contractual indemnity rights are [not] in themselves sufficient to bring a dispute over that indemnity within the ambit of related-to jurisdiction.” *In re W.R. Grace & Co.*, 591 F.3d 164, 174 n.9 (3d Cir. 2009). “What will or will not be sufficiently

¹ The Territory of the Virgin Islands is considered a state pursuant to 28 U.S.C. § 1332(d). See *Brown v. Francis*, 75 F.3d 860, 865 (3d Cir. 1996).

related to a bankruptcy to warrant the exercise of subject matter jurisdiction is a matter that must be developed on a fact-specific, case-by-case basis.” *Id.*

The specific facts of this case make clear that the indemnification provision does not give rise to “related to” jurisdiction. All the Government’s claims allege conduct constituting “bad faith, fraud, intentional violation of law or intentional misconduct,” and damages related to such conduct (along with defense costs) are explicitly *excluded* from indemnification under the terms of the agreement. *See* Removal at 6-7 (quoting HOVENSA LLC Agreement). Faced with the same issue, the Court in *Wall v. Merrill Lynch*, No. 92 Civ. 0387, 1992 WL 77625, at *2 (S.D.N.Y. Mar. 26, 1992), easily disposed of defendant’s indemnification argument: “Turning to defendants’ substantive contentions that this action is ‘related to’ the bankruptcy because it affects the estate, we reject defendants’ indemnification clause argument as without substance, since that clause specifically excepts the fraud or fiduciary breach plaintiffs here allege.” *See also Prudential Ins. Co. of Am. v. Barclays Bank PLC*, No. 12-5854, 2013 WL 221995, at *3 (D.N.J. Jan. 22, 2013) (no “related to” jurisdiction where plaintiff’s allegations did not include conduct covered by contractual indemnification provision).²

In the face of express contractual language excluding indemnification for the very conduct alleged, Hess Corp cannot demonstrate that a separate lawsuit against HOVENSA would not be necessary to establish any right to indemnification. It has thus failed to establish “related to” jurisdiction. *See In re W.R. Grace & Co.*, 591 F.3d at 173 (action between non-

² Even in closer cases, courts are unwilling to find “related to” jurisdiction. *See In re Montreal Me. and Atlantic Ry., Ltd.*, No. 13-00184, 2014 WL 1155419, at *7 (D. Me. Mar. 21, 2014) (no “related to” jurisdiction even where indemnification claims “are supported by some contractual language” but “are limited and qualified”; “when the non-debtor defendant’s right to indemnification from the debtor is uncertain or conditional, the cases giving rise to the indemnification are not related to the debtor’s bankruptcy.”).

debtors does not give rise to bankruptcy jurisdiction when only impact on estate is through intervention of another lawsuit); *In re Pacor, Inc.*, 743 F.2d 984, 995 (3d Cir. 1984) (same).

Even if the Government’s claims were not excluded from any indemnity obligation, there would still be no “related to” jurisdiction. The indemnification provision does not cover claims that do not result in “damages” or “liability.” In similar circumstances another district court held that there is no “immediate” or “automatic” right to indemnification as Hess Corp asserts here: “[The indemnification clause] does not automatically impose a duty of indemnification because [the debtor’s] indemnification obligation would not arise until [the indemnitee’s] liability is definitively determined in the [adversary action].” *In re Lower Bucks Hosp.*, 488 B.R. 303, 316 (E.D. Pa. 2013). “In other words,” the court continued, the plaintiff “would have to prevail in the [adversary] action before [the indemnitee] could rightfully demand indemnification from [the debtor].” *Id.* “This is the inchoate type of claim precluded by *Pacor*.” *Id.*

Nor is Hess Corp’s right to defense costs “automatic” in the event the Government does not prevail. The payment of defense costs are strictly conditioned on Hess Corp’ agreement to “reimburse promptly [HOVENSA] for such amounts if it is not finally judicially determined that [Hess Corp] was not entitled to indemnity hereunder,” Removal at 7 (quoting HOVENSA LLC Agreement). See *Central Me. Rest. Supply v. Omni Hotels*, 73 B.R. 1018, 1023-24 (Bankr. D. Me. 1987) (conditions make indemnification not sufficiently “automatic” to make the proceeding “related to” bankruptcy).³

³ Further, a pre-petition unsecured claim for defense costs—in light of the magnitude of the pre-petition unsecured claims—would be relatively small and pose an insufficiently “sever[e]” impact on the bankruptcy to give rise to jurisdiction. *Lichtenfels v. Electro-Motive Diesel, Inc.*, No. 09-1590, 2010 WL 653859, at *5 (W.D. Pa. Feb. 22, 2010); see also *Steel Workers Pension Trust v. Citigroup, Inc.*, 295 B.R. 747, 751 (E.D. Pa. 2003) (no “related to” jurisdiction where plaintiff’s claim is “minuscule” in the “enormity” of the bankruptcy.).

B. The Attorney General and the Government's Policy and Regulatory Power Action Is Not Subject to Removal under 28 U.S.C. § 1452(a).

Section 1452(a) expressly excludes from removal “a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power.” *See* 28 U.S.C. § 1452(a). The Attorney General and the Government’s action seeks to punish, stop, and deter fraudulent and intentional misconduct by Hess Corp that has turned on its head laws passed in the public interest and devastated the Virgin Islands economy. This is precisely the type of police and regulatory power action excepted from removal under 28 U.S.C. § 1452(a).

The Third Circuit, in construing virtually identical language to Section 1452(a) in the automatic stay exception of the Bankruptcy Code, 11 U.S.C. § 362(b)(4),⁴ has made clear that the police and regulatory power exception should be “construed broadly”:

The police power of the several States embodies the main bulwark of protection by which they carry out their responsibilities to the People; its abrogation is therefore a serious matter. Congress should not be assumed, therefore, to have been miserly in its refund of that power to the States. Where important state law or general equitable principles protect some public interest, they should not be overridden by federal legislation unless they are inconsistent with explicit congressional intent such that the supremacy clause mandates their supersession.

Penn Terra Ltd. v. Dep’t. of Env’tl. Res., 733 F.2d 267, 273 (3d Cir. 1984).

The Government’s enforcement action here is precisely the type of action Congress intended to fall within the “police or regulatory power” exception. The statute’s legislative history lists fraud actions *first* among the examples of police or regulatory power:

⁴ 11 U.S.C. § 362(b)(4) excepts from the automatic stay actions proceedings by a governmental unit “to enforce such governmental unit’s or organization’s police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit’s or organization’s police or regulatory power.”

Paragraph (4) excepts commencement or continuation of actions . . . to enforce police or regulatory powers. Thus, where a governmental unit is suing a debtor *to prevent or stop violation of fraud*, environmental protection, consumer protection, safety, or similar police or regulatory laws, or *attempting to fix damages for violation of such a law*, the action or proceeding is not stayed under the automatic stay.

Id. at 272 (emphasis added and omitted) (quoting S. Rep. No. 95-989, at 52 (1978), *as reprinted in* 1978 U.S.C.C.A.N. 5787, 5838; H.R. Rep. No. 95-595 at 343 (1978), *as reprinted in* 1978 U.S.C.C.A.N. 5963, 6299). “The intent of the statute is clear: where the government has brought suit to stop fraud and to fix damages for the commission of fraud, the action may proceed” *In re Mickman*, 144 B.R. 259, 261 (Bankr. E.D. Pa. 1992). In *Mickman*, the court held that the gravamen of a nine-count action by the government—alleging violations of various civil fraud statutes as well as common law fraud, inducement of breach of fiduciary duties, unjust enrichment, payment under mistake of fact, fraudulent conveyances, and the use of corporations as alter egos—was a “civil fraud action . . . intended to remedy the defendants’ commission of fraud against the [government].” *Id.* at 262. The court concluded that such action, “in its entirety,” fell within the police or regulatory power exception. *Id.*

The Government’s action relates to the protection of the government’s public policy interest in the general safety and welfare of the Virgin Islands and its citizenry and thus falls squarely within its police powers. *See In re Nortel Networks*, 669 F.3d 128, 139-40 (3d Cir. 2011) (“[A] governmental unit [may] . . . bring or continue actions against a debtor to prevent or stop violations of law affecting matters of public health, safety or welfare.”). As the Complaint describes, fifty years ago—“to catalyze its economic development and develop a stable source of significant employment in the Territory”—the Government exercised its statutory authority to provide HOVIC with tax concessions in return for building and operating an oil refinery. Compl. ¶ 2. That legislation, and later extensions of that legislation, were enacted in the public

interest: “The first clause of Act 1524 provides that ‘it is essential to the continued progress, prosperity and stability of the Virgin Islands economy that dependence on tourism be relieved through the establishment of industrial operations capable of providing and sustaining large scale employment.’” *Id.* ¶ 31. “To ensure that the refinery’s operations furthered the public interest of employing VI residents, Act 1524 required HOVIC to commit that ‘not less than seventy-five percent (75%) of the persons employed in the operation and maintenance of the Oil Refinery and Related Facilities . . . shall be legal residents of the Virgin Islands.’” *Id.* ¶ 40. Hess Corp’s fraudulent and intentional misconduct has “devastated” the Virgin Islands economy and “has had, and will continue to have, substantial direct, negative effects on the quality of life of residents of St. Croix and the USVI in general.” *Id.* ¶¶ 247, 243. The Attorney General’s efforts to punish, stop, and deter this conduct are thus an exercise of its police powers to protect the public welfare.

C. Hess Corp Fails To Prove that Removal Is Appropriate under 28 U.S.C. § 1441 and 48 U.S.C. § 1612(b).

i. The Complaint Does Not Challenge the 2011 Consent Decree.

Hess Corp’s argument that this action is further removable under 28 U.S.C. § 1441 because the Complaint challenges the 2011 Consent Decree and this Court has jurisdiction to adjudicate such disputes, *see* Removal at 11-12, attempts to fabricate federal jurisdiction by mischaracterizing the Complaint. Hess Corp argues that the Complaint alleges that the “Consent Decree” was a violation of the law and constituted intentional interference with existing contractual relations. Removal at 11 (citing Compl. ¶¶ 259, 283). This is false. The Complaint alleges that *Hess Corp* engaged in a violation of the law and that *Hess Corp* engaged in intentional interference with existing contractual relations under local civil CICO and tort law by:

Causing HOVENSA to enter into a consent decree with U.S. EPA on January 26, 2011 that would require HOVENSA to spend \$700 million on pollution control measures if refinery operations continued, burdening HOVENSA with significant future operating expenses if it continued to operate while ensuring that Hess Corp faced not liability, for the purposes of impairing HOVENSA's ability to continue operating the refinery and rendering it unable to satisfy its legal and contractual obligations to the Government

Compl. ¶ 259 (Count I – Civil CICO); *see also id.* ¶ 283 (Count III – Intentional Interference with Existing Contractual Relations) (same). The allegations at paragraph 185 of the Complaint relied on by Hess Corp, *see* Removal at 11, are factual allegations supporting the civil CICO and tort claims against Hess Corp. The Government—the “master of the claim,” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987)—does not challenge the Consent Decree.

ii. This Court Does Not Have Original Jurisdiction over the Government's Local Law Claims under 48 U.S.C. § 1612(b).

Hess Corp's argument that this Court has original jurisdiction over this action misconstrues the law and is also without merit. The Revised Organic Act grants the District Court original jurisdiction over “all causes in the Virgin Islands *the jurisdiction over which is not then vested by local law in the local courts of the Virgin Islands.*” 48 U.S.C. § 1612(b) (emphasis added). Hess Corp argues that a 1965 local law ratifying the agreement pertaining to the creation and operation of the HOVENSA refinery vests jurisdiction over disputes relating to the agreement (and, thus, the Complaint) “in the District Court.” Accordingly, Hess Corp concludes, this Court has original jurisdiction over the removed action. *See* Removal at 12.

But Hess Corp leaves out a key piece of the puzzle: In 1991, local law vested “original jurisdiction in all civil actions” in the local courts of the Virgin Islands and “divested this Court of original jurisdiction over purely local civil matters.” *Edwards v. Hovensa, LLC*, 497 F.3d 355, 359 (3d Cir. 2007) (quoting *Parrott v. Gov't of the V.I.*, 230 F.3d 615, 620 (3d Cir. 2000)). This change, the Third Circuit made clear, “impliedly repealed” references to the “district court”

in “Virgin Islands statutes in which the grant of jurisdiction over civil actions had been made expressly to the ‘district court.’” *Parrott*, 230 F.3d at 283. The Supreme Court of the Virgin Islands reached this same holding. *See Beachside Associates, LLC v. Fishman*, 54 V.I. 418, 421 (2010). Thus, under 48 U.S.C. § 1612(b), the Superior Court, not the District Court, has jurisdiction over the Government’s civil action.

II. THIS COURT SHOULD REMAND THIS ACTION TO STATE COURT.

This Court may remand the Government’s action to the Superior Court “on any equitable ground.” 28 U.S.C. § 1452(b). Even assuming for sake of argument that the Government’s action is “related to” the bankruptcy, this case should be remanded under section 1452(b) because it meets the requirements for both mandatory and permissive abstention under 28 U.S.C. §§ 1334(c)(2) and 1334(c)(1). *See Stoe v. Flaherty*, 436 F.3d 209, 215 (3d Cir. 2006) (mandatory abstention and permissive abstention are equitable grounds for remand).

A. This Case Satisfies the Requirements for Mandatory Abstention.

This case squarely meets the five requirements for mandatory abstention under section 1334(c)(2) set forth by the Third Circuit:

(1) the proceeding is based on a state law claim or cause of action; (2) the claim or cause of action is “related to” a case under title 11, but does not “arise under” title 11 and does not “arise in” a case under title 11, (3) federal courts would not have jurisdiction over the claim but for its relation to a bankruptcy case; (4) an action “is commenced” in a state forum of appropriate jurisdiction; and (5) the action can be “timely adjudicated” in a state forum of appropriate jurisdiction.

Id. at 213. *First*, the Government’s action is based only on state law claims. *Second*, Hess concedes that the claims do not “arise under” or “arise in” a case under title 11 by stating that this is not a core proceeding. Removal at 8. *Third*, this Court lacks any independent basis for federal jurisdiction over this action. *Fourth*, this action is commenced in a state forum of appropriate jurisdiction. *See id.* at 216 (party who filed his state claim in state court only to have

it removed to a federal court “meets the requirement that his action be ‘commenced’ in a state court of appropriate jurisdiction”). *Fifth*, this action can be timely adjudicated in the Superior Court in conjunction with the ultimate liquidation of HOVENSA. *See In re Exide Techs.*, 544 F.3d 196, 218 n.14 (3d Cir. 2008) (“The question is not whether the action would be more timely adjudicated in the bankruptcy court than in state court, but rather, whether the action can be timely adjudicated in state court.”); *Stoe*, 436 F.3d at 219 (emphasizing that this analysis “must be determined with respect to the needs of the title 11 case”).⁵

On the last point, the Superior Court is familiar with the Virgin Islands law claims raised in the Complaint and has a case management plan that sets an expeditious track for civil matters (attached hereto as Exhibit 1). Also, the bankruptcy case was only recently commenced and will ultimately result in a sale and liquidation of HOVENSA’s assets, as opposed to reorganization. *See Hill Certification* ¶ 63. In such an instance, courts place much less emphasis on the requirements of timely adjudication. *See In re Midgard Corp.*, 204 B.R. 774, 779 (B.A.P. 10th Cir. 1997) (explaining that “the requirement of timely adjudication is seldom significant” in a liquidation case where “the primary concern is orderly accumulation and distribution of assets”); *In re New 118th LLC*, 396 B.R. 885, 895 (Bankr. S.D.N.Y. 2008) (same).

This case thus meets the requirements for mandatory abstention, and this Court should grant equitable remand to the Superior Court.

⁵ Although the analysis does not focus on timely adjudication in the bankruptcy court, as noted, the Government does not consent to the entry of a final judgment in the bankruptcy court. Thus, even if the bankruptcy court could hear the matter—which it cannot because of the Government’s jury trial demand—it can only make recommendations to the district court and those recommendations are subject to *de novo* review. *See* 28 U.S.C. § 157(c). “The necessity of also involving the district court often will lengthen the final determination process of bankruptcy litigation, which may well support a finding that the state court would timely adjudicate the litigation.” *In re Drauschak*, 481 B.R. 330, 343 (Bankr. E.D. Pa. 2012) (citation omitted).

B. The Factors for Permissive Abstention Support Equitable Remand.

Permissive abstention is another basis to remand this action to the Superior Court.

“[N]othing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding . . . related to a case under title 11.” 28 U.S.C. § 1334(c)(1). The factors considered for permissive abstention are as follows:

(1) The effect or lack thereof on the efficient administration of the estate; (2) the extent to which state law issues predominate over bankruptcy issues; (3) the difficulty or unsettled nature of the applicable state law; (4) the presence of a related proceeding commenced in state court or other non-bankruptcy court; (5) the jurisdictional basis, if any, other than 28 U.S.C. § 1334; (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case; (7) the substance rather than the form of an asserted “core” proceeding; (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court; (9) the burden on the court’s docket; (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties; (11) the existence of a right to a jury trial; and (12) the presence in the proceeding of non-debtor parties.

In re DHP Holdings II Corp., 435 B.R. 220, 223-24 (Bankr. D. Del. 2010); *see In re LaRoche Indus.*, 312 B.R. 249, 253-54 (Bankr. D. Del. 2004); *In re Integrated Health Servs.*, 291 B.R. 615, 619 (Bankr. D. Del. 2003). “Courts place more weight on some of the factors than others; particularly important are factors (1) the effect on administration of the estate, (2) whether the claim involves only state law issues, and (7) whether the proceeding is core or non-core.” *DHP Holdings*, 435 B.R. at 224. All the factors weigh clearly in favor of abstention.

Factor (1) supports abstention because any successful assertion by Hess Corp of an indemnification claim against Hovensa would have little if any effect on the efficient administration of the estate. *See id.* at 225 (finding that debtor’s recovery in litigation would have little effect on creditors’ recovery). Any such effect is even more attenuated in this case

because an indemnification claim would not add to the pool of assets available for distribution to creditors, but merely share in that limited pool with the other \$2 billion of general unsecured claims asserted in this case.

Factors (2) and (3) support abstention because the Complaint asserts only local law issues and no bankruptcy issues, and the Superior Court would be better positioned to identify and resolve any unsettled local law issues. *See id.* at 226-27 (abstaining when state law issues predominated and a state court could identify and resolve any unsettled state law issues).

Factor (4) supports abstention because this action could easily be remanded to the Superior Court where it was commenced. *See Stoe*, 436 F.3d at 216 (commencement of removed action in state court satisfies commencement requirement).

Factor (5) supports abstention because, as explained above, there is no independent basis for federal jurisdiction. *See LaRoche*, 312 B.R. at 254.

Factors (6) and (7) support abstention because Hess Corp concedes that the matter is non-core, and it is remote from estate administration for that reason and since the alleged wrongdoing occurred before the commencement of the bankruptcy case. *See Integrated Health*, 291 B.R. at 621 (abstaining when removing party conceded that entire proceeding was non-core and allegations of wrongdoing arose pre-petition). Likewise, Factor (8) supports abstention because the Superior Court can decide the entire proceeding. *See id.* (“It is possible to abstain and allow the state court to decide the entire suit with minimal disruption to the main bankruptcy estate.”).

Factors (9) and (11) support abstention because, although this Court could conduct a jury trial in this fact-intensive fraud litigation, the bankruptcy court cannot conduct a jury trial and needs to keep its docket available for bankruptcy cases. *See DHP Holdings*, 435 B.R. at 232-33

(agreeing that “fact-intensive fraud litigation” should go to state court and would be better forum because bankruptcy court could not conduct jury trial).⁶

Factor (10) supports abstention because the lack of any connection between Hess Corp and the bankruptcy court should raise questions as to its motive. In contrast, the Government’s choice of forum as the plaintiff should be given significant weight. *See Shutte v. Armco Steel Corp.*, 431 F.2d 22, 25 (3d Cir. 1970) (“It is black letter law that a plaintiff’s choice of a proper forum is a paramount consideration in any determination of a transfer request, and that choice . . . should not be lightly disturbed.”) (alteration in original); *Integrated Health*, 291 B.R. at 622. Likewise, Factor (12) supports abstention because neither of the parties in this action is a debtor. *See id.* at 623 (abstaining when all the defendants were non-debtors).

Since all the factors support permissive abstention, the Court should abstain from hearing this matter and remand it to the Superior Court.

III. THIS CASE CANNOT BE REFERRED TO THE BANKRUPTCY COURT.

The Government’s action does not give rise to “related to” jurisdiction and, therefore, cannot be referred to the Bankruptcy Division, as Hess urges. *See Referral Mot.*, ECF No. 2. Further, here, the Government has demanded and is entitled to a jury trial and does not consent to the bankruptcy judge presiding over the trial. Finally, the motion to refer is moot if the Court remands this action to the Superior Court. *See Lone Star Indus. v. Liberty Mut. Ins.*, 131 B.R.

⁶ In a case relied on by Hess, *see Removal at 9 n.9*, the court held that “[p]reservation of the plaintiff’s right to proceed by trial by jury on his claims in this action, as guaranteed by the Seventh Amendment” alone constitutes “‘equitable grounds’ to remand this action to the District Court.” *Davis v. The Merv Griffin Co.*, 128 B.R. 78, 102 (D.N.J. 1991); *see also Drexel Burnham Lambert Grp. v. Vigilant Ins. Co.*, 130 B.R. 405, 409 (S.D.N.Y. 1991) (“Demands for jury trials in non-core proceedings have been considered a sufficient ground for equitable remand.”).

269, 272-73 (D. Del. 1991) (considering whether removed action should be remanded before addressing any other substantive issues such as transfer).

CONCLUSION

For these reasons, the Court should grant the Government's Motion for Remand and deny as moot Hess Corp's motion to refer this matter to the bankruptcy court.

Dated: November 12, 2015

/s/Claude E. Walker
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and served the same upon the following counsel of record who have not yet noticed their appearances in this case by email and placing the same in the United States mail, postage paid, addressed to:

Chad C. Messier
Dudley, Topper and Feuerzeig, LLP
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Facsimile: (340) 715-4400
Email: CMessier@dtflaw.com

/s/ Joel H. Holt

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMS/ST. JOHN/ST. CROIX

IN RE: ADOPTION OF DIFFERENTIATED
CASE MANAGEMENT

SYSTEM FOR THE SUPERIOR
COURT OF THE VIRGIN ISLANDS

CASE NO. SX-13-MC-47

ACTION FOR:

NOTICE
OF
ENTRY OF JUDGMENT/ORDER

TO: JUSTICES OF THE SUPREME COURT Esquire HINDA CARBON, V.I. BAR ASSOC. FOR DISTRIBUTION
JUDGES OF THE SUPERIOR COURT Esquire VENETIA H. VELAZQUEZ, ESQ.
MAGISTRATES OF THE SUPERIOR COURT Esquire INFORMATION TECHNOLOGY

Please take notice that on JUNE 7, 2013 Order was
entered by this Court in the above-entitled matter.

Dated: June 11, 2013

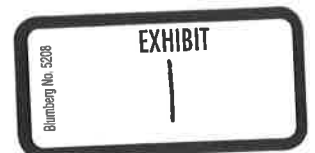
VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Superior Court

By:


JUDITH M. WARD-HALL

Court Clerk Supervisor



WHEREAS, the Superior Court, in an effort to address the challenge of delay in the administration of justice within the trial court, has established the Mission Statement contained in its Order Misc. 39-2013 entered April 23, 2012; and

WHEREAS, the Superior Court of the Virgin Islands desires to reduce the delay in the processing of its cases by implementing a Differentiated Case Management System, which is the process of developing for each category of cases addressed by the Court a schedule of events that achieves its earliest disposition consistent with fairness and due process; and

WHEREAS the Superior Court has been awarded grants by the State Justice Institute the for the performance of studies and reviews in aid of its stated goals and objectives, and

WHEREAS, in furtherance of said goals, objectives and mission the Court has engaged in an intensive process to create a practical and comprehensive Differentiated Case Management Plan, and

WHEREAS, after extensive input, review and comment on various portions of the DCM from a number of potential user groups including the Judges and Magistrates of the Superior Court, the Court has compiled, consistent with the recently adopted time standards, the attached Differentiated Case Management Plan for adoption and use by the Court; and

WHEREAS, the adoption of the DCM as an expression of the formal policy of the Court and the provision of the attached matrix will help to provide guidance to those who are asked to adhere to the time standards, to provide objective and tangible guidelines to achieve those standards.

NOW THEREFORE;

Pursuant to the authority vested in the Presiding Judge of the Superior Court of the Virgin Islands at Title 4 Virgin Islands Code, Chapter 5, Section 32(f)(1), 72b, Section 83, and Section 21(c) of the Revised Organic Act of 1954, as amended (48 U.S.C. § 1611 (c)) it is hereby


ORDERED that the Superior Court adopts the following Differentiated Case Management Plan attached hereto as **EXHIBIT 1**, as a standard to be aspired to except in such circumstances as the Court may find substantial cause placed on the record to vary from its requirements; and it is **FURTHER:**

ORDERED that the Differentiated Case Management Plan specified herein shall apply to all cases filed in the Superior Court on or after **JULY 10, 2013**, but may be applied to all cases pending in the Court for comparison purposes in determining compliance with this plan; and it is **FURTHER:**

ORDERED that all judges and officers of the Court and those practicing before the Court, are encouraged to adapt and conform

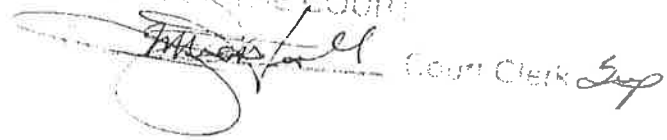
their practices in a manner consistent with and designed to ensure the successful achievement of the goals set forth herein.

DONE AND SO ORDERED this 7th day of June, 2013.


DARRYL DEAN DONOHUE, SR.
PRESIDING JUDGE

ATTEST:
VENETIA VELAZQUEZ, ESQ.
Clerk of the Court


6/11/2013

COPIED TO BE TRUE COPY
11-2-13
JUNE 20 13
VENETIA VELAZQUEZ, ESQ.
CLERK OF THE COURT

Court Clerk Sup

cc: Justices of the Supreme Court of the V I
Judges and Magistrates of the Superior Court
Venetia Velazquez, Esq., Clerk of the Court
Hinda Carbon (for distribution to the Bar)

SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISIONS OF ST. THOMAS AND ST. JOHN AND ST. CROIX

IN RE:

ADOPTION OF A DIFFERENTIATED
CASE MANAGEMENT PLAN IN THE
SUPERIOR COURT OF THE VIRGIN ISLANDS

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MISC. NO. 47-2013

EXHIBIT 1.

DIFFERENTIATED CASE MANAGEMENT PLAN
FOR CASES BEFORE THE
SUPERIOR COURT OF THE VIRGIN ISLANDS

EXHIBIT 1.

**DIFFERENTIATED CASE MANAGEMENT PLAN
FOR CASES BEFORE THE
SUPERIOR COURT OF THE VIRGIN ISLANDS**

CASE TYPE	APPLICABLE CASE TRACK FOR THE LISTED CASE TYPE (REFER TO THE DIFFERENTIATED CASE MANAGEMENT CASE TRACKS SHEET, AND ADOPTED TIME STANDARDS, FOR AN EXPLANATION OF THE CASES WITHIN EACH TRACK)	MAJOR CASE EVENT	ASSIGNED TIME PERIOD (NOTE: ALL TIME PERIODS NOTED HEREIN ARE MEASURED FROM CASE INITIATION OR FILING DATE)	NEXT SCHEDULED EVENT
CRIMINAL CASES (CR)				

(LOWER MISDEMEANOR - LMS - case types: Cases in which the potential term of imprisonment is up to 6 months)	CRIMINAL TRACK 1 (CT1-CR)	CASE INITIATION	0 days	ADVICE OF RIGHTS
		ADVICE OF RIGHTS	3 DAYS	ARRAIGNMENT SCHEDULED
		ARRAIGNMENT	13 DAYS AFTER CASE INITIATION (10 DAYS AFTER ADVICE OF RIGHTS)	PRETRIAL CONFERENCE

		DISCOVERY CONFERENCE	(DONE AT PRETRIAL CONFERENCE)	PRETRIAL CONFERENCE OR, ALTERNATIVELY, ORDER OF DISMISSAL, OR GUILTY PLEA HEARING/APPLICATI ON TO ENTER GUILTY PLEA
		MOTIONS HEARING	(DONE AT PRETRIAL CONFERENCE)	PRETRIAL CONFERENCE
		PRETRIAL CONFERENCE	60 DAYS	TRIAL SCHEDULED
		TRIAL	90 DAYS	TRIAL CONCLUDED
		DISPOSITION /ENTRY OF JUDGMENT	120 DAYS	

TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			120 DAYS	
MMS AND LFL (MAJOR MISDEMEANOR - MMS - Cases in which the potential term of imprisonment is MORE THAN 6 months and up to one year, and LESSER FELONIES (LFL) -- Cases in which the potential term of imprisonment is	CRIMINAL TRACK 2 (CT2-CR)	ADVICE OF RIGHTS	3 DAYS	ARRAIGNMENT

more than 1 year and up to 5 years)				
		ARRAIGNMENT	16 DAYS	DISCOVERY CONFERENCE SCHEDULED
		DISCOVERY CONFERENCE	45 DAYS	MOTIONS HEARING SCHEDULED
		MOTIONS HEARING	90 DAYS	PRETRIAL CONFERENCE SCHEDULED
		PRETRIAL CONFERENCE	120 DAYS	TRIAL SCHEDULED

		TRIAL	150 DAYS	ENTRY OF JUDGMENT / DISPOSITION
		DISPOSITION / ENTRY OF JUDGMENT	180 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			180 DAYS	
CRIMINAL - STANDARD FELONES (SFL): Cases in which the potential term of imprisonment is more than 5 years and up to 20 years.	CRIMINAL TRACK 3 (CT3-CR)	ADVICE OF RIGHTS	3 DAYS	ARRAIGNMENT SCHEDULED

		ARRAIGNMENT	16 DAYS	DISCOVERY CONFERENCE SCHEDULED
		DISCOVERY CONFERENCE	60 DAYS	MOTIONS HEARING SCHEDULED
		MOTIONS HEARING	120 DAYS	PRETRIAL CONFERENCE SCHEDULED
		PRETRIAL CONFERENCE	210 DAYS	TRIAL SCHEDULED
		TRIAL	240 DAYS	ENTRY OF JUDGMENT/DISPOSIT ION
		DISPOSITION	270 DAYS	
	TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)		270 DAYS	

CRIMINAL - COMPLEX FELONES (CFL): Cases in which the potential term of imprisonment is more than 20 years TO LIFE	CRIMINAL TRACK 4 (CT4-CR)	ADVICE OF RIGHTS	3 DAYS	ARRAIGNMENT SCHEDULED
		ARRAIGNMENT	16 DAYS	DISCOVERY CONFERENCE SCHEDULED
		DISCOVERY CONFERENCE	150 DAYS	MOTIONS HEARING SCHEDULED
		MOTIONS HEARING	210 DAYS	PRETRIAL CONFERENCE SCHEDULED
		PRETRIAL CONFERENCE	300 DAYS	TRIAL SCHEDULED
		TRIAL	330 DAYS	ENTRY OF JUDGMENT/DISPOSIT

				ION
		DISPOSITION	365 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			365 DAYS	
CIVIL CASES				
	CIVIL TRACK 1 (CT1-C)(BASIC CIVIL ACTIONS)	INITIATION	0 DAYS	SCHEDULING CONFERENCE SCHEDULED
		SERVICE	0 DAYS	FILING OF ANSWER OR MOTION TO DISMISS

		SCHEDULING CONFERENCE	60 DAYS	PRETRIALCONFERENCE SCHEDULED
		PRETRIAL CONFERENCE	120 DAYS	TRIAL OR HEARING SCHEDULED
		TRIAL	180 DAYS	DISPOSITION/JUDGMENT
		DISPOSITION	270 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			270 DAYS	
	CIVIL TRACK 2 (CT2-C) [STANDARD CIVIL ACTIONS]	INITIATION AND SERVICE	0 DAYS	FILING OF ANSWER OR MOTION TO DISMISS ; SCHEDULING CONFERENCE SCHEDULED

		SCHEDULING CONFERENCE	60 DAYS	STATUS CONFERENCE SCHEDULED
		STATUS CONFERENCE	210 DAYS	MOTIONS HEARING SCHEDULED
		MOTIONS HEARING	360 DAYS	PRETRIAL CONFERENCE SCHEDULED
		FINAL PRETRIAL CONFERENCE	480 DAYS	TRIAL SCHEDULED
		TRIAL	510 DAYS	DISPOSITION / ENTRY OF JUDGMENT
		JUDGMENT/DISPOSITION	540 DAYS	
			540 DAYS	
		TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION		

(JUDGMENT)				
	CIVIL TRACK 3 (CT3-C) [COMPLEX CASES]	INITIATION AND SERVICE OF PROCESS	0 DAYS	SCHEDULING CONFERENCE SCHEDULED
		SCHEDULING CONFERENCE	60 DAYS	STATUS CONFERENCE SCHEDULED
		STATUS CONFERENCE	270 DAYS	MOTIONS HEARING SCHEDULED
		MOTIONS HEARING	450 DAYS	SETTLEMENT CONFERENCE SCHEDULED
		SETTLEMENT CONFERENCE	600 DAYS	SCHEDULE FINAL PRETRIAL

				CONFERENCE
		FINAL PRETRIAL CONFERENCE	670 DAYS	TRIAL SCHEDULED
		TRIAL	700 DAYS	FINAL DISPOSITION
		DISPOSITION/ JUDGMENT	730 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			730 DAYS	
	CIVIL TRACK 4(CT4-APP) [REVIEWS/ ADMINISTRATIVE APPEALS]	PETITION FOR REVIEW OR WRIT OF REVIEW/ NOTICE OF APPEAL	0 DAYS	
		RECORD FILED	100 DAYS	
		PETITIONER'S BRIEF	130 DAYS	

		RESPONDENT'S BRIEF	160 DAYS	
		REPLY BRIEF	175 DAYS	SCHEDULE HEARING OR JUDGES' REVIEW
		HEARING (IF NEEDED)	210 DAYS	JUDGMENT / DISPOSITION
		DISPOSITION/ JUDGMENT	270 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			270 DAYS	
	CIVIL TRACK 5 (CT5-C) [SPECIAL ACTIONS/ PITA]	INITIATION	0 DAYS	
		MOTIONS/BRIEFS/	45 DAYS	HEARING SCHEDULED

		HEARING (IF NEEDED)	80 DAYS	DISPOSITION/JUDGMENT
		FINAL DISPOSITION/JUDGMENT	90 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			90 DAYS	
	CIVIL TRACK 6(CT6-C) [EXPEDITED/EMERGENCY ACTIONS]	INITIATION / SERVICE OF PROCESS	0 DAYS	HEARING SCHEDULED
		HEARING	14 DAYS	DISPOSITION/JUDGMENT
		FINAL DISPOSITION/JUDGMENT	30 DAYS	

TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			30 DAYS	
FAMILY CASES				
	FAMILY TRACK 1 (CT1-FM) (SUMMARY PROCEEDINGS)	PETITION AND SERVICE	0 days	HEARING SCHEDULED
		POSTING (AS NEEDED)	30 DAYS	
		PROOF OF POSTING	50 DAYS	
		HEARING	50 DAYS	DISPOSITION/JUDGMENT
		FINAL DISPOSITION/JUDGMENT	110 DAYS	

TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			110 DAYS	
	FAMILY TRACK 2 (CT2-FM) (STANDARD CASES)	PETITION AND SERVICE	0 DAYS	SET SCHEDULING CONFERENCE
		SCHEDULING CONFERENCE OR SCHEDULING ORDER	30 DAYS	DISCOVERY CONFERENCE SCHEDULED
		DISCOVERY CONFERENCE	90 DAYS	REQUIRED REPORTS DUE
		FILING OF REPORTS (HOME STUDY OR OTHER EXTERNAL REPORTS) -- IF APPLICABLE	120 DAYS	SCHEDULE SETTLEMENT CONFERENCE
		SETTLEMENT CONFERENCE	140 DAYS	SCHEDULE MOTIONS HEARING

		MOTIONS HEARING	200 DAYS	SCHEDULE FINAL PRETRIAL CONFERENCE
		FINAL PRETRIAL CONFERENCE	240 DAYS	SET TRIAL DATE
		TRIAL / HEARING	270 DAYS	DISPOSITION/JUDGM ENT
		DISPOSITION	300 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			300 DAYS	
	FAMILY TRACK 3 (CT3-FM) [COMPLEX CASES]	PETITION AND SERVICE	0 DAYS	
		ADVICE OF RIGHTS (JUVENILE DELINQUENCY CASES)	2 DAYS	SCHEDULE ARRAIGNMENT

		ARRAIGNMENT (JUVENILE DELINQUENCY CASES)	30 DAYS	SET SCHEDULING CONFERENCE
		SCHEDULING CONFERENCE	30 DAYS	SET DISCOVERY CONFERENCE
		DISCOVERY CONFERENCE	90 DAYS	MEDIATION REFERRAL /ORDERED (IF APPLICABLE)
		REFERRAL TO MEDIATION (IF APPLICABLE)	100 DAYS	
		MEDIATION REPORT	160 DAYS	SCHEDULE SETTLEMENT CONFERENCE
		SETTLEMENT CONFERENCE	160 DAYS	SCHEDULE MOTIONS HEARING
		MOTIONS HEARING	190 DAYS	SCHEDULE PRETRIAL CONFERENCE
		PRETRIAL CONFERENCE	250 DAYS	SET TRIAL/HEARING DATE

		TRIAL / HEARING	280 DAYS	DISPOSITION/JUDGMENT
		DISPOSITION	365 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			365 DAYS	
	FAMILY TRACK 4 (CT4-FM) [EMERGENCY PETITIONS]	PETITION OR COMPLAINT	0 DAYS	
		ORDER ON PETITION / ISSUANCE OF TEMPORARY RESTRAINING ORDER	1 DAY	SCHEDULE PERMANENT RESTRAINING ORDER HEARING
		SERVICE OF TRO OR OTHER ORDER (INITIAL ORDER ON PETITION)	2 DAYS	

		HEARING (PERMANENT INJUNCTION)	10 DAYS	DISPOSITION/JUDGMENT
		DISPOSITION	14 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			14 DAYS	
PROBATE CASES (PB)				
	PROBATE TRACK 1 (CT1-PB) [EXPEDITED OR SUMMARY PROCEEDINGS]	PETITION /CASE INITIATED	0 DAYS	PUBLICATION

		ORDER FOR POSTING/PUBLICATION (NOTICE OF APPOINTMENT)	12 DAYS	
		PROOF OF PUBLICATION / POSTING	60 DAYS	
		MOTION FOR FINAL ADJUDICATION AND PROPOSED ADJUDICATION	60 DAYS	
		PAYMENT OF ADJUDICATION FEE	60 DAYS	
		DISPOSITION / DISBURSEMENT	90 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			90 DAYS	

	PROBATE TRACK 2 (CT2-PB) [STANDARD PROBATE PROCEEDINGS]	PETITION (WITH ALL REQUIRED DOCUMENTATION)	0 DAYS	
		APPOINTMENT OF PERSONAL REPRESENTATIVE/ ADMIN/EXEC	15 DAYS	SET BOND
		BOND POSTED/ OR BOND WAIVED	15 DAYS	POSTING
		ORDER TO PROBATE	15 DAYS	
		ORDER FOR POSTING/ PUBLICATION /NOTICE OF APPOINTMENT	15 DAYS	
		ISSUANCE OF LETTERS	15 DAYS	
		INVENTORY OF ESTATE	45 DAYS	
		PROOF OF PUBLICATION /POSTING FILED	70 DAYS	

		FIRST QUARTERLY ACCOUNTING DUE	90 DAYS	SCHEDULE STATUS HEARING
		STATUS CONFERENCE / HEARING	120 DAYS	
		NOTICE TO CREDITORS	140 DAYS	
		QUARTERLY ACCOUNTING DUE (SECOND)	180 DAYS	SCHEDULE STATUS HEARING
		CREDITOR'S CLAIMS - FILING	200 DAYS	
		STATUS CONFERENCE	220 DAYS	
		QUARTERLY ACCOUNTING DUE (THIRD)	270 DAYS	SCHEDULE HEARING (AS NEEDED)
		HEARING ON QUARTERLY ACCOUNTING (IF NEEDED)	300 DAYS	
		FINAL ACCOUNTING	300 DAYS	SCHEDULE FINAL ACCOUNTING HEARING
		PUBLICATION / POSTING OF ORDER SETTING FINAL ACCOUNTING HEARING	315 DAYS	

		PROOF OF PUBLICATION / POSTING (OF FINAL ACCOUNTING)	360 DAYS	
		HEARING ON FINAL ACCOUNTING	375 DAYS	
		MOTION FOR FINAL ADJUDICATION FILED (AND PROPOSED FINAL ADJUDICATION)	400 DAYS	FINAL ADJUDICATION FEE PAID
		ADJUDICATION FEE PAID	400 DAYS	
		FINAL ADJUDICATION	430 DAYS	
		PROOF OF DISTRIBUTION	520 DAYS	
		DISPOSITION	540 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION			540 DAYS	

(JUDGMENT)				
MOTIONS				
	Motions Track 1 (CT1-MOT) -- CRIMINAL PRE- TRIAL DISPOSITIVE MOTIONS	MOTION FILED	0 DAYS	
		OPPOSITION (IF ANY)	14 DAYS	
		MOTIONS HEARING (IF NEEDED)	30 DAYS	
		DISPOSITION/ORDER DECIDING MOTION	60 DAYS	

TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			60 DAYS	
	Motions Track 1A (CT1A-MOT) -- CIVIL PRE-TRIAL DISPOSITIVE MOTIONS	MOTION FILED	0 DAYS	
		OPPOSITION (IF ANY)	14 DAYS	SCHEDULE HEARING ON MOTION
		HEARING ON MOTION (IF NEEDED)	90 DAYS	DISPOSITION/ORDER ON MOTION
		DISPOSITION/ORDER ON MOTION	120 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			120 DAYS	

	Motions Track 1B (CT1B-MOT) -- CIVIL POST- TRIAL MOTIONS	MOTION FILED	0 DAYS	SET SCHEDULE FOR BRIEFS/ARGUMENTS
		<u>EXPEDITED</u> TRANSCRIPT REQUEST FILED (IF APPLICABLE)	0 DAYS	
		TRANSCRIPT FILED (IF APPLICABLE)	14 DAYS	
		ALL BRIEFS/MEMORANDA/OPPOSI TIONS FILED	60 DAYS	SCHEDULE HEARING ON MOTION
		HEARING ON MOTION	75 DAYS	DISPOSITION/ORDER ON MOTION
		DISPOSITION/ORDER ON MOTION	90 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION			90 DAYS	

(JUDGMENT)				
	Motions Track 1C (CT1C -MOT)-- CRIMINAL POST- TRIAL MOTIONS	MOTION FILED	0 DAYS	
		<u>EXPEDITED</u> TRANSCRIPT REQUEST FILED (IF APPLICABLE)	0 DAYS	
		TRANSCRIPT FILED (IF APPLICABLE)	14 DAYS	
		ALL BRIEFS/MEMORANDA/OPPOSI TIONS FILED	45 DAYS	SCHEDULE HEARING ON MOTION
		HEARING ON MOTION	50 DAYS	
		DISPOSITION/ORDER ON MOTION	60 DAYS	


TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			60 DAYS	
	Motions Track 2 (CT2 -MOT)- MOTIONS FOR EMERGENCY RELIEF AND STIPULATED MOTIONS	MOTION FILED	0 DAYS	
		OPPOSITION (IF ANY)	3 DAYS	
		DISPOSITION/ORDER ON MOTION	10 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			10 DAYS	

	MOTIONS TRACK 3 (CT3-MOT) – ALL OTHER MOTIONS NOT INCLUDED IN A SPECIFIC MOTIONS CATEGORY	MOTION FILED	0 DAYS	
		OPPOSITION (IF ANY)	14 DAYS	
		HEARING ON MOTION	45 DAYS	
		DISPOSITION/ORDER ON MOTION	60 DAYS	
TOTAL ASSIGNED TIME FROM INITIATION TO RESOLUTION (JUDGMENT)			60 DAYS	

ATTEST:

VENETIA VELAZQUEZ, ESQ.
 CLERK OF THE COURT


 DATED: Jan 11, 2013

VERIFIED TO BE A TRUE COPY
 This 11th day of ~~Jan~~ 20 13
 VENETIA H. VELAZQUEZ, ESQ.
 CLERK OF THE COURT
 Court Clerk Suz