

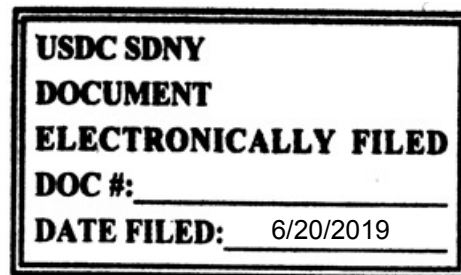
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CHARLES J. OGLETREE, JR.



MICHELE YANKSON

June 19, 2019

By ECF

Hon. Robert W. Lehrburger
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 18D
New York, NY 10007-1312

Re: Betances, et al. v. Fischer, et al., No. 11-Civ-03200 (DAB)(RWL)

Dear Judge Lehrburger:

We represent the Plaintiffs and the Plaintiff Class in this action. We write jointly with counsel for Defendants and counsel for the Plaintiffs in *Bentley* to propose a revised schedule in accordance with the Court's order dated June 10, 2019.

The scheduling order previously proposed by the parties, and ordered by the Court, set out a Settlement Track and a Trial Track, with both tracks commencing in June, after the completion of what we described as Stage 1. As set forth in our initial letter, both tracks were predicated upon the completion of Stage 1, which provided for the parties to work together cooperatively to reach agreement on "(1) the identity of all potential class members (including those who were resentenced *nunc pro tunc* to the same term of PRS imposed by Defendants); (2) the approximate amount of time that each class member spent on PRS and/or reincarcerated based on a violation of PRS; and (3) the standard terms of PRS that were imposed on class members." As we also wrote at the time, "[r]eaching agreement on these key data points will enable the class to be notified of the pendency of this class action along with the opportunity to opt-out, while at the same time ensuring that the parties have an agreed upon set of facts upon which to engage in settlement negotiations."

Although both sides recognize the need to complete Stage 1 as quickly as possible, and have been working diligently to do so, we have encountered some unanticipated challenges, including, *e.g.* concerns over whether there may have been errors in earlier work that was done identifying class members that has required us to reassess and analyze work that we thought had

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already been reliably completed. Unfortunately, until we can complete Stage 1, it is nearly impossible to have the kind of settlement process envisioned in the scheduling order. Without this information, the parties cannot reasonably estimate defendants' financial exposure and thus cannot engage in meaningful settlement discussions. Similarly, even absent a settlement, the information gathered in Stage 1, is critical to sending notice to the class of the pendency of this class action and the right to opt-out, and will materially shape the nature and breadth of the trial on common issues.

Accordingly, the parties propose the following revised schedule:

- (A) completion of Stage 1 by July 31, 2019;
- (B) Plaintiffs' written settlement demand by August 16;
- (C) Defendants' written response by September 25; and
- (D) the parties will report to the Court on status of settlement by September 30.

In addition, the parties propose the following revisions to the Trial Track:

- (A) Expert Disclosures by September 30;
- (B) Exchange expert reports by October 15;
- (C) Expert Depositions by November 8; and
- (D) Joint Pre-Trial Order by November 15, 2019.

Finally, the parties agree that the *Bentley* matter should continue to be stayed through the proposed deadlines in this letter.

We thank the Court for its time and attention to this matter.

Respectfully Submitted,

/s Matthew D. Brinckerhoff

Matthew D. Brinckerhoff

c. Counsel of record via ECF.

Granted. SO ORDERED:



HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE June 20, 2019