UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 10-md-02183-PAS

IN RE: Brican America LLC Equipment
Lease Litigation

_____/

ORDER SETTING CASE MANAGEMENT SCHEDULING CONFERENCE

THIS MATTER is before the Court following Orders [DE-1, DE-8] from the Judicial Panel on Multidistrict Litigation transferring the actions *Patel v. NCMIC Finance Corp.*, *Tasman v. Brican America, Inc.*, and *Derienzo v. Brican America, LLC* to this Court. An initial conference in the above-styled case is set for **December 2, 2010 at 8:30 a.m.** at the United States District Court, 400 North Miami Avenue, 11th Floor, Courtroom 11-4, Miami, Florida 33128. The Court has reserved until noon for the conference. The Court looks to counsel for the Parties to assist in the expeditious cost and cost-efficient management of this case. To ensure the Court and Parties are best prepared to address all procedures that will promote just and efficient resolution of this litigation, and can discuss these issues in less than the amount of time allotted for the conference, it is hereby

ORDERED THAT

(1) Before the conference, counsel shall confer and seek consensus to the extent possible with respect to the following issues:

(a) Selection of Plaintiffs' lead counsel and Plaintiffs' liaison counsel (Plaintiffs' counsel only);

(b) Desirability of working from a master complaint and master answer;

(c) Identification of key issues that can be resolved by the Court early in the litigation or

on an expedited basis;

(d) A case management plan, including the following:

(i) a proposed discovery plan under Rule 26(f);

(ii) a suggested schedule under Rule 16(b) for joinder of parties, amendment of pleadings, consideration of summary judgment motions, status conferences and trial;

(iii) a list of discovery matters that are suitable for consolidation;

(iv) a target date for mediation and identification of a mediator agreed upon by the Parties; and

(v) identification of common experts;

(e) Whether a special master would assist the litigation of the action;

(f) The status of any related cases and/or tag-along cases;

(g) The method of calculation for damages and a per-plaintiff range of damages (Plaintiffs' counsel only);

(h) Mechanisms for facilitating efficient and cost-effective communications, including use of an MDL website; and

(i) Any relevant *Lexecon* considerations, including whether the Parties would like to waive remand in the event the cases are litigated through pre-trial in this district.

(2) Plaintiffs' counsel shall file a statement no later than **November 12, 2010** indicating whether they wish to work from a master complaint.

(3) The Parties shall jointly submit to the Court by **Wednesday, November 24, 2010** a preliminary report addressing, in separate sections, their consensus or respective positions regarding each of the issues identified above. In the section discussing related and tag-along

cases, the Parties shall list all related cases pending in state or federal court and their current status, to the extent known. The Parties shall also discuss in their preliminary report any other issues they would like to address at the conference -- including any issues either side wants to discuss with the Court *ex parte* (but on the record and under seal) that will facilitate case management, such as economic or cost considerations underlying either side's litigation of the action.

(4) The Court intends to appoint Plaintiffs' lead counsel as well as Plaintiffs' liaison counsel. Applications for these positions must be filed no later than **Monday, November 22, 2010**. The Court will only consider attorneys who have filed a civil action in this litigation. The main criteria for these appointments are (1) willingness and ability to commit the time necessary to see the cases to their conclusion; (2) ability to work cooperatively with others and to resolve problems in a constructive manner without resorting to unnecessary requests for court intervention; (3) professional experience in this type of litigation; and (4) access to sufficient resources to advance the litigation in a timely manner. If relevant, the applications should also set forth any attorney fee proposals, rates, and, if the applicants will seek the creation of a common fund, the percentages that applicants expect to seek if they are successful in doing so.

DONE and ORDERED in Miami, Florida, this 4th day of November, 2010.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
Counsel of Record
Magistrate Judge John O'Sullivan