

HON. GERALD E. ROSEN (RET.)
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February 28, 2018

Honorable Mark L. Wolf
United States District Court
Boston, Massachusetts 02210

Re: Extension of Time for Submission of Special Master's Report and Recommendation

Dear Judge Wolf:

I write to request a third and final extension of time to file my Special Master's Report and Recommendation. The current due date, granted by you in December, is March 15, 2018.

My team and I appreciate the two previous extensions which the Court has granted, occasioned by, first, unexpected developments in the investigation and the attendant depositions and document discovery prompted by those developments, and, more recently, by my retention of Professor Stephen Gillers to provide an expert report in response to the expert opinion of Attorney Sarrouf, which Labaton, Lieff and Thornton Law Firm submitted in their supplemental report. All law firms agreed to both previous requests. This request is at the behest of the three customer class law firms, and is supported by me and not opposed by the other law firms. The reasons for their request are as follows:

Professor Gillers' 85-page Report was disclosed to Plaintiffs' counsel last Friday evening, February 23, 2018. Over the weekend, counsel for the customer class law firms contacted my counsel Bill Sinnott, to convey that they needed more time to respond than the March 15th Report and Recommendation deadline would allow. Among other reasons, they noted that I had extended to them the opportunity to depose Professor Gillers once his report was completed and to participate in an oral presentation to me of their positions. Counsel pointed out that the stakes for their clients are extraordinarily high in this matter. They also indicated that they may wish to retain an additional expert to address Professor Gillers' report, which they contend constitute a "novel" approach to Massachusetts attorney referrals. (We, of course, do not agree with that characterization of Professor Giller's Report.)

As a result of these requests, Mr. Sinnott scheduled a conference call on Monday afternoon that I led. All of the law firms, including ERISA counsel, participated and ultimately agreed to request that the due date for my Report and Recommendation be extended eight weeks from Monday. I agreed that I would convey their request and reasons for it to you. Counsel for Labaton, Joan Lukey, followed this conversation up with an email articulating counsel's grounds and their urgency.

Among the reasons that the customer class firms articulated in support of the requested extension is the fact that if I were to adopt in my report the opinions of Professor Gillers, there could potentially be serious and far-reaching adverse ramifications at least some of the law firms, and even beyond this investigation for the practice of the Plaintiffs' class action bar and even for courts in class actions. I agree with this, and in light of Professor Gillers' report, and its potential implications for the firms and the practicing bar in general, I believe that it is important that the firms be allowed the fullest opportunity to respond. And, I wish to have the benefit of this input as I believe it will provide more complete process to the firms and a better process and foundation for me to be able to make fair and complete findings and recommendations to you. I therefore endorse the requested extension. An eight-week extension from this past Monday would take the Report and Recommendation submission due date to **April 23, 2018**. In order to ensure that this extension, if granted, is most effectively utilized, counsel for the firms have agreed to identify their new expert, if they choose to retain one, within ten days, i.e. no later than **March 10, 2018**.

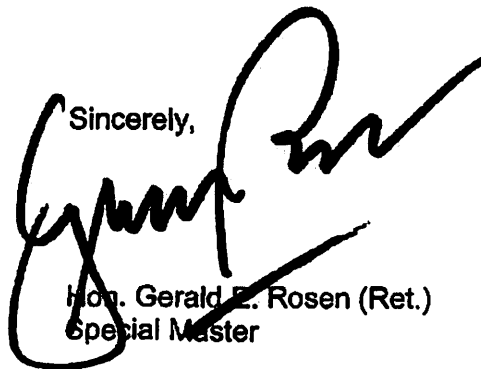
I do understand that the due date for my Report and Recommendation remains at March 15, 2018 unless the Court agrees to an extension, and that the length of any extension, should you agree to one, is entirely within your discretion. I can further represent that no further extensions of this matter will be requested.

Accordingly, I hereby request a further extension of my Report and Recommendation due date from March 15, 2018 to **April 23, 2018**.

Thank you for your consideration.

With best wishes, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald E. Rosen", written over a printed name and title.

Hon. Gerald E. Rosen (Ret.)
Special Master

cc: William Sinnott