

Special Master Reverses Course in High Stakes MoneyGram Feud

Client Alert

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In a stunning about face, the special master appointed in the high stakes U.S. Supreme Court battle pitting Delaware against thirty other states over the escheat of hundreds of millions in dormant, unclaimed MoneyGram “teller” checks, advised the parties late last week that he no longer believes that those funds are subject to the Federal Disposition of Abandoned Money Orders and Traveler’s Check Act. Following oral argument in the Supreme Court *in Delaware v. Pennsylvania* on October 3, 2022, special master Judge Pierre Leval of the Second Circuit Court of Appeals, said that after reading the argument and reviewing the parties’ prior written submissions, he no longer subscribes to recommendations made in a July 2021 report to the Court that teller checks should escheat to the states of purchase under the act, and would advise the Court that he no longer believes that teller checks are subject to the act. While not binding on the Court, the recommendation, if accepted, would allow Delaware to retain hundreds of millions of dollars in MoneyGram teller checks escheated to it as MoneyGram’s state of incorporation.

In his July 2021 report and recommendation, the special master found that escheatment of dormant “teller’s checks” and “agent checks” are subject to the federal act, because they are similar to money orders and other similar written instruments governed by the act. However, in a conference with the parties on October 26, 2022, Judge Leval said that the fact that teller checks which, unlike money orders, are sold exclusively by financial institutions which assume liability on the instruments as drawers, “is sufficiently significant and important” that “teller’s checks cannot be considered to be money orders, nor are they sufficiently similar to qualify as other similar instruments.” That difference, the special master said, is not merely cosmetic, but “changes the rights and liabilities that flow from the use of the instrument from what they would be if the issuer alone, that is MoneyGram, was liable for payment of the check, as is normally the case with money orders.” The special master said he would let stand his earlier recommendation with respect to agent checks which, he said, Delaware had failed meaningfully to distinguish from money orders.

The special master will receive written submissions from the parties prior to making a final recommendation to the Supreme Court.

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[Click here](#) for a copy of the transcript of the October 26, 2022 conference.

Morris Nichols' attorneys in the Unclaimed Property Counseling Group will continue to monitor and provide updates on this case.

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Unclaimed Property

