

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

A & E AUTO BODY, INC., *et al.*,

Plaintiffs,

v.

21<sup>ST</sup> CENTURY CENTENNIAL  
INSURANCE COMPANY, *et al.*,

Defendants.

Case No. 6:14-md-02557-GAP-EJK  
ALL CASES

**CONSOLIDATED JOINT STIPULATION AND REPORT**

Pursuant to this Court's Orders of June 24, 2020, Liaison Counsel for Defendants and Liaison Counsel for Plaintiffs submit their Consolidated Joint Stipulation and Report to the Court.

After the conclusion of all appeals, the following cases and claims are now pending in this MDL proceeding in which Liaison Counsel for Plaintiffs represents the Plaintiff body shops:

1. Antitrust claims only in Case Nos. 6:14-cv-06008 (Pennsylvania), 6:14-cv-06009 (Alabama), 6:14-cv-06011 (Illinois), and 6:14-cv-06020 (Pennsylvania) ("Antitrust Cases").
2. Tortious interference claims in Case Nos. 6:14-cv-06012 (New Jersey), 6:14-cv-06013 (New Jersey), 6:14-cv-6018 (Kentucky), 6:14-cv-06019 (Virginia) and 6:15-cv-

06022 (Missouri) (“Remanded Cases”) subject to unresolved pleading issues identified in the 11<sup>th</sup> Circuit’s en banc opinion (“*Quality Auto*”).<sup>1</sup>

3. Case No. 6:18-cv-06023 (*Professional, Inc. v. First Choice Auto Insurance, et al.*), transferred to this Court from the Western District of Pennsylvania.

4. Case No. 6:18-cv-06024 (*Professional, Inc. v. Kemper Independent Insurance Co.*), transferred to this Court from the Western District of Pennsylvania.

5. Tortious interference claims by two body shops against Progressive Defendants only (Case No. 6:14-cv-06000). The parties to these claims submitted their Report separately [ECF 143].

6. Case No. 06:18-cv-06025 (*Leif’s Auto Collision Centers, LLC v. Government Employees Insurance Company*), transferred to this Court from the District of Oregon. The parties to this case are submitting their report separately.

The parties concur that the status and sufficiency of the amended complaints in the Antitrust Cases are controlled by the various decisions of the 11th Circuit in these and related matters, including the en banc decision in *Quality Auto*, and the panel decision in the consolidated *Automotive Alignment/Alpine Straightening/Gary Conns Collision Center* matter (“*Automotive Alignment*”).<sup>2</sup> The parties therefore jointly suggest that Defendants file an updated brief addressing the status (in light of the *Hertz* issue) and substance (in light of the prior antitrust rulings) of these matters, with a response by Plaintiff and a reply on the schedule set forth below.

---

<sup>1</sup> *Quality Auto Painting Ctr. of Roselle, Inc. v. State Farm Indem. Co.*, 917 F.3d 1249 (11th Cir. 2019) (en banc).

<sup>2</sup> *Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707 (11th Cir. 2020).

Counsel for all parties to the pending actions included in these MDL proceedings have conferred again concerning the Court's exercise of supplemental jurisdiction over state law claims in all remaining cases. All counsel acknowledge that this Court and the 11th Circuit have already invested extensive judicial resources into the resolution of these claims. The *Quality Auto* en banc opinion provided significant guidance on the state law claims still before this Court. The panel opinion in the consolidated *Automotive Alignment* case is additionally instructive. All counsel further agree that a single federal forum provides overwhelming efficiencies for all parties and is significantly more advantageous than starting all over again in various state courts which will result in piecemeal and potentially conflicting or inconsistent resolutions. With deference to the Court's discretion, undersigned counsel respectfully advise the Court that, with the exception of the two Mississippi body shop Plaintiffs, all of the parties prefer that this Court retain jurisdiction and adjudicate all state law claims.

Defendants propose to file supplemental briefs addressing the insufficiency of the tortious interference claims in the Remanded Cases on the grounds the 11th Circuit expressly excluded from the narrow group pleading holding in its *Quality Auto* en banc opinion. It is the intention of Defendants to file a single consolidated brief of no more than 20 pages rather than separate briefs in each case if at all possible. If a single consolidated brief is not feasible, separate briefs shall be limited to discrete, non-repetitious points.

The parties propose the following briefing schedule:

1. Antitrust Cases

Defendants' Updated Brief(s): August 7, 2020

Plaintiffs' Responsive Brief(s): August 28, 2020

Defendants do not anticipate the necessity of a reply brief, but if needed Defendants will file within seven days of Plaintiffs' responsive brief in accordance with this Court's Scheduling Order Number Two (6:14-md-2557; ECF No. 42).

2. Remanded Cases

Defendants' Supplemental Brief(s): August 7, 2020

Plaintiffs' Responsive Brief(s): August 28, 2020

Reply Brief(s): September 4, 2020 and limited to five pages in accordance with this Court's Scheduling Order Number Two.

Defendants shall file responsive pleadings or motions in the two *Professional* cases (Case Nos. 6:18-cv-06023 and 6:18-cv-06024) by August 7, 2020.

The parties agree to a stay of discovery until the sufficiency of all claims in the Antitrust Cases, Remanded Cases and the *Professional's* cases is determined.

The parties request a status conference before the Court.

Respectfully submitted,

/s/ Mark L. Shurtleff

Mark L. Shurtleff (Utah Bar No. 4666)

**SHURTLEFF LAW FIRM**

Post Office Box 900873

Sandy, Utah 84090

Telephone: (801) 441-9625

Facsimile: (801) 206-3676

E-mail: mark@shurtlefflawfirm.com

*Liaison Counsel for Plaintiffs*

/s/ Hal K. Litchford

Hal K. Litchford (Fla. Bar No. 272485)

Kyle A. Diamantas (Fla. Bar No. 106916)

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC**

200 South Orange Avenue

Post Office Box 1549

Orlando, Florida 32802

Telephone: (407) 422-6600

Facsimile: (407) 841-0325

Email: hlitchford@bakerdonelson.com

Email: kdiamantas@bakerdonelson.com

- and -

Amelia W. Koch (*admitted pro hac vice*)

**BAKER DONELSON BEARMAN  
CALDWELL & BERKOWITZ, PC**

201 St. Charles Avenue, Suite 3600

New Orleans, Louisiana 70170  
Telephone: (504) 566-5200  
Facsimile: (504) 636-4000  
E-mail: akoch@bakerdonelson.com  
E-mail: sgriffith@bakerdonelson.com  
*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10th day of July, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to all counsel of record that are registered with the Court's CM/ECF system.

/s/ Hal K. Litchford  
Hal K. Litchford