

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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 In re: : Chapter 11  
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 EXIDE TECHNOLOGIES, : Case No. 13-11482 (KJC)  
 :  
 Debtor.<sup>1</sup> : **Related Docket Nos.: 4414, 4503**  
 :  
 : **Hrg. Date: February 2, 2016 at 10:00 a.m. (Eastern)**  
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**LIMITED OBJECTION TO THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT’S REQUEST FOR JUDICIAL NOTICE AND RESERVATION OF RIGHTS**

Exide Technologies, the reorganized debtor in the above-captioned case (“Exide” or the “Reorganized Debtor”) hereby submits this reservation of rights and limited objection (the “Judicial Notice Objection”) to the request (the “Request for Judicial Notice”) (Docket No. 4504) of the South Coast Air Quality Management District (the “District”) for the court to take judicial notice of Defendant Exide Technologies’ Answer to First Amended Complaint for Civil Penalties and Injunctive Relief filed in People of the State of California, ex rel South Coast Air Quality Management District, a Public Entity v. Exide Technologies, Inc. and Does 1 through 50, Civ. Case No. BC 533528 (the “California State Action”).

As a preliminary matter, the Reorganized Debtor does not dispute that this Court can take judicial notice of items publicly filed on a docket in another proceeding. See In re DelCorso, 382 B.R. 240, 247 n. 11 (Bankr. E.D. Pa. 2007) (taking judicial notice of Debtor’s entire bankruptcy court docket); Mikhail v. Kahn, 991 F. Supp. 2d 596, 640 n. 36 (E.D. Pa. 2014) (taking judicial notice of the full state court docket). It is unnecessary, however, for this

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<sup>1</sup> The last four digits of the Reorganized Debtor’s taxpayer identification number are 2730. The Reorganized Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

Court to take judicial notice of the FAC Answer<sup>2</sup> because the FAC Answer is attached as an exhibit to the Reorganized Debtor's Relation Back Objection.

Furthermore, the District's separate motion singling out the FAC Answer for judicial notice when this Court can take judicial notice of the entire docket of the California Action is curious. But to the extent the District is implying that the taking of judicial notice might somehow support its suggestion that the FAC Answer is evidence of a waiver of the Bar Date, the District is wrong. As explained in the Reorganized Debtor's Relation Back Objection filed concurrently herewith, the onus was on the District to prove excusable neglect to exempt its new late-filed claims from the Bar Date. The District never has done so and has waived its right to seek any such relief.

If this Court does take judicial notice of the FAC Answer (which Exide believes is unnecessary), the Reorganized Debtor requests that this Court also take judicial notice of the entire docket in the California State Action, attached hereto as Exhibit A, and the pleadings that are described therein. Moreover, this Court should only take judicial notice of the FAC Answer (or any other document in the California State Action) not for the truth of the matter asserted, but rather to establish the fact of the existence of such litigation and related filings. See Inductotherm Indus. v. United States, 2002 U.S. Dist. LEXIS 14046, \*6-7 (D.N.J. 2002) ("A court may take judicial notice of a document filed in another court not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings." (internal quotations and citations omitted); see also In re Grasso, 2014 U.S. Dist. LEXIS 94274, \*13 (E.D. Pa. July 10, 2014) ("The only appropriate purpose for taking judicial notice of

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in The Reorganized Debtor's Objection to the South Coast Air Quality Management District's Motion For Entry Of An Order Concerning The Timeliness Of Its General Unsecured Claims Against Exide, filed concurrently herewith (the "Relation Back Objection").

docket entries and orders is for the fact that the entries and orders were actually made, not for the truth of matters asserted in them.”).

**CONCLUSION**

WHEREFORE, the Reorganized Debtor respectfully requests that the Court deny the Request for Judicial Notice as unnecessary or take judicial notice of the entire docket in the California State Action.

Dated: Wilmington, Delaware  
November 20, 2015

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Anthony W. Clark

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*Counsel for the Reorganized Debtor*

**EXHIBIT A**

**California State Action Docket**

## Case Summary

Please make a note of the Case Number.

[Click here to access document images for this case.](#)

If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page.

Case Number: BC533528

PEOPLE OF THE STATE OF CALIFORNIA VS EXIDE TECHNOLOGIES INC

Filing Date: 01/16/2014

Case Type: Other Compl-not Tort or Complex (General Jurisdiction)

Status: Pending

### Future Hearings

**03/18/2016** at 04:00 pm in department 310 at 600 South Commonwealth Ave., Los Angeles, CA 90005  
Non-Appearance (Case Review)(Joint Report by noon 3/16/16)

**06/16/2016** at 04:00 pm in department 310 at 600 South Commonwealth Ave., Los Angeles, CA 90005  
Non-Appearance (Case Review)(Re: Renewal of Application for Pro Hac Vice for J. Eric Ivester)

[Documents Filed](#) | [Proceeding Information](#)

### Parties

DOES 1 THROUGH 50 - Defendant/Respondent

EXIDE TECHNOLOGIES INC. - Defendant/Respondent

O'BRIEN THOMAS P. - Attorney for Plaintiff/Petitioner

O'NEIL STEPHEN J. ESQ. - Attorney for Defendant/Respondent

PEOPLE OF THE STATE OF CALIFORNIA EX REL - Plaintiff/Petitioner

WIESE KURT - Attorney for Plaintiff/Petitioner

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### Documents Filed (Filing dates listed in descending order)

Click on any of the below link(s) to see documents filed on or before the date indicated:

[07/11/2014](#)

**08/17/2015** Report-Status (JOINT REPORT RE STAY OF ACTION AND REQUEST TO CONT STATUS CONF )  
Filed by Joined Party

**06/16/2015** Order (Granting Application for J. Eric Ivester to Appear as Counsel Pro Hac Vice on Behalf of Defendant Exide Technologies )  
Filed by Attorney for Defendant/Respondent

**06/10/2015** Application-Pro Hac Vice (NOTICE OF MTN AND MTN FOR AN ORDER APPROVING APPL FOR J. ERIC IVESTER TO APPEAR AS COUNSEL PRO HAC VICE;MEMO OF PA; VERIFIED APPL AND DECL OF ERIC J IVESTER;DECL OF JEFFREY J PARKER)  
Filed by Attorney for Defendant/Respondent

**05/28/2015** Third Amended Complaint (FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF )  
Filed by Attorney for Plaintiff/Petitioner

**05/26/2015** Stipulation and Order (Re: Filing Third Amended Complaint and Responsive Pleading )  
Filed by Attorney for Defendant/Respondent

**05/15/2015** Notice of Ruling (ISC )  
Filed by Attorney for Defendant/Respondent

**05/12/2015** Order (Authorizing Electronic Service Case Anywhere \*\* )  
Filed by Court

**05/05/2015** Report-Status (JOINT ISC REPORT )  
Filed by Joined Party

**03/11/2015** Notice (OF ISC )  
Filed by Attorney for Plaintiff/Petitioner

**03/11/2015** Order (Initial Status Conference Order )  
Filed by Court

**02/26/2015** Notice of Ruling  
Filed by Attorney for Plaintiff/Petitioner

**02/19/2015** Notice of Motion (TO COMPEL PRODUCTION AND FURTHER RESPONSES TO FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT EXIDE TECHNOLOGIES )  
Filed by Attorney for Plaintiff/Petitioner

**02/19/2015** Notice (OF INFORMAL DISCOVERY CONFERENCE IN CONNECTION WITH MOTION TO COMPEL PRODUCTION AND FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT EXIDE TECHNOLOGIES)  
Filed by Attorney for Plaintiff/Petitioner

**02/19/2015** Miscellaneous-Other (SEPARATE STATEMENT IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL PRODUCTION AND FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO EXIDE TECHNOLOGIES)  
Filed by Attorney for Plaintiff/Petitioner

**02/19/2015** Declaration (OF KATHERINE F. MURRAY IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL PRODUCTION AND FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT EXIDE TECHNOLOGIES)  
Filed by Attorney for Plaintiff/Petitioner

**02/19/2015** Proof of Service (OF SECOND AMENDED COMPLAINT )  
Filed by Attorney for Plaintiff/Petitioner

**02/18/2015** Second Amended Complaint (FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF )  
Filed by Attorney for Plaintiff/Petitioner

**02/13/2015** Miscellaneous-Other (COMPLEX CIVIL CASE QUESTIONNAIRE )  
Filed by Clerk

**02/11/2015** Stipulation and Order (RE FILING SECOND AMENDED COMPLAINT AND RESPONSIVE PLEADING )  
Filed by Attorney for Defendant/Respondent

**12/23/2014** Declaration (OF KATHERINE F. MURRAY IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT )  
Filed by Attorney for Plaintiff/Petitioner

**12/23/2014** Notice of Motion (FOR LEAVE TO FILE SECOND AMENDED COMPLAINT )  
Filed by Attorney for Plaintiff/Petitioner

**10/07/2014** Answer to First Amended Complaint  
Filed by Attorney for Defendant/Respondent

**08/07/2014** First Amended Complaint  
Filed by Attorney for Plaintiff/Petitioner

**07/30/2014** Stipulation and Order (RE FILING FIRST AMENDED COMPLAINT AND DEADLINE FOR RESPONSIVE PLEADING )  
Filed by Attorney for Defendant/Respondent

**07/28/2014** Receipt

Filed by Attorney for Defendant/Respondent

**07/22/2014** Order-Case Management

Filed by Court

Click on any of the below link(s) to see documents filed on or before the date indicated:

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**07/11/2014** Notice of Motion (FOR LEAVE TO FILE FIRST AMENDED COMPLAINT )

Filed by Attorney for Plaintiff/Petitioner

**07/11/2014** Declaration (OF KATHERINE F. MURRAY IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT )

Filed by Attorney for Plaintiff/Petitioner

**07/11/2014** Proof-Personal Service

Filed by Attorney for Plaintiff/Petitioner

**07/10/2014** Stipulation and Order (RE: REQUEST FOR CONTINUANCE OF JULY 22, 2014 CASE MANAGEMENT CONFERENCE )

Filed by Attorney for Defendant/Respondent

**06/26/2014** Statement-Case Management

Filed by Attorney for Plaintiff/Petitioner

**06/26/2014** Statement-Case Management

Filed by Attorney for Defendant/Respondent

**06/04/2014** Notice-Case Management Conference

Filed by Clerk

**05/29/2014** Notice-Case Management Conference

Filed by Clerk

**04/28/2014** CCP 170.6 Application Filed (AGAINST JUDGE: SUSAN BRYANT-DEASON )

Filed by Attorney for Defendant/Respondent

**04/28/2014** Declaration (OF JEFFREY J. PARKER IN SUPPORT OF DEFT. EXIDE TECHNOLOGIES, PREEMPTORY CHALLENGE PURSUANT TO CODE OF CIVIL PRODECURE SECTION 170.6 )

Filed by Attorney for Defendant/Respondent

**04/28/2014** Declaration (OF JEFFREY J. PARKER IN SPPT )

Filed by Attorney for Defendant/Respondent

**04/25/2014** Notice, Association of Counsel ( O'BRIEN, THOMAS P. )

Filed by Attorney for Plaintiff/Petitioner

**04/14/2014** Order (GRANTING PLNT'S MTN TO REMAND )

Filed by Clerk

**03/07/2014** Notice (OF COURT MINUTE ORDER RE REMOVAL TO FEDERAL COURT )

Filed by Attorney for Defendant/Respondent

**02/24/2014** Proof of Service

Filed by Attorney for Plaintiff/Petitioner

**02/14/2014** Ntc of Removal to Federal Court ( Exide Technologies, Inc.)

Filed by Attorney for Defendant/Respondent

**02/06/2014** Notice of Status Conference filed

Filed by Clerk

**02/04/2014** Proof-Service/Summons (AS TO: Exide Technologies, Inc. )

Filed by Attorney for Plaintiff/Petitioner

**02/03/2014** Proof-Service/Summons (AS TO: Exide Technologies, Inc. )

Filed by Attorney for Plaintiff/Petitioner

**01/21/2014** OSC-Failure to File Proof of Serv  
Filed by Clerk

**01/16/2014** Complaint

Click on any of the below link(s) to see documents filed on or before the date indicated:

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Proceedings Held (Proceeding dates listed in descending order)

**09/14/2015** at 10:00 am in Department 310, Kenneth R. Freeman, Presiding  
Status Conference (Joint Report by 9/8/15) - **Vacated**

**09/11/2015** in Department 310, Kenneth R. Freeman, Presiding  
Court Order - **Court makes order**

**05/12/2015** at 10:00 am in Department 310, Kenneth R. Freeman, Presiding  
Initial Status Conference ((Complex Health & Safety Case)) - **Completed**

**03/11/2015** in Department 310, Kenneth R. Freeman, Presiding  
Court Order - **Court makes order**

**02/18/2015** in Department 324, Emilie H. Elias, Presiding  
Order-Complex Determination - **Case Determined to be Complex**

**02/11/2015** at 08:30 am in Department 73, Rafael A. Ongkeko, Presiding  
Court Order - **Completed**

**07/30/2014** at 08:30 am in Department 73, Rafael A. Ongkeko, Presiding  
Court Order - **Completed**

**07/22/2014** at 08:30 am in Department 73, Rafael A. Ongkeko, Presiding  
Conference-Case Management - **Trial Date Set**

**07/11/2014** at 08:30 am in Department 73, Rafael A. Ongkeko, Presiding  
Conference-Case Management - **Continued by Stipulation**

**07/10/2014** at 08:30 am in Department 73, Rafael A. Ongkeko, Presiding  
Court Order - **Completed**

**05/01/2014** at 08:30 am in Department 52, Susan Bryant-Deason, Presiding  
Affidavit of Prejudice - **Court makes order**

**03/04/2014** at 08:30 am in Department 52, Susan Bryant-Deason, Presiding  
Court Order - **Court makes order**

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