

**SUPERIOR COURT OF CALIFORNIA**

**County of San Diego**

**DATE:** August 25, 2005

DEPT. 71

**REPORTER:** Peter Stewart  
CSR#: 3184

**HON. RONALD S. PRAGER,  
JUDGE PRESIDING**

**REPORTER'S ADDRESS:**  
P. O. Box 128  
San Diego, CA 92112-4104

**CLERK:** K. Sandoval

**BAILIFF:**

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Judicial Council  
Coordination Proceedings  
No. JCCP 4041

Coordination Proceeding  
Title [Rule 1550(b)]  
TOBACCO CASE

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10:00 a.m. This being the time previously set for **ORAL ARGUMENT** on the telephonic ruling of August 10, 2005 in The State of California vs. Bekenton USA, Inc. Application for Enforcement Order. Court convenes with Karen Leaf and Peter M. Williams personally present for the Plaintiff. Present for the Defendant are Mark Zebrowski and Kristina Swanson of Morrison and Foerster. Dennis Bruce Defendant's representative is personally present.

The Court hears argument from the Attorney Leaf on behalf of the Plaintiff.

10:15 a.m. Attorney Zebrowski presents oral argument on behalf of the Defendant.

The Court **CONFIRMS** the telephonic ruling of August 10, 2005.

The case is bi-furcated.

To resolve the common legal issue: whether Bekenton has Most Favored Nation Status based on agreements with General Tobacco, Farmers Tobacco and Premier Tobacco. This is a legal tort that can be determined on stipulated facts.

The Court sets the following briefing schedule both parties are to file simultaneously.  
Initial Brief, September 23, 2005  
Opposition, October 7, 2005  
Optional replies, October 17, 2005  
Ruling October 20, 2005  
Oral argument October 24, 2005 at 10:00 a.m.

Discovery is stayed pending determination of Phase 1.

**JCCP 4041 STATE OF CALIFORNIA VS. BEKENTON AUG. 25, 2005**

All discovery is stayed until determination of Phase 1.

Status conference October 24, 2005.

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