

No. 142, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 20

July 13, 2016

CASE MANAGEMENT ORDER NO. 20

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

1. **Final Pre-Trial Proceedings**

Final pre-trial proceedings will commence and be completed in accordance with the schedule stated herein (as summarized in Appendix A).

1.1. **Exchange of Witness and Exhibit Information**

The parties shall exchange exhibit lists, witness lists and deposition designations by September 9, 2016. Deposition cross-designations shall be exchanged by September 23, 2016.

1.2. **Pre-Trial Motions**

All motions *in limine* or other pre-trial motions, if any, shall be filed by September 16, 2016. Oppositions to motions *in limine* or other pre-trial motions shall be filed by September 30, 2016. Any replies shall be filed by October 7, 2016.

1.3. **Pre-Trial Briefs**

Pre-trial briefs, if any, shall be filed by October 12, 2016. Pre-trial briefs shall not exceed forty (40) pages.

1.4. **Amicus Briefs**

The United States may file an *amicus* brief by October 21, 2016 without further leave of the Special Master. The brief of the United States, if any, shall not exceed 35 pages.

Any persons or entities other than the United States seeking to submit a brief as an *amicus curiae* must file, by September 16, 2016, a short motion summarizing the contents of the proposed brief and requesting leave to file the brief. If leave is granted, the *amicus* brief shall be filed by October 21, 2016. *Amicus* briefs, if any, shall not exceed 25 pages.

1.5. Pre-Filed Direct Testimony and Exhibits

Florida shall file four copies of written direct testimony by October 14, 2016. Georgia shall file four copies of written direct testimony by October 26, 2016. Further direct testimony, either in writing or orally, will be allowed upon a showing that the need for such further direct testimony could not have been anticipated by the party offering it, provided that notice of such further testimony is promptly given as soon as the need for it can be ascertained. The parties should seek economy and efficiency in presenting direct testimony. Objections to pre-filed direct testimony shall be made in writing before the witness takes the stand.

The parties shall file four copies of all exhibits by October 26, 2016 and all exhibits shall be pre-marked. Florida exhibits shall be numbered with an “F” sequence, and Georgia exhibits shall be numbered with a “G” sequence. Any joint exhibits shall be numbered with a “J” sequence.

On October 26, 2016, the parties shall file a joint exhibit list in spreadsheet form, in either Excel or Word format. The exhibit list shall contain columns for “Offered,” “Objection,” and “Admitted.” On the exhibit list, the parties shall mark exhibits to which objection has been made, and the basis for the objection. All other exhibits will be admitted *de bene*, subject to being struck for lack of relevance at the conclusion of trial upon notice to the parties.

1.6 Hostile Witnesses

If a party seeks to present testimony by a witness who is of a type described in Rule 611(c)(2) of the Federal Rules of Evidence or by a witness who will not otherwise reasonably cooperate in the preparation of pre-filed testimony, then the party presenting such testimony by such a witness may call the witness in ordinary course at trial. No written summary of expected

testimony need be filed. The parties may also agree to use deposition designations in lieu of live witness testimony.

2. Trial Proceedings

2.1 Trial Schedule

Trial shall commence on Monday, October 31, 2016, at 8:00 a.m. at the United States District Court for the District of Columbia, E. Barrett Prettyman Courthouse, 333 Constitution Ave. NW, Washington, D.C., 20001, in Courtroom 9, 4th Floor. Unless otherwise specified by the Special Master, the proceeding shall be in session from 8:00 a.m. to 5:00 p.m. each day, with breaks for lunch and as necessary.

Counsel should contact the Clerk of Court of the District Court for the District of Columbia, Angela D. Caesar, with any questions regarding courtroom layout, logistics, and similar issues. The Clerk of Court can be reached at 202-354-3181.

As a general matter, the trial will proceed as follows:

- A. Introduction of Florida's pre-filed testimony and exhibits
- B. Cross-examination of Florida's witnesses
- C. Redirect examination of Florida's witnesses
- D. Introduction of Georgia's pre-filed testimony and exhibits
- E. Cross-examination of Georgia's witnesses
- F. Redirect examination of Georgia's witnesses
- G. Florida's rebuttal testimony and exhibits, cross-examination and redirect.

Rebuttal testimony will be strictly limited to situations where the need for testimony could not have been anticipated at the time direct testimony was prepared.

The parties will be permitted to make opening and closing statements of no more than seventy-five (75) minutes each.

2.2 Sequestration of Witnesses

A witness will only be sequestered if good cause is shown.

2.3 Use of Confidential Documents or Information at Trial

The parties are encouraged to resolve by agreement issues regarding the use at trial of documents designated “Confidential” pursuant to Case Management Plan ¶ 10, or information derived therefrom, whether by redaction, agreed release of the “Confidential” designation, or by other means so as to eliminate or reduce the need to rely on confidential information at trial.

Should a party conclude that there is confidential information that need be presented as evidence while preserving its confidentiality, the party will take the following steps:

2.3.1 By September 9, provide notice to the other parties of the information in question and the intent to offer it confidentially at trial.

2.3.2 Redact from the pre-filed testimony or the exhibits only so much of the information as is asserted to be confidential.

2.3.3 By September 16, file under seal for *in camera* review a non-redacted copy of the testimony or exhibit, together with a motion explaining why the information should be kept out of the public record and is nevertheless relevant. Any opposition to such a motion shall be filed by September 30.

The information asserted to be confidential will continue to be treated as such until ruling on the motion.

The Special Master may thereafter make such orders as are necessary to govern the use of such documents or information at trial. The Special Master may determine whether or not the proffered evidence should continue to be treated as confidential information and, if so, what protection, if any, may be afforded to such information at the trial.

2.4 Trial Subpoenas

The parties shall bring to the attention of the Special Master any need for subpoenas for attendance at trial as soon as reasonably practicable.

2.5 Demonstrative Exhibits

Demonstrative exhibits need not be pre-filed and will not be admitted into evidence. Demonstrative exhibits need not be disclosed prior to use, though the parties may agree to their exchange. Demonstrative exhibits will be subject to critique by opposing counsel to the extent that any argument might be subject to critique.

2.6 Audio/Visual Equipment

Counsel should contact Mr. John Cramer, the District Court for the District of Columbia's technology manager, with any issues relating to audio/visual equipment. Mr. Cramer can be reached at 202-354-3019. Counsel should also inform the Special Master of their planned use of audio/visual equipment no later than October 21, 2016.

3. Objections

Any objections to this Order will be waived unless filed in writing within ten (10) days of the date of this Order. This Order may be amended. A subsequent Order will issue at or after trial to control post-trial submissions, which will include an opportunity for post-trial briefs.

Dated: July 13, 2016

/s/ Ralph I. Lancaster

Ralph I. Lancaster
Special Master

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APPENDIX A
Florida v. Georgia, No. 142, Original
Summary of Deadlines
July 13, 2016

July 23, 2016	Objections to CMO No. 20
September 9, 2016	Exchange of exhibit lists, witness lists, and deposition designations Provide notice regarding use of “Confidential” documents or information
September 16, 2016	Pre-trial motions and motions <i>in limine</i> Motions to file under seal Requests to participate as <i>amicus curiae</i>
September 23, 2016	Exchange of deposition cross-designations
September 30, 2016	Oppositions to pre-trial motions and motions <i>in limine</i> Oppositions to motions to file under seal
October 7, 2016	Reply to oppositions to pre-trial motions and motions <i>in limine</i>
October 12, 2016	Pre-trial briefs
October 14, 2016	Filing of Florida’s direct testimony
October 21, 2016	Filing of <i>amicus</i> briefs Advise Special Master regarding planned use of audio/visual equipment
October 26, 2016	Filing of Georgia’s direct testimony Filing of stickered exhibits and exhibit list
October 31, 2016	Trial commences