

In The  
Supreme Court of the United States

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STATE OF FLORIDA,

*Plaintiff,*

v.

STATE OF GEORGIA,

*Defendant.*

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Before the Special Master

Hon. Ralph I. Lancaster

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**STATE OF GEORGIA'S PROPOSED TRIAL PLAN  
JUNE 6, 2016**

As requested by the Special Master at the May 10, 2016 status conference, the State of Georgia submits this proposed trial plan and proposed schedule for pre- and post-trial briefing. The parties met and conferred on numerous occasions and have come to agreement on most aspects of the schedule.

**Summary Judgment Briefs:** The parties have conferred and have both agreed to forgo filing summary judgment or other pre-trial dispositive briefs in this matter. Instead, the parties propose the filing of pre- and post-trial briefs according to the schedule below.

**Pre-trial Briefs:** The parties propose that pre-trial briefs be simultaneously filed two weeks before the start of trial. Georgia proposes that both parties' pre-trial briefs be limited to fifty double-spaced pages.

**Post-trial Briefs:** Georgia anticipates post-trial briefing, consisting of opening post-trial briefs filed simultaneously by each party, followed by opposition briefs filed simultaneously by each party. The parties have not yet conferred on page limits or timing for when those briefs would be filed but will continue to do so and will present a proposed plan to the Special Master as trial approaches.

**Location of Trial:** The parties have conferred and agreed on Washington, D.C. as a suitable trial location for both parties' attorneys and witnesses, if agreeable and sufficiently convenient for the Special Master.

**Trial Date:** The parties jointly propose a trial start date in late October, and believe that Monday, October 31, 2016 is a reasonable start date.

**Pre-Trial Schedule:** The parties have agreed on the following proposed pre-trial schedule:

September 14, 2016	Deadline for parties to exchange exhibit lists, witness lists, and deposition designations.
September 23, 2016	Deadline for motions <i>in limine</i> and any other procedural pre-trial motions.
September 30, 2016	Deadline for deposition cross-designations.
October 7, 2016	Deadline for oppositions to any pre-trial motions filed on September 23.
October 14, 2016	Deadline for reply briefs in support of pre-trial motions filed on September 23.
October 17, 2016	Deadline to file substantive pre-trial briefs.

**Direct Examinations:** Georgia proposes that all direct examinations be conducted by live testimony rather than written submission. Although written directs are sometimes used in bench trials, Georgia is committed to presenting its case through live testimony in an efficient manner. Submissions through written testimony with only live cross-examination will likely result in the submission of more irrelevant or marginally relevant testimony as well as the presentation of more witnesses, and not necessarily the critical witnesses. A time-limited trial with live witnesses will, Georgia believes, present the most relevant testimony in the most efficient way and require both sides to economize and focus their presentations.

Georgia understands that Florida might propose to do several direct examinations by written testimony. Submission of written testimony by a dozen or more experts and fact witnesses will allow Florida to present substantially more testimony than might otherwise be necessary or appropriate, and impose a concomitantly unfair time and resource burden on Georgia, which will then be required to cross-examine all of these witnesses.

**Number & Identity of Witnesses:** Georgia expects to call between twelve to fifteen witnesses, including both fact and expert witnesses, from the following list to testify live in its case-in-chief. Georgia reserves its right to amend this list as it prepares for trial. Georgia also reserves its right to call adversely certain witnesses from the State of Florida and to offer testimony through deposition designations. In particular, Georgia expects to present the testimony of some witnesses (including

possibly Georgia witnesses, Florida witnesses, and third-party witnesses) via deposition designation. The names of those witnesses are not reflected below. The list below contains only those individuals that Georgia currently believes it might call to testify live in its case-in-chief.

- John Ambrose
- Allen Barnes
- Philip Bedient
- Napoleon Caldwell
- Robin Cantor
- Carol Couch
- Gail Cowie
- David Eigenberg
- Karl Havens
- Jim Hook
- Suat Irmak
- Katie Kirkpatrick
- Cliff Lewis
- Rom Lipcius
- Mark Masters
- Peter Mayer
- William McAnally
- Charles Menzie

- Sorab Panday
- William Pine
- Harold Reheis
- Robert Stavins
- Judson Turner
- Robert Weller
- Wei Zeng

**Demonstratives:** The parties jointly propose that demonstratives be exchanged 48 hours before the day on which they are used at trial.

**Length of Trial:** Georgia believes an appropriate length for this trial is four to six weeks. Georgia proposes that each side be given an equal amount of time (whether in hours or trial days) to put on their case. If the Court permits written direct examinations, and if Florida submits a large number of written direct examinations, Georgia will request additional time to conduct the necessary cross examinations and will also request that the time for those cross examinations not count toward its overall hours limit.

Dated: June 6, 2016

Respectfully submitted,

/s/ Craig S. Primis  
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**CERTIFICATE OF SERVICE**

This is to certify that the JUNE 6, 2016 PROPOSED TRIAL PLAN BY THE STATE OF GEORGIA has been served on this 6th day of June 2016, in the manner specified below:

<p><b><u>For State of Florida</u></b></p> <p><u>By U.S. Mail and Email</u></p> <p>Gregory G. Garre  <i>Counsel of Record</i>  Latham &amp; Watkins LLP  555 11th Street, NW  Suite 1000  Washington, DC 20004  T: (202) 637-2207  <a href="mailto:gregory.garre@lw.com">gregory.garre@lw.com</a></p>	<p><b><u>For United States of America</u></b></p> <p><u>By U.S. Mail and Email</u></p> <p>Donald J. Verrilli  Solicitor General  <i>Counsel of Record</i>  Department of Justice  950 Pennsylvania Avenue, N.W.  Washington, DC 20530  T: 202-514-7717  <a href="mailto:supremectbriefs@usdoj.gov">supremectbriefs@usdoj.gov</a></p>
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