

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. 13

November 2, 2015

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Georgia and Florida have jointly requested a forty-five (45) day enlargement of the deposition and expert discovery deadlines. While the parties make competing representations regarding the underlying reasons for the requested enlargement, the request is apparently the result of the parties' massive document productions in the last six to eight weeks of a ten-month written discovery period. In turn, these last-minute productions are apparently the result of the parties' failure, despite repeated urging, to narrow the scope of their document requests and to target specifically the critical facts on which this equitable apportionment proceeding will turn. The parties' approach has threatened their ability to complete in a timely manner the factual development of this original jurisdiction proceeding via depositions of fact and expert witnesses.

In short, the parties' conduct of discovery has imperiled a crucial object of an original jurisdiction proceeding before a Special Master, namely, the full factual development of the relevant issues for resolution by the Supreme Court. *See United States v. Texas*, 339 U.S. 707, 715 (1950) ("The Court in original actions, passing as it does on controversies between sovereigns which involve issues of high public importance, has always been liberal in allowing full development of the facts."). It also imperils another goal of original jurisdiction proceedings, which is to ensure prompt resolution of the merits of the case. *See Ohio v. Kentucky*, 410 U.S. 641, 644 (1973) ("Our object in original cases is to have the parties, as promptly as possible, reach and argue the merits of the controversy presented.").

Because of the importance of fully developing the relevant factual record, and in reliance on the parties' representations that a forty-five (45) day enlargement of the relevant deadlines will permit the parties thoroughly to develop the relevant facts for the Supreme Court without further unnecessary delay, IT IS HEREBY ORDERED THAT:

For purposes of the proceedings before the Special Master, the schedule established in the Case Management Plan (“CMP”) dated December 3, 2014, as subsequently modified in Case Management Order No. 10, is hereby further modified as set forth below. The parties should not expect any further enlargement of discovery deadlines and should expect that any further delay resulting from the parties’ own dilatory conduct will be viewed with extreme disfavor. In the event any party’s conduct threatens the integrity of the deadlines set forth herein, the issue should be raised with the Special Master in a timely manner so as to avoid requests for further extension, rather than raised initially as justification for further enlargements.

1. **Amendment of Case Management Plan Section 6.2.**

Section 6.2 of the CMP, as subsequently modified, is amended to read:

6.2 Deposition Discovery

Unless they agree to proceed sooner, the parties may schedule depositions to begin on or after June 1, 2015. Depositions will be conducted in accordance with the guidelines attached hereto as Appendix C.

Depositions other than those taken of expert witnesses in their capacity as such shall be completed by February 29, 2016. Depositions of expert witnesses in their capacity as such shall be completed by May 16, 2016.

2. **Amendment of Case Management Plan Section 7.**

Section 7 of the CMP, as subsequently modified, is amended to read:

7. **Expert Witnesses**

Fed. R. Civ. P. 26(a)(2) shall control the disclosure of expert testimony in this action. While drafts of expert reports or disclosures need not be produced, any worksheets that reflect or explain calculations upon which the expert’s report depends

should be produced, and any spreadsheets upon which the expert relies in forming the expert's opinions should be produced in native format.

7.1 Initial Disclosures

Any party that intends to rely upon expert testimony in support of an issue upon which that party bears the burden of proof shall provide full disclosure for such experts by no later than February 29, 2016.

7.2 Defensive Experts

Any party seeking to rely upon expert testimony on an issue concerning which it does not bear the burden of proof shall provide full disclosure for such experts by no later than April 14, 2016.

7.2 Rebuttal Experts

There will be no rebuttal expert designation absent further order upon showing of good cause.

3. Amendment of Case Management Plan Section 16.

Section 16 of the CMP, as subsequently modified, is amended to read:

16. Dispositive Motions

Except as otherwise directed in a case management order, motions to dismiss or motions for summary judgment may be filed at any time on or before June 29, 2016. Oppositions to motions to dismiss or motions for summary judgment shall be filed within thirty (30) days after service of the dispositive motion, in no event later than July 29, 2016. Replies to oppositions to motions to dismiss or motions for summary judgment shall be filed within fourteen (14) days after service of the opposition to the dispositive motion, in no event later than August 12, 2016.

Dated: November 2, 2015

Ralph I. Lancaster

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Special Master

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