

No. 142, Original

In the
Supreme Court of the United States

STATE OF FLORIDA,

Plaintiff,

v.

STATE OF GEORGIA,

Defendant.

Before the Special Master

Hon. Ralph I. Lancaster

THE STATE OF FLORIDA’S JUNE 2016 PROGRESS REPORT

The State of Florida respectfully submits this Progress Report to the Special Master pursuant to Section 4 of the December 3, 2014 Case Management Plan (the “CMP”), as subsequently amended. Also, as the Special Master instructed during the recent May 10 Status Conference, Florida will file an initial proposal on Monday, June 6 regarding dates and location for trial, a schedule for pretrial briefing and related issues.

I. MEDIATION

Florida and Georgia continue to engage in a confidential mediation process. Additional materials will be submitted to the mediator in the coming weeks, and the parties will engage in another in-person session later this month. Additional sessions are likely to occur in July. Florida is committed to the mediation process and hopes that the mediator will be able to help

the parties identify solutions to break through the decades of deadlock preventing resolution in this case.

II. EXPERT DISCOVERY PROGRESS

On Friday May 20, Georgia disclosed to Florida nine expert reports, identifying eight experts for the first time, and transmitting 2200 pages of new expert reports. Florida provided to Georgia four defensive reports from previously disclosed experts, totaling 187 pages. Florida is currently reviewing and analyzing Georgia's new voluminous submissions. Florida has already begun to notify Georgia of issues with those reports, including missing citations and/or data and other issues that are slowing analysis. Likewise, Florida's experts are engaged in scrutinizing the data, documents, and models underlying Georgia's expert reports. As part of this review, Florida is evaluating whether to seek a focused number of rebuttal reports to address issues raised in Georgia's May 20 disclosures.¹ Whether or not Florida requests permission to file certain, narrow, rebuttal reports, Florida is committed to completing expert discovery by the deadline set forth in Case Management Order 18.

Florida and Georgia continue to work cooperatively to schedule and complete expert depositions. As of the date of this filing, Florida has issued notices for depositions of newly disclosed experts and hopes to soon have dates scheduled for those depositions. At the same time, depositions of Florida's previously disclosed experts continue every week in June.

III. PRETRIAL PROCEEDINGS

In accordance with the Court's instructions during the May 10, 2016 Status Conference, Counsel for Florida and Georgia have met and conferred regarding pretrial matters. Florida

¹ The CMP (as amended by Case Management Order Nos. 13 and 17), establishes that disclosures of expert testimony "in support of an issue upon which [a] party bears the burden of proof" were due "no later than February 29, 2016" and expert testimony on issues for which the party does not bear the burden were due May 20, 2016. The CMP also indicates rebuttal reports will be allowed upon showing good cause. *See* CMP §§ 7.1 and 7.2.

anticipates that the parties will be able to agree on certain logistic and procedural issues, and will address those logistics in its June 6 filing.

IV. UNRESOLVED DISPUTES

No disputes are ripe for decision by the Court at this time. As indicated above and in prior progress reports, Florida may need to seek permission to file limited rebuttal reports but any such request will not impact current case deadlines.

* * * *

June 3, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the STATE OF FLORIDA'S JUNE 3, 2016 PROGRESS REPORT have been served on this 3rd day of June, 2016, in the manner specified below:

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