

**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. 19**

**June 20, 2016**

## CASE MANAGEMENT ORDER NO. 19

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.

#### 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.

#### 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**

The parties shall file four copies of written direct testimony by October 21, 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 shall file five copies of all exhibits by October 21, 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 21, 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.

## **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, 4<sup>th</sup> 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.

## **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: June 20, 2016

*/s/ Ralph I. Lancaster*

\_\_\_\_\_  
Ralph I. Lancaster  
Special Master

Pierce Atwood LLP  
Merrill's Wharf  
254 Commercial Street  
Portland, ME 04101  
Tel: (207) 791-1100  
Fax: (207) 791-1350  
Email: [rlancaster@pierceanwood.com](mailto:rlancaster@pierceanwood.com)

**APPENDIX A**  
**Florida v. Georgia, No. 142, Original**  
**Summary of Deadlines**  
**June 20, 2016**

June 30, 2016	Objections to CMO No. 19
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 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 21, 2016	Filing of direct testimony  Filing of stickered exhibits and exhibit list  Filing of <i>amicus</i> briefs  Advise Special Master regarding planned use of audio/visual equipment
October 31, 2016	Trial commences