

**No. 142, Original**

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**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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**OFFICE OF THE SPECIAL MASTER**

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**CASE MANAGEMENT ORDER NO. 6**

**March 3, 2015**

## CASE MANAGEMENT ORDER NO. 6

Pursuant to the parties' joint request and in order to mitigate the risk of inadvertent waiver of attorney-client privileged or work-product protected materials, to maintain confidentiality of documents, to facilitate the prompt resolution of disputes over attorney-client privileged or work-product protected materials, and to expedite the flow of discovery, IT IS HEREBY ORDERED THAT:

1. This Order shall apply to all "Discovery Materials," hereby defined as documents, e-mails, writings, drawings, graphs, charts, models, photographs, and other data compilations, whether produced in hard copy format or as electronically stored information, produced in *Florida v. Georgia*, No. 142, Original.

2. With regard to all Discovery Materials, the parties have agreed to waive any argument that a party failed to take reasonable precautions to prevent inadvertent disclosure of privileged or confidential Discovery Materials.

3. Any Discovery Materials that could have been withheld or redacted, in whole or in part, based on the attorney-client privilege or work-product doctrine, or that could have been designated "Confidential" under Case Management Plan Section 10, that are disclosed as part of the production of documents in this litigation shall be deemed to have been inadvertently disclosed. Any inadvertent disclosure of Discovery Materials that could have been withheld or redacted pursuant to the attorney-client privilege or work-product doctrine (collectively hereinafter a "Privilege Claim") or designated "Confidential" (hereinafter a "Confidentiality Claim") shall not constitute a waiver of any available Privilege Claim or Confidentiality Claim by the disclosing party.

4. If the producing party determines that Discovery Materials subject to a Privilege Claim or Confidentiality Claim have been inadvertently produced, the producing party may notify any party that received the Discovery Materials of the claim and the basis for it.

5. If the receiving party discovers that it has received Discovery Materials subject to a Privilege Claim that have been inadvertently produced, it shall bring that fact to the attention of the producing party immediately upon that discovery.

6. Upon the request of the producing party and as directed by the producing party, the receiving party shall, within five (5) days, either destroy, return to the producing party, or designate as "Confidential" the Discovery Materials and all copies or reproductions thereof as to which the claim of inadvertent production has been made, and shall not use or disclose the information contained in such Discovery Materials until the Privilege Claim or Confidentiality Claim has been resolved either by agreement of the parties or by order of the Special Master. The receiving party shall take reasonable steps to retrieve the inadvertently disclosed Discovery Materials if the receiving party disclosed them before being notified.

7. If the Discovery Materials are subject to a Privilege Claim, the receiving party shall not make any copies of the inadvertently disclosed Discovery Materials, shall destroy all notes or other work product reflecting the contents of such Discovery Materials, and shall delete such Discovery Materials from any litigation-support or other database until the Privilege Claim has been resolved either by agreement of the parties or by order of the Special Master.

8. If the Discovery Materials are subject to a Confidentiality Claim, the receiving party shall treat the Discovery Materials in the manner set forth in Case Management Plan Section 10 until the Confidentiality Claim has been resolved either by agreement of the parties or by order of the Special Master.

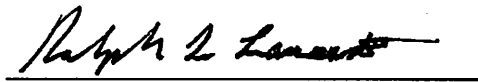
9. Upon the request of the producing party, the receiving party shall disclose promptly the names of any individuals who have read or have had access to the Discovery Materials subject to a Privilege Claim or Confidentiality Claim.

10. No inadvertently produced Discovery Materials subject to a Privilege Claim or Confidentiality Claim may be used in evidence against the producing party or used in connection with or to support any pleading filed with the Special Master until the Privilege Claim or Confidentiality Claim has been resolved either by agreement of the parties or by order of the Special Master, except a pleading seeking to challenge or defend a Privilege Claim or Confidentiality Claim.

11. If the receiving party wishes to challenge a Privilege Claim or Confidentiality Claim, the receiving party shall do so in writing within seven (7) days of receipt of the demand for the return, destruction, or designation as “Confidential” of the Discovery Material. Failure to challenge a Privilege Claim or Confidentiality Claim within seven (7) days of receipt of the demand for the return, destruction, or designation as “Confidential” of the Discovery Material shall constitute agreement to the Privilege Claim or Confidentiality Claim.

12. In the event of a challenge, the burden of establishing any privilege or confidentiality designation will remain on the producing party. Counsel shall make a good faith effort to resolve the challenged Privilege Claim or Confidentiality Claim by agreement. If the parties cannot resolve the challenged Privilege Claim or Confidentiality Claim, either party may file a motion with the Special Master for determination of the Claim. The Special Master may conduct an *in camera* review if deemed appropriate.

Dated: March 3, 2015



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Special Master

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