
From: Primis, Craig S. <cprimis@kirkland.com>
Sent: Monday, October 26, 2015 3:37 PM
To: Philip.Perry@lw.com; Joshua D. Dunlap; allen.winsor@myfloridalegal.com; Ralph Lancaster
Cc: Mary Clifford; FloridaWaterTeam@foley.com; #Georgia Water Team; supremectbriefs@usdoj.gov; michael.gray2@usdoj.gov; james.dubois@usdoj.gov
Subject: RE: Letter from Florida and Georgia
Attachments: 2015.03.13 GA_s Third RFPs to FL_(35399547_1).pdf; 2015.03.06 GA_s Second RFPs to FL_(35338608_1).pdf; 2015.03.10 Subpoena - Jacob City_(35354871_1).pdf; 2015.03.10 Subpoena - City of Wewahitchka_(35354859_1).pdf; 2015.10.23 - Notice of Deposition to C. Perry.pdf; 2015.10.08 - Notice of Deposition to J. Hook.pdf; 2015.10.12 30(b)(6) Cross-Notice to Black Veatch.pdf; 2015.10.12 30(b)(6) Cross-Notice to Atkins Global.pdf

Mr. Dunlap:

In response to your request of this morning, I have attached the following documents:

- Georgia's second and third requests for documents to Florida
- Georgia's two most recent third party document subpoenas (served on City of Wewahitchka and Jacob City)
- The two most recent subpoenas duces tecum served by Georgia, which were attached to cross-notices for the depositions of third parties Black & Veatch and Atkins Global
- In addition, since August 28, Florida has also served subpoenas duces tecum seeking documents from third parties in advance of depositions. Georgia attaches the two most-recent of those subpoenas, served on Calvin Perry and Jim Hook.

Sincerely,
Craig Primis
Counsel for Georgia

**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

**GEORGIA'S THIRD SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO FLORIDA**

Pursuant to Sections 3.1 and 6.1.2 of the Case Management Plan,¹ and Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendant State of Georgia ("Georgia"), by and through its attorneys, hereby submits its Third Set of Requests for Production of Documents to Plaintiff State of Florida ("Florida").

INSTRUCTIONS AND DEFINITIONS

1. These Requests are issued to Plaintiff, the State of Florida, in the above-titled action. Pursuant to Section 6.1.2 of the Case Management Plan, Florida shall begin producing documents and other tangible things responsive to these Requests within 30 days of service

¹ Case Management Plan, Dkt. 6 (Dec. 3, 2014) was adopted by the Special Master in Case Management Order No. 1, Dkt. 5 (Dec. 3, 2014) and modified by Case Management Order No. 2, Dkt. 12 (Dec. 19, 2014) and Case Management Order No. 4, Dkt. 40 (Feb. 10, 2015).

of these Requests and shall complete full production within 120 days after service of these Requests.

2. Unless otherwise specified, the time period covered by these Requests is January 1, 1975 to the present.
3. These Requests are continuing in nature, up to and during the course of trial. Pursuant to Section 15 of the Case Management Plan, Florida shall promptly supplement their responses to these Requests if it obtains or discovers any additional responsive documents.
4. All requested documents are to be produced in the order and manner in which they are currently maintained by Florida, including producing them with images of their original file folders and file jackets or covers, and indicate the division, department, and/or individual from whose files the document is being produced.
5. If there is no document responsive to any particular category, Florida shall so state in writing.
6. Pursuant to Section 6.1.2 of the Case Management Plan, if Florida objects to a Request (or any portion of a Request) for any reason other than privilege, work product, or confidentiality, those objections must be served within 20 days after service of these Requests. Any objections based on privilege, work product, or confidentiality must be served within 30 days after service of these Requests.
7. Pursuant to Section 9 of the Case Management Plan, if Florida withholds any documents responsive to a Request under a claim of privilege, Florida shall, for each such withheld document, provide a privilege log to Georgia's counsel. This log must include (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different from that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed.

8. For purposes of construing the scope of these Requests, all terms shall be given their most expansive and inclusive interpretation. This includes, without limitation, the following:
 - a. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.
 - b. The word “including” shall be construed to introduce a non-exhaustive list, and to mean “including but not limited to.”
 - c. The term “all” shall be construed to include the term “any,” and the term “any” shall be construed to include the term “all.”
 - d. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a Request all documents or communications that might otherwise be construed to be outside its scope.
 - e. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - f. Any reference to communications “between” two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
 - g. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine.
9. “ACF Basin” means the Apalachicola Bay and the region of Georgia and Florida drained by the Apalachicola, Chattahoochee, and Flint River systems.
10. “Communication” means any oral or written exchange or transmission of information by any means, including without limitation face-to-face conversation, mail, overnight delivery, Internet, telephone, e-mail, or facsimile.

11. "Conservation Data" means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.
12. "Document" means the complete original or a true, correct, and complete copy and any non-identical copies of any written, printed, typed, recorded, photographic, electronically transmitted or graphic matter of any type and description, however and by whomever prepared, produced, reproduced, disseminated, recorded, stored, or made, in any form, including, but not limited to, any writing, book, paper, letter, correspondence, e-mail, envelope, memorandum, telegram, cablegram, diary, diary entry, record, meeting minute, note, appointment book, notebook, schedule, tabulation, voucher, account, contract, agreement, change order, purchase order, invoice, progress report, intra and inter-office communication, calendar, desk pad, telephone message slip, draft, working paper, drawing, microfilm, abstract, summary, index, message, statement, affidavit, instruction, bulletin, circular, pamphlet, slide, photograph, sketch, label, advertisement, chart, graph, map, computer data compilation, data sheet, data processing card, printout, tabulation, statistic, survey, study, speech, tape, tape recording, press release, public statement, public announcement, public or governmental filing, note of interview, and any other writing and other magnetic, photographic, electronic or sound recording.
13. "Ecological Services" means the end products of ecological functions that are valued by people.
14. "Florida Panhandle" includes all geographic territory within Florida to the west of, and including the following counties: Citrus, Levy, Gilchrist, and Columbia.

15. "Florida portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Florida.
16. "Georgia portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Georgia.
17. "Interbasin transfer" means a withdrawal of water from one river basin, followed by use and/or return of some or all of that water to a second river basin.
18. "Permit" includes any issuance by a local, state, or federal agency authorizing the discharge or withdrawal of surface water or groundwater from the ACF Basin.
19. "Person" or "Persons" means and includes any man, woman, individual, corporation, organization, association, partnership, limited partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.
20. "Possession" includes documents, tangible things, and communications in your own possession or that of your agents, successors, assigns, representatives, or dependents, as well as documents, tangible things, and communications in your constructive possession by virtue of your ability to retrieve, request, order, copy, borrow, purchase, or locate it.
21. "Recreational Activity" includes, but is not limited to, bicycling, camping, canoeing, kayaking, boating, fishing, swimming, hiking, horseback riding, hunting, bird watching, and picnicking.
22. "Water Infrastructure Projects" means any designing, planning, building, or refurbishing of any physical system necessary for any water use including, but not limited to, water treatment facilities, water treatment plants, desalination operations, and water reuse projects.
23. "You" and "Your" means the State of Florida, including its attorneys, officers, directors, employees, agents, representatives, consultants, and related entities.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 54:

For each water supply system in the counties identified below, documents sufficient to show “Finished Water,” “Utility Service Area Finished Water Use,” “Utility Service Area Finished Water Use by Dwelling Units,” “Utility Service Area Residential Population,” “Uniform Gross Per Capita,” and “Uniform Residential Per Capita,” as those terms are defined in the document entitled “Guidance on Per Capita Water Use and Performance Measures” dated March 3, 2008 and available from the Florida Department of Environmental Protection at www.dep.state.fl.us/water/waterpolicy/docs/cupcon/per_capita_guidance_030308.pdf, for the period from 2000 to present:

- a. Dade
- b. Palm Beach
- c. Broward
- d. Duval
- e. Orange
- f. Seminole
- g. Leon
- h. Bay
- i. Hillsboro
- j. Pinellas
- k. Escambia
- l. Franklin
- m. Gulf

REQUEST FOR PRODUCTION NO. 55:

For each county identified in Request for Production No. 54, documents sufficient to show the population of each county, and the total quantity of water withdrawn from the environment by water systems serving the population of each such county, in each year from 1992 to present.

REQUEST FOR PRODUCTION NO. 56:

For each water supply system identified in Request for Production No. 54, all water audits, reports, or analyses prepared from 2000 to present tending to show any difference between the amount of water supplied to a distribution system and the amount of water that is reflected in customer billings or otherwise accounted for. For purposes of this Request, water audits include, but are not limited to, audits conducted in accordance with the methodology described by the American Water Works Association in the publication entitled M36 Water Audits and Loss Control Programs, Third Edition (AWWA Catalog No. 30036, 2009).

REQUEST FOR PRODUCTION NO. 57:

For each water supply system identified in Request for Production No. 54, documents sufficient to show the volume of lost and unaccounted for water in the water supply system in each year from 1992 to present, including documents describing the methodology used to calculate lost and unaccounted for water for each system.

REQUEST FOR PRODUCTION NO. 58:

Any quantitative studies related to any allegation made in your Complaint, including supporting materials, data, input and output files, worksheets, and models.

REQUEST FOR PRODUCTION NO. 59:

Copies of any computer programs, including source codes, for any program that Florida has used to study or analyze climate, rainfall, precipitation, run-off, surface water, groundwater, or reservoir releases in the ACF Basin, or any other topic related to any allegation made in your Complaint.

REQUEST FOR PRODUCTION NO. 60:

All documents and data related to the economic value of any Recreational Activities in the Florida Panhandle (e.g., number of visitors per activity, total fish catch, geographic origin of visitors, etc.).

REQUEST FOR PRODUCTION NO. 61:

All documents and data describing efforts proposed, considered, adopted, or undertaken by governmental or private entities to manage commercial fishery stocks, including oysters and any other species to which Florida alleges harm in its Complaint, in the Florida Panhandle.

REQUEST FOR PRODUCTION NO. 62:

All documents and data relating to commercial fishing licenses or permits, including the number, type, and capacity of commercial fishing vessels; commercial landings data; trip data; and the number of fishing days for any commercial fishery within the Florida Panhandle.

REQUEST FOR PRODUCTION NO. 63:

All documents relating to local, municipal, and private water systems (including water self-supply and other drinking water supply systems) in the Florida portion of ACF Basin, including, but not limited to, the number of customers, the water use rates and rate structure,

customer demand (by customer class), and long-term demand forecasts for water use from those systems.

REQUEST FOR PRODUCTION NO. 64:

Documents sufficient to show the guidelines or evaluation process for issuing new water permits in the Florida portion of the ACF Basin, including, but not limited to, tests of reasonable or beneficial water use.

REQUEST FOR PRODUCTION NO. 65:

All documents relating to any request for a water permit in the Florida portion of the ACF Basin that was (i) denied, in whole or in part; or (ii) transferred, sold, or otherwise retired.

REQUEST FOR PRODUCTION NO. 66:

All documents and data relating to the construction and operation of Water Infrastructure Projects in the Florida portion of the ACF Basin.

REQUEST FOR PRODUCTION NO. 67:

All documents relating to any alleged economic impact Florida alleges it has suffered from loss of habitat in the Florida portion of the ACF Basin, including but not limited to any non-use value.

REQUEST FOR PRODUCTION NO. 68:

All documents relating to any alleged changes in Ecosystem Services (positive or negative) or the value of Ecosystem Services (positive or negative) in the Florida portion of the ACF Basin.

REQUEST FOR PRODUCTION NO. 69:

All documents relating to the Governor's Task Force on Water Supply Development and Funding, including annual plans and funding levels for water districts and water utilities in the Florida Panhandle.

REQUEST FOR PRODUCTION NO. 70:

All document relating to oyster growth and spatfall monitoring in the Florida portion of the ACF Basin, including all data regarding location, abundance, growth, and individual sizes of oysters and/or oyster spat, and all data or information collected regarding biological or environmental variables, such as temperature, salinity, and dissolved oxygen levels.

REQUEST FOR PRODUCTION NO. 71:

All document relating to long-term trawl survey monitoring program of fish and invertebrates in the Florida portion of the ACF Basin, including all data regarding location, abundance, and individual sizes of fish and invertebrate species, and all data or information collected regarding biological or environmental variables, such as temperature, salinity, and dissolved oxygen levels.

Dated: March 13, 2015

/s/ Craig S. Primis
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**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

**GEORGIA'S SECOND SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO FLORIDA**

Pursuant to Sections 3.1 and 6.1.2 of the Case Management Plan,¹ and Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendant State of Georgia (“Georgia”), by and through its attorneys, hereby submits its Second Set of Requests for Production of Documents to Plaintiff State of Florida (“Florida”).

INSTRUCTIONS AND DEFINITIONS

1. These Requests are issued to Plaintiff, the State of Florida, in the above-titled action.

Pursuant to Section 6.1.2 of the Case Management Plan, Florida shall begin producing documents and other tangible things responsive to these Requests within 30 days of service

¹ Case Management Plan, Dkt. 6 (Dec. 3, 2014) was adopted by the Special Master in Case Management Order No. 1, Dkt. 5 (Dec. 3, 2014) and modified by Case Management Order No. 2, Dkt. 12 (Dec. 19, 2014) and Case Management Order No. 4, Dkt. 40 (Feb. 10, 2015).

of these Requests and shall complete full production within 120 days after service of these Requests.

2. Unless otherwise specified, the time period covered by these Requests is January 1, 1975 to the present.
3. These Requests are continuing in nature, up to and during the course of trial. Pursuant to Section 15 of the Case Management Plan, Florida shall promptly supplement their responses to these Requests if it obtains or discovers any additional responsive documents.
4. All requested documents are to be produced in the order and manner in which they are currently maintained by Florida, including producing them with images of their original file folders and file jackets or covers, and indicate the division, department, and/or individual from whose files the document is being produced.
5. If there is no document responsive to any particular category, Florida shall so state in writing.
6. Pursuant to Section 6.1.2 of the Case Management Plan, if Florida objects to a Request (or any portion of a Request) for any reason other than privilege, work product, or confidentiality, those objections must be served within 20 days after service of these Requests. Any objections based on privilege, work product, or confidentiality must be served within 30 days after service of these Requests.
7. Pursuant to Section 9 of the Case Management Plan, if Florida withholds any documents responsive to a Request under a claim of privilege, Florida shall, for each such withheld document, provide a privilege log to Georgia's counsel. This log must include (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different from that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed.

8. For purposes of construing the scope of these Requests, all terms shall be given their most expansive and inclusive interpretation. This includes, without limitation, the following:
 - a. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.
 - b. The word “including” shall be construed to introduce a non-exhaustive list, and to mean “including but not limited to.”
 - c. The term “all” shall be construed to include the term “any,” and the term “any” shall be construed to include the term “all.”
 - d. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a Request all documents or communications that might otherwise be construed to be outside its scope.
 - e. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - f. Any reference to communications “between” two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
 - g. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine.
9. “ACF Basin” means the Apalachicola Bay and the region of Georgia and Florida drained by the Apalachicola, Chattahoochee, and Flint River systems.
10. “Coast of the Florida panhandle” includes the following counties: Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, and Citrus.

11. "Communication" means any oral or written exchange or transmission of information by any means, including without limitation face-to-face conversation, mail, overnight delivery, Internet, telephone, e-mail, or facsimile.
12. "Conservation Data" means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.
13. "Document" means the complete original or a true, correct, and complete copy and any non-identical copies of any written, printed, typed, recorded, photographic, electronically transmitted or graphic matter of any type and description, however and by whomever prepared, produced, reproduced, disseminated, recorded, stored, or made, in any form, including, but not limited to, any writing, book, paper, letter, correspondence, e-mail, envelope, memorandum, telegram, cablegram, diary, diary entry, record, meeting minute, note, appointment book, notebook, schedule, tabulation, voucher, account, contract, agreement, change order, purchase order, invoice, progress report, intra and inter-office communication, calendar, desk pad, telephone message slip, draft, working paper, drawing, microfilm, abstract, summary, index, message, statement, affidavit, instruction, bulletin, circular, pamphlet, slide, photograph, sketch, label, advertisement, chart, graph, map, computer data compilation, data sheet, data processing card, printout, tabulation, statistic, survey, study, speech, tape, tape recording, press release, public statement, public announcement, public or governmental filing, note of interview, and any other writing and other magnetic, photographic, electronic or sound recording.

14. "Florida portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Florida.
15. "Georgia portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Georgia.
16. "Interbasin transfer" means a withdrawal of water from one river basin, followed by use and/or return of some or all of that water to a second river basin.
17. "Permit" includes any issuance by a local, state, or federal agency authorizing the discharge or withdrawal of surface water or groundwater from the ACF Basin.
18. "Person" or "Persons" means and includes any man, woman, individual, corporation, organization, association, partnership, limited partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.
19. "Possession" includes documents, tangible things, and communications in your own possession or that of your agents, successors, assigns, representatives, or dependents, as well as documents, tangible things, and communications in your constructive possession by virtue of your ability to retrieve, request, order, copy, borrow, purchase, or locate it.
20. "You" and "Your" mean the State of Florida, including its attorneys, officers, directors, employees, agents, representatives, consultants, and related entities.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 48:

All documents relating to federal investment in the Apalachicola National Estuarine Research Reserve.

REQUEST FOR PRODUCTION NO. 49:

All studies, reports, research, or analyses performed in connection with the Apalachicola National Estuarine Research Reserve relating to any ecological, biological, hydrological, or economic harm that Florida alleges it is suffering in the ACF Basin.

REQUEST FOR PRODUCTION NO. 50:

All Conservation Data for the Apalachicola River Basin.

REQUEST FOR PRODUCTION NO. 51:

All documents relating to return flows in the Florida portion of the ACF Basin.

REQUEST FOR PRODUCTION NO. 52:

All documents relating to legislative proposals and/or executive branch initiatives relating to any ecological, biological, hydrological, or economic harm that Florida alleges it is suffering in the ACF Basin.

REQUEST FOR PRODUCTION NO. 53:

All documents relating to any request Florida has made to any private entity—or any State or Federal agency—for funds or grants relating to any ecological, biological, hydrological, or economic harm that Florida alleges it is suffering in the ACF Basin.

Dated: March 6, 2015

/s/ Craig S. Primis
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**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

**GEORGIA'S SUBPOENA FOR PRODUCTION OF DOCUMENTS
TO JACOB CITY, FLORIDA**

Pursuant to Sections 3.1 and 6.1.3 of the Case Management Plan,¹ and Rules 34 and 45 of the Federal Rules of Civil Procedure, Defendant State of Georgia ("Georgia"), by and through its attorneys, hereby issues this Subpoena for Production of Documents to Jacob City, Florida ("Jacob City") and commands Jacob City to produce the documents described herein as specified below.

INSTRUCTIONS AND DEFINITIONS

1. These requests are issued to Jacob City, which is not a party in the above-titled action.

Pursuant to Section 6.1.3 of the Case Management Plan, Jacob City has 30 days from the

¹ Case Management Plan, Dkt. 6 (Dec. 3, 2014) was adopted by the Special Master in Case Management Order No. 1, Dkt. 5 (Dec. 3, 2014) and modified by Case Management Order No. 2, Dkt. 12 (Dec. 19, 2014) and Case Management Order No. 4, Dkt. 40 (Feb. 10, 2015) (enclosed in Exhibit A).

date of service of these Requests to begin producing documents, and 120 days from the date of service within which to complete full production. If Jacob City anticipates that full production will require more than one hundred (120) days from service, it shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue.

2. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Exhibit A. Jacob City may seek relief for an unresolved discovery dispute under the Case Management Plan by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.
3. Unless otherwise specified, the time period covered by these Requests is January 1, 1975 to the present.
4. All requested documents are to be produced in the order and manner in which they are currently maintained by Jacob City, including producing them with images of their original file folders and file jackets or covers, and indicate the division, department, and/or individual from whose files the document is being produced.
5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.
6. For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Any requests for assistance with the transmittal of electronically stored documents should be made to Sarah Hawkins Warren, counsel for the State of Georgia, who may be reached by telephone at (202) 879-5186 and by email at sarah.warren@kirkland.com.

7. This Subpoena is issued pursuant to Fed. R. Civ. P. 45. The relevant provisions of Rule 45 are attached hereto as Exhibit B.
8. If there is no document responsive to any particular category, Jacob City shall so state in writing.
9. Pursuant to Section 6.1.3 of the Case Management Plan, if Jacob City objects to a Request (or any portion of a Request) for any reason, those objections must be served within 30 days after service of these Requests.
10. If Jacob City withholds any documents responsive to a Request under a claim of privilege, Jacob City shall, for each such withheld document, provide a privilege log to Georgia's counsel which contains information sufficient to support Jacob City's claim of privilege. This log must include (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different from that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed.
11. For purposes of construing the scope of these Requests, all terms shall be given their most expansive and inclusive interpretation. This includes, without limitation, the following:
 - a. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.
 - b. The word "including" shall be construed to introduce a non-exhaustive list, and to mean "including but not limited to."
 - c. The term "all" shall be construed to include the term "any," and the term "any" shall be construed to include the term "all."

- d. The terms “and” as well as “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a Request all documents or communications that might otherwise be construed to be outside its scope.
 - e. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
 - f. Any reference to communications “between” two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
 - g. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine.
12. “ACF Basin” means the Apalachicola Bay and the region of Georgia and Florida drained by the Apalachicola, Chattahoochee, and Flint River systems.
13. “Communication” means any oral or written exchange or transmission of information by any means, including without limitation letters, memoranda, face-to-face conversations, mail, overnight deliveries, Internet, telephone, e-mail, or facsimile.
14. “Document” means the complete original or a true, correct, and complete copy and any non-identical copies of any written, printed, typed, recorded, photographic, electronically transmitted or graphic matter of any type and description, however and by whomever prepared, produced, reproduced, disseminated, recorded, stored, or made, in any form, including, but not limited to, any writing, book, paper, letter, correspondence, e-mail, envelope, memorandum, telegram, cablegram, diary, diary entry, record, meeting minute, note, appointment book, notebook, schedule, tabulation, voucher, account, contract, agreement, change order, purchase order, invoice, progress report, intra and inter-office communication, calendar, desk pad, telephone message slip, draft, working paper, drawing,

microfilm, abstract, summary, index, message, statement, affidavit, instruction, bulletin, circular, pamphlet, slide, photograph, sketch, label, advertisement, chart, graph, map, computer data compilation, data sheet, data processing card, printout, tabulation, statistic, survey, study, speech, tape, tape recording, press release, public statement, public announcement, public or governmental filing, note of interview, and any other writing and other magnetic, photographic, electronic or sound recording.

15. "Florida portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Florida.
16. "Georgia portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Georgia.
17. "Person" or "Persons" means and includes any man, woman, individual, corporation, organization, association, partnership, limited partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.
18. "Possession" includes documents, tangible things, and communications in your own possession or that of your agents, successors, assigns, representatives, or dependents, as well as documents, tangible things, and communications in your constructive possession by virtue of your ability to retrieve, request, order, copy, borrow, purchase, or locate it.
19. "You" and "Your" means Jacob City, including its departments, agencies, subdivisions, attorneys, officers, directors, employees, agents, representatives, contractors, consultants, and related entities.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All permits in your possession authorizing the withdrawal of water (groundwater and/or surface water for municipal, industrial, or agricultural uses) in your jurisdiction along with documentation relating to the present status (*e.g.*, active/inactive) of each such permit.

REQUEST FOR PRODUCTION NO. 2:

All applications, including any pending applications, in your possession for permits authorizing the withdrawal of water (groundwater and/or surface water for municipal, industrial, or agricultural uses).

REQUEST FOR PRODUCTION NO. 3:

Documents sufficient to show the municipal and industrial water use in your jurisdiction, including: (a) the total volume of water withdrawn from surface water or groundwater sources by month and year; (b) the volume of water withdrawn from surface waters within the ACF Basin by month and year, and the source of any such withdrawal; (c) the volume of groundwater withdrawn by month and year, and the identity of the aquifer and the depth from which it was withdrawn; (d) the volume of finished water produced by month and year; (e) the volume of “lost,” “unaccounted-for water,” or “non-revenue water” by month and year; (f) any analysis of permitted versus actual water withdrawals; and (g) the total population served, including the total number of residential customers and the total number of industrial customers.

REQUEST FOR PRODUCTION NO. 4:

Documents sufficient to show the agricultural water use in your jurisdiction, including: (a) the total volume of water permitted to be withdrawn from groundwater and surface water by month and year; (b) the total volume of water actually withdrawn from the groundwater and

surface water by month and year; (c) the volume of water withdrawn from surface waters within the ACF Basin by month and year, and the source of any such withdrawal; (d) the volume of groundwater withdrawn by month and year, and the identity of the aquifer and the depth from which it was withdrawn; (e) the location of the agricultural use and the number of acres irrigated; (f) the crop type including corresponding irrigation depths and applicable irrigation schedules; (g) any analysis of permitted versus actual water withdrawals; and (h) the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

REQUEST FOR PRODUCTION NO. 5:

All documents relating to (a) the effect of municipal, industrial, or agricultural water withdrawals and uses in your jurisdiction on the environment of the ACF Basin, including surface water flows; groundwater levels; salinity; the inundation of floodplain habitat; the number, density, or condition of oysters in Apalachicola Bay; wildlife, including threatened, endangered, or otherwise protected species; and other recreational or commercial fisheries; and (b) any efforts to address or mitigate any such effects, including the cost and the source of funding for any such efforts.

REQUEST FOR PRODUCTION NO. 6:

All documents relating to (a) the effect of agricultural or silvicultural practices in your jurisdiction on the environment of the ACF Basin, including surface water flows; groundwater levels; salinity; the inundation of floodplain habitat; the number, density, or condition of oysters in Apalachicola Bay; wildlife, including threatened, endangered, or otherwise protected species; and other recreational or commercial fisheries; and (b) any efforts to address or mitigate any such effects, including the cost and the source of funding for any such efforts.

REQUEST FOR PRODUCTION NO. 7:

All documents relating to groundwater or surface water flows from the Georgia portion of the ACF Basin into your jurisdiction, including all documents relating to any changes or reductions in those flows, the causes of any reductions, and the effect of any such reductions.

REQUEST FOR PRODUCTION NO. 8:

Documents sufficient to identify the location of any return flows, including any discharge from any industrial user, water treatment plant, or water reclamation facility, and sufficient to show the source and volume of any such discharge, excluding stormwater runoff, by month and year.

REQUEST FOR PRODUCTION NO. 9:

Documents sufficient to show the costs incurred by you in each calendar year for the operation, maintenance, and replacement of your water supply system.

REQUEST FOR PRODUCTION NO. 10:

Documents sufficient to identify any interbasin transfer of water into or out of the Florida portion of the ACF Basin involving your jurisdiction, and to show (a) the volume of water transferred by month and year; (b) the donor and recipient water source for each such transfer; (c) the purpose for which the transferred water is used; (d) the manner in which volume of water transferred was measured; and (e) any efforts by you to limit, reduce or mitigate the effects of such a transfer.

REQUEST FOR PRODUCTION NO. 11:

Documents sufficient to show your rate structure, including the manner in which your rates may encourage the use of water and/or water conservation.

REQUEST FOR PRODUCTION NO. 12:

Documents sufficient to show the revenue generated through water supply operations in each calendar year.

REQUEST FOR PRODUCTION NO. 13:

Documents sufficient to show your efforts to conserve water, including (a) any conservation plans that have been adopted; (b) any audits or assessments of the efficiency of your water system or the degree to which conservation plans have been implemented; (c) any conservation measures that have been implemented, the date each such measure was implemented, the cost of each such measure and the source of funding, the estimated volume of water saved as a result of each such measure, and the extent to which each such measure has been implemented throughout the relevant service area or geographic area.

REQUEST FOR PRODUCTION NO. 14:

Documents sufficient to show water supply sources available to you to meet current or projected future water needs, including (a) the identity of all sources currently in use and (b) the identity of any new sources that have been identified or suggested, including any analysis of the benefits and costs of developing and operating the source and the total supply potentially available.

REQUEST FOR PRODUCTION NO. 15:

Documents sufficient to identify the location, and to show the size, volume, and water source of any reservoirs or other water storage facilities located within your jurisdiction.

REQUEST FOR PRODUCTION NO. 16:

Any permit authorizing you to discharge pollutants into any waterbody that drains into the ACF Basin or Apalachicola Bay, and all documents in your possession relating to any

unpermitted discharge of pollutants into such a waterbody, including any exceedance of any standard or limitation in any such permit.

REQUEST FOR PRODUCTION NO. 17:

All documents in your possession relating to the establishment of any standard or limitation in any permit issued to you authorizing the discharge of pollutants into a waterbody located in the Florida portion of the ACF Basin.

REQUEST FOR PRODUCTION NO. 18:

All documents relating to the current human population in your jurisdiction, projected future population in your jurisdiction through 2040, and corresponding projected future water supply needs in your jurisdiction.

REQUEST FOR PRODUCTION NO. 19:

All documents relating to projected agricultural water needs in your jurisdiction through 2040.

Dated: March 10, 2015

/s/ Craig S. Primis
Craig S. Primis, P.C.
Sarah Hawkins Warren
K. Winn Allen
KIRKLAND & ELLIS LLP
655 Fifteenth St. NW
Washington, DC 20005
Tel.: (202) 879-5000
Fax: (202) 879-5200
cprimis@kirkland.com

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

CERTIFICATE OF SERVICE

This is to certify that GEORGIA'S SUBPOENA FOR PRODUCTION OF DOCUMENTS TO JACOB CITY has been served on this 10th day of March 2015, in the manner specified below:

<u>For State of Florida</u>	<u>For United States of America</u>
<p><u>By U.S. Mail and Email:</u> SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Allen Winsor Solicitor General Counsel of Record Office of Florida Attorney General The Capital, PL-01 Tallahassee, FL 32399 T: 850-414-3300 allen.winsor@myfloridalegal.com</p>	<p><u>By U.S. Mail and Email:</u> CERTIFICATE OF SERVICE</p> <p>Donald J. Verrilli Solicitor General Counsel of Record Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530 T: 202-514-7717 supremectbriefs@usdoj.gov</p>

<p><u>By Email Only</u>: SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Donald G. Blankenau Jonathan A. Glogau Christopher M. Kise Matthew Z. Leopold Osvaldo Vazquez Thomas R. Wilmoth floridawaterteam@foley.com</p>	<p><u>By Email Only</u>: CERTIFICATE OF SERVICE</p> <p>Michael T. Gray michael.gray2@usdoj.gov</p> <p>James DuBois james.dubois@usdoj.gov</p>
<p><u>For State of Georgia</u></p> <p><u>By Email Only</u>: SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Samuel S. Olens Nels Peterson Britt Grant Seth P. Waxman Craig S. Primis K. Winn Allen Sarah H. Warren georgiawaterteam@kirkland.com</p>	<p>/s/ Craig S. Primis</p> <hr/> <p>Craig S. Primis <i>Counsel of Record</i> KIRKLAND & ELLIS LLP 655 Fifteenth Street, NW Washington, DC 20005 T: 202-879-5000 craig.primis@kirkland.com</p>

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 PLAN

December 3, 2014

EXHIBIT A

CASE MANAGEMENT PLAN

1. Case Management Orders And Application Of Case Management Plan

The Special Master will issue Case Management Orders (“CMOs”) following conferences with counsel and at such other times as he deems appropriate. This Case Management Plan (“CMP”), together with all CMOs, will apply to and bind all parties, will control the course of the proceedings, and may be modified only by order of the Special Master.

2. Filing Of Papers With The Special Master, Service, And Computation Of Time

2.1 All pleadings, motions and other papers filed with the Special Master, except exhibits, shall bear the proper case number and caption, and contain on the first page a designation of what the document is and the name of the party on whose behalf it is submitted. All such documents should be printed double-spaced on 8-1/2 x 11 inch paper, with the pages numbered at the bottom.

2.2 The parties shall make filings with the Special Master and service upon the other party by email with the document(s) in PDF format, with duplicate copies of any materials transmitted by email also sent by first-class mail. In the event filings are too voluminous, over-sized, or otherwise unsuitable for transmission by email, they shall be filed on disk, or, if of a size or nature that cannot be reviewed reasonably in PDF format, they may be filed by sending a hard copy through some means of overnight delivery. Three copies of each document sent in hard copy shall be filed with the Special Master. A filing shall be deemed made upon sending the email and mailing duplicate copies to the Special Master, or, in the instance of voluminous or over-sized materials, upon mailing for overnight delivery to the Special Master.

2.3 All pleadings, papers, and documents submitted to the Special Master shall be served on counsel for the other party in time for receipt on the same day that the Special Master receives them. Distribution need be made only to counsel shown on the Distribution List attached hereto as Appendix A as it might be updated from time to time. All pleadings, papers and documents submitted to the Special Master must indicate, in the certificate of service or elsewhere, the means by which service or transmittal has been accomplished. Service will be deemed to have occurred on the date sent.

2.4 Fed. R. Civ. P. 6(a)-(c), but not (d), will apply in proceedings before the Special Master.

3. Filing Of Discovery Materials

3.1 General

The parties shall file with the Special Master certificates of service for all discovery requests and discovery responses. In order to keep the record free of discovery material that has not become evidence, and except as otherwise ordered by the Special Master, all interrogatories, requests for production of documents, requests for admissions, responses and replies shall otherwise not be filed with the Special Master unless a party offers a particular sworn discovery response into evidence, uses such a response to support or oppose a dispositive motion, or requires a ruling on a discovery dispute that the parties have been unable to resolve. In such event, only those portions pertinent to the purpose shall be filed.

3.2 Depositions

Except as otherwise ordered by the Special Master, deposition transcripts shall not be filed with the Special Master until offered and admitted into evidence or used to

support or oppose a dispositive motion or to resolve a discovery dispute that the parties have been unable to resolve.

4. Status Reports And Conferences

Beginning on March 6, 2015 and continuing until otherwise ordered by the Special Master, each party will file a progress report with the Special Master on the first Friday of each month. The progress report shall update the status of each party's discovery efforts since the last update and describe any then-unresolved disputes and list any further discovery anticipated during the coming month. In addition, every progress report shall set forth the general status of the matter as it has evolved since the last progress report or conference.

The Special Master will schedule and hold status conferences as he deems necessary. Only parties may participate in status conferences and other case proceedings.

5. Discovery

5.1 General

Discovery will proceed on all issues pursuant to Fed. R. Civ. P. 26-37 and 45, except as otherwise modified herein or by other order of the Special Master. Discovery will commence and be completed in accordance with the schedule stated herein, as modified by any CMOs. (A summary of the schedule stated herein is provided in Appendix B). Further discovery will be allowed beyond the schedule stated herein only upon order of the Special Master. The Special Master will not deviate from the established schedule except upon good cause.

5.2 Federal Rules Of Civil Procedure 26-37, And 45

The Federal Rules of Civil Procedure applicable to discovery, Rules 26-37 and 45, shall govern the proceedings before the Special Master with the following exceptions:

5.2.1 Rule 26(a)(1)

The disclosures required in Rule 26(a)(1) will not apply.

5.2.2 Rule 26(a)(2)

Rule 26(a)(2) will apply, except that all time schedules and deadlines will be set by the Special Master.

5.2.3 Rule 26(c)

Rule 26(c) will apply, except to the extent modified by sections 11-14 of this CMP.

5.2.4 Rule 26(d)

Rule 26(d) will not apply. Rather, the timing and sequence of discovery will be determined by the Special Master. Unless the Special Master, for the convenience of the parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, will not operate to delay any other party's discovery. The parties must apply adequate resources to initiate and complete discovery in an efficient and expeditious manner.

5.2.5 Rule 26(e)

Rule 26(e) will not apply. *See* section 15 of this CMP.

5.2.6 Rule 26(f)

Rule 26(f) will not apply.

5.2.7 Rule 27

Rule 27 will not apply.

5.2.8 Rules 30(a)(2), 30(d)(2), Rule 31(a)(2), Rule 33(a)

The limitations in Rules 30(a)(2), 31(a)(2) and 33(a) on the number and length of depositions and number of interrogatories will not apply. The number and length of depositions and interrogatories will be determined by the Special Master.

5.2.9 Rule 32(a)(4)(B)

The 100-mile rule contained in Rule 32(a)(4)(B) will not apply.

5.2.10 Rule 45

Rule 45 will apply with the exception that the subpoena power of the Special Master will not be limited geographically by the 100-mile rule. The parties shall cooperate with each other in securing the attendance of witnesses for depositions and shall each give reasonable notice to the other party if a witness is recalcitrant and will require a subpoena.

6. Substantive Discovery

This discovery plan provides that substantive discovery shall proceed promptly and shall be concluded as expeditiously as reasonably practicable. All discovery shall be initiated in sufficient time to allow responses to be served and the discovery completed within the deadlines specified in this plan. The goal of this discovery plan is to proceed in an organized fashion that will avoid unnecessary or repetitive discovery efforts.

6.1 Written Discovery

All written discovery may be initiated beginning on February 9, 2015, and shall be completed by no later than April 13, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have ten (10) days from the date of service to serve objections other than objections based on privilege, work product or confidentiality, twenty (20) days from the date of service within which to make remaining objections and to begin producing documents, and thirty (30) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than thirty (30) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have twenty (20) days from the date of service to serve objections and to begin producing documents, and thirty (30) days for full production. If either a party or the non-party anticipates that full production will require more than thirty (30) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to respond.

6.2 Deposition Discovery

Unless they agree to proceed sooner, the parties may schedule depositions to begin on or after April 20, 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 August 21, 2015. Depositions of expert witnesses in their capacity as such shall be completed by September 18, 2015.

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 Expert Disclosures

The parties shall disclose all expert witnesses by no later than April 20, 2015.

7.2 Rebuttal Experts

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

8. Bates Numbering System

All documents produced by the parties shall bear a distinctive Bates number. The parties will also ensure that all documents produced by non-parties shall bear a distinctive Bates number. No party shall use any document that has not been Bates-numbered and produced, except for impeachment or for other good cause shown.

9. Privilege Logs

If a party withholds on the ground of privilege any written information (in hard copy or electronic form) it shall provide a privilege log to opposing counsel. Absent agreement of counsel otherwise, these privilege logs shall set forth the following

information: (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different than that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed. Thereafter, any privilege log shall be supplemented promptly to include any documents that are subsequently designated privileged by counsel.

10. Confidentiality

10.1 Treatment Of Confidential Documents

All documents, models or other tangible things containing a trade secret or other confidential information may be designated "Confidential," so long as such documents have not been disclosed by the producing party to anyone other than those persons employed or retained by it and are not otherwise available for public inspection under applicable law. Such documents or portions of documents shall be designated, after review by counsel for the producing party, by stamping "Confidential - S. Ct. 142" on each page. Any party may contest the designation of a document as "Confidential" by objecting to the designation, or request that a document not otherwise covered by this CMP be considered confidential. In either event, counsel shall first make a good faith effort to resolve the issue. The party requesting confidentiality shall have the burden of showing that such designation is appropriate. At a deposition, or within ten (10) days after receipt of the transcript, a party may designate as confidential any appropriate information and such designation shall be served on all counsel. Confidentiality objections need not be made at a deposition and they shall not be a ground for a direction or refusal to answer, but counsel may indicate such designation at the time and the parties

shall govern themselves accordingly. Depositions and transcripts will be considered to be confidential until expiration of the ten (10) day period and thereafter as to any part or all so designated. Any individual not authorized by this CMP to be a recipient of confidential information may be excluded from a deposition while such information is being elicited.

Confidential documents or information subject to this CMP may not be disclosed to or used by anyone except those hereby authorized and by them only in the context of this case. Such individuals shall include counsel, the parties' specifically authorized employees, experts, and fact witnesses, together with such others as are approved by the Special Master. Each individual who is permitted to see such confidential documents, or given access to such confidential information, shall be provided a copy of this CMP and shall be bound to observe the provisions thereof with respect to all documents and information produced through these proceedings by signing a Non-Disclosure Agreement in a form agreed upon by the parties or approved by the Special Master if the parties cannot agree. The Non-Disclosure Agreement shall include an agreement to submit to the Special Master's jurisdiction for enforcement of this portion of the CMP and to return all such designated documents and information promptly at the end of the litigation.

10.2 Procedure For Filing Confidential Documents

A document may be filed under seal only upon order of the Special Master, in accordance with the following procedures:

10.2.1 Motion

To obtain an order allowing documents to be filed under seal, a party shall file a motion to seal together with an unredacted version of the

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent’s objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

objecting party shall not be deemed to have withdrawn or waived its objection.

12.2.2 If the Special Master is not available by telephone during the deposition, the dispute shall be noted for the record and the deposition shall proceed with respect to all other issues. Thereafter, the dispute shall be presented to the Special Master as provided in section 11.

13. Disputes Not To End Deposition

Under no circumstances shall any party refuse to continue participating in a deposition because of the unavailability of the Special Master to resolve a dispute telephonically.

14. Motions To Quash Or For Protective Orders

The following procedures are to be employed in situations where subpoenaed persons or entities desire to move to quash a subpoena or seek a protective order from the demand of a subpoena.

14.1 Subpoenaed Parties

If the subpoenaed entity or person is a party or the employee of a party, then the entity or person must seek appropriate relief from the Special Master pursuant to the procedures for resolving written discovery disputes in section 11.

14.2 Subpoenaed Entities Or Persons Who Are Not Parties

When a party subpoenas a person or entity who is not a party, the party issuing the subpoena should serve upon the subpoenaed person or entity, along with the subpoena, a copy of section 11 of this CMP. The subpoenaed person or entity may seek

relief under this CMP, by submitting the dispute to the Special Master pursuant to the procedures for resolving written discovery disputes in section 11.

15. Supplementing Discovery

Recognizing that a party is under a duty seasonably to amend a prior response to an interrogatory, request for production or inspection, or request for admission if the party learns that the response is in some material respect incomplete or incorrect, the parties shall timely supplement their discovery responses. It will satisfy the duty of supplementation if the party identifies only those specific responses that are supplemented. It is not necessary to restate each discovery response if there is no information to supplement, amend or modify. Supplementation of written discovery will not be required to the extent the same information has been provided by subsequent deposition if the fact of supplementation is noted at the time of the deposition. Supplementation of Fed. R. Civ. P. Rule 26(a)(2), expert reports, to the extent that an expert has formed additional opinions or additional grounds to support previous opinions that have not been provided by way of expert report or deposition testimony, will be made only when allowed by order of the Special Master if the deposition of that expert has already been completed. Supplementation of deposition testimony of any witness other than an expert is not required.

16. Dispositive Motions

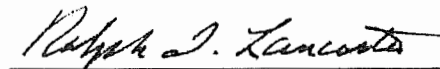
Except as otherwise directed in a case management order, motions to dismiss or motions for summary judgment may be filed at any time on or before October 23, 2015. Oppositions to motions to dismiss or motions for summary judgment shall be filed within ten (10) days after service of the dispositive motion, in no event later than November 2,

2015. Replies to oppositions to motions to dismiss or motions for summary judgment shall be filed within seven (7) days after service of the opposition to the dispositive motion, in no event later than November 9, 2015.

17. Public Access To Filings

Fed. R. Civ. P. 5.2 shall apply to these proceedings before the Special Master. All materials filed with the Special Master will be available for public inspection and copying except as provided by Rule 5.2 and by section 10 of this CMP or by order of the Special Master. All publicly available materials filed or issued in PDF form will be available through a link maintained on the home page of the website of Pierce Atwood LLP, at <http://www.pierceatwood.com/floridavgeorgia142original>.

Dated: December 3, 2014



Ralph I. Lancaster
Special Master

Pierce Atwood LLP
Merrill's Wharf
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Portland, ME 04101
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Email: rlancaster@pierceatwood.com

APPENDIX A
***Florida v. Georgia*, No. 142, Original**
Distribution List for Service of Documents and Email Filed with the Special Master
December 3, 2014

For State of Florida

By U.S. Mail and Email:

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Jonathan A. Glogau
Christopher M. Kise
Matthew Z. Leopold
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For State of Georgia

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Nels Peterson
Britt Grant
Seth P. Waxman
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James DuBois
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APPENDIX B
Florida v. Georgia, No. 142, Original
Summary of Deadlines
December 3, 2014

December 10, 2014	Deadline for objecting to Case Management Order No. 1 or Case Management Plan
February 2, 2015	Deadline for answering complaint
February 9, 2015	Deadline for Georgia to file a motion based on Fed. R. Civ. P. 12(b)(2)-(5) or (7)
February 9, 2015	Deadline for United States statement of intended participation
February 9, 2015	Written discovery may commence
February 16, 2015	Deadline for objecting to U.S. statement of intended participation
April 13, 2015	Deadline for completion of written discovery responses
April 20, 2015	Deadline for expert disclosures Depositions may commence
August 21, 2015	Deadline for completion of non-expert depositions
September 18, 2015	Deadline for completion of expert witness depositions
October 23, 2015	Deadline for motions to dismiss based on Fed. R. Civ. P. 12(b)(6) and/or motions for summary judgment

The dates set forth above are the outside and final dates for the completion of the listed activity. Every effort should be made to complete each activity in advance of the prescribed deadline.

APPENDIX C
Florida v. Georgia, No. 142, Original
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, "off the record" discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked "Confidential" or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

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. 2

December 19, 2014

CASE MANAGEMENT ORDER NO. 2

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' request as set forth in the Joint Submission of the Parties Requesting Changes to Case Management Plan submitted December 10, 2014, and in a telephonic hearing held on December 15, 2014, and in light of Georgia's representation that its Answer will be filed no later than January 8, 2015, the schedule established in the Case Management Plan is amended as follows.

1. **Amendment of Case Management Plan Section 4**

The first sentence of Section 4 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

Beginning on February 6, 2015, and continuing until otherwise ordered by the Special Master, each party will file a progress report with the Special Master on the first Friday of each month.

2. **Amendment of Case Management Plan Section 6.1**

Section 6.1 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than July 13, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written

approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than one hundred twenty (120) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.2 Requests For Production of Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall

have thirty (30) days from the date of service to serve objections and to begin producing documents, and ninety (90) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than ninety (90) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to respond.

3. Amendment of Case Management Plan Section 6.2

Section 6.2 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 August 28, 2015. Depositions of expert witnesses in their capacity as such shall be completed by November 25, 2015.

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

Section 7 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 August 28, 2015.

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 expert by no later than October 16, 2015.

7.3 **Rebuttal Experts**

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

5. **Amendment of Case Management Plan Section 16**

Section 16 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 January 15, 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 February 15, 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 February 29, 2016.

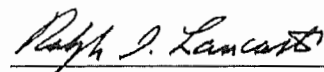
6. Participation of the United States

On or before February 9, 2015, counsel for the United States shall file a statement with the Special Master specifying the nature of its intended current participation in this matter, if any. Any party objecting to that intended current participation shall file a brief explaining its objection within seven (7) days after service of the statement, in no event later than February 16, 2015. Should the United States ultimately seek to intervene, it should not presume that any deadlines in the Case Management Plan will be reset.

7. Summary of Deadlines

A summary of the Case Management Plan schedule, as modified herein, is set forth in Appendix A.

Dated: December 19, 2014



Ralph I. Lancaster
Special Master

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APPENDIX A
Florida v. Georgia, No. 142, Original
Summary of Deadlines
December 19, 2014

January 12, 2015	Written discovery may commence
February 9, 2015	Deadline for Georgia to file a motion based on Fed. R. Civ. P. 12(b)(2)-(5) or (7)
February 9, 2015	Deadline for United States statement of intended participation
June 1, 2015	Depositions may commence
July 13, 2015	Deadline for completion of written discovery responses
August 28, 2015	Deadline for completion of non-expert depositions Deadline for disclosure of experts by any party that intends to rely upon expert testimony in support of an issue upon which that party bears the burden of proof
October 16, 2015	Deadline for disclosure of defensive experts
November 25, 2015	Deadline for completion of expert witness depositions
January 15, 2016	Deadline for motions to dismiss based on Fed. R. Civ. P. 12(b)(6) and/or motions for summary judgment

The dates set forth above are the outside and final dates for the completion of the listed activity. Every effort should be made to complete each activity in advance of the prescribed deadline.

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. 4

February 10, 2015

CASE MANAGEMENT ORDER NO. 4

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:


In response to multiple requests for an extension of time by third parties who have received subpoenas in the present proceeding and in light of the consent to an extension by both Florida and Georgia, the schedule established in the Case Management Plan ("CMP") and modified by Case Management Order No. 2 is hereby further modified as set forth herein.

Section 6.1.3 of the CMP is amended to read as follows:

Each party may serve on non-parties requests for production of documents / requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production. If either party or the non-party anticipates that full production will require more than one hundred and twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall inform the non-party of these deadlines.

Florida and Georgia should give notice to any subpoenaed third parties of the foregoing modification to the third parties' deadline for production of documents.

Dated: February 10, 2015



Ralph I. Lancaster
Special Master

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(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. § 1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

**GEORGIA'S SUBPOENA FOR PRODUCTION OF DOCUMENTS
TO THE CITY OF WEWAHITCHKA**

Pursuant to Sections 3.1 and 6.1.3 of the Case Management Plan,¹ and Rules 34 and 45 of the Federal Rules of Civil Procedure, Defendant State of Georgia ("Georgia"), by and through its attorneys, hereby issues this Subpoena for Production of Documents to the City of Wewahitchka ("City of Wewahitchka") and commands the City of Wewahitchka to produce the documents described herein as specified below.

INSTRUCTIONS AND DEFINITIONS

1. These requests are issued to the City of Wewahitchka, which is not a party in the above-titled action. Pursuant to Section 6.1.3 of the Case Management Plan, the City of Wewahitchka

¹ Case Management Plan, Dkt. 6 (Dec. 3, 2014) was adopted by the Special Master in Case Management Order No. 1, Dkt. 5 (Dec. 3, 2014) and modified by Case Management Order No. 2, Dkt. 12 (Dec. 19, 2014) and Case Management Order No. 4, Dkt. 40 (Feb. 10, 2015) (enclosed in Exhibit A).

has 30 days from the date of service of these Requests to begin producing documents, and 120 days from the date of service within which to complete full production. If the City of Wewahitchka anticipates that full production will require more than one hundred (120) days from service, it shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue.

2. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Exhibit A. The City of Wewahitchka may seek relief for an unresolved discovery dispute under the Case Management Plan by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.
3. Unless otherwise specified, the time period covered by these Requests is January 1, 1975 to the present.
4. All requested documents are to be produced in the order and manner in which they are currently maintained by the City of Wewahitchka, including producing them with images of their original file folders and file jackets or covers, and indicate the division, department, and/or individual from whose files the document is being produced.
5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.
6. For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Any requests for assistance with the transmittal of electronically stored documents should be made to Sarah Hawkins Warren, counsel for the State of Georgia, who may be reached by telephone at (202) 879-5186 and by email at sarah.warren@kirkland.com.

7. This Subpoena is issued pursuant to Fed. R. Civ. P. 45. The relevant provisions of Rule 45 are attached hereto as Exhibit B.
8. If there is no document responsive to any particular category, the City of Wewahitchka shall so state in writing.
9. Pursuant to Section 6.1.3 of the Case Management Plan, if the City of Wewahitchka objects to a Request (or any portion of a Request) for any reason, those objections must be served within 30 days after service of these Requests.
10. If the City of Wewahitchka withholds any documents responsive to a Request under a claim of privilege, the City of Wewahitchka shall, for each such withheld document, provide a privilege log to Georgia's counsel which contains information sufficient to support the City of Wewahitchka's claim of privilege. This log must include (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different from that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed.
11. For purposes of construing the scope of these Requests, all terms shall be given their most expansive and inclusive interpretation. This includes, without limitation, the following:
 - a. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.
 - b. The word "including" shall be construed to introduce a non-exhaustive list, and to mean "including but not limited to."
 - c. The term "all" shall be construed to include the term "any," and the term "any" shall be construed to include the term "all."

- d. The terms “and” as well as “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a Request all documents or communications that might otherwise be construed to be outside its scope.
- e. The scope of these Requests shall not be construed narrowly based on any inferences drawn from the phrasing of any other Request.
- f. Any reference to communications “between” two parties shall include any and all communications involving both parties whether or not additional parties are involved and whether or not both parties are recipients of the communication.
- g. The masculine form of a word should be read to include the feminine, and the feminine form of a word should be read to include the masculine.

12. “ACF Basin” means the Apalachicola Bay and the region of Georgia and Florida drained by the Apalachicola, Chattahoochee, and Flint River systems.

13. “Communication” means any oral or written exchange or transmission of information by any means, including without limitation letters, memoranda, face-to-face conversations, mail, overnight deliveries, Internet, telephone, e-mail, or facsimile.

14. “Document” means the complete original or a true, correct, and complete copy and any non-identical copies of any written, printed, typed, recorded, photographic, electronically transmitted or graphic matter of any type and description, however and by whomever prepared, produced, reproduced, disseminated, recorded, stored, or made, in any form, including, but not limited to, any writing, book, paper, letter, correspondence, e-mail, envelope, memorandum, telegram, cablegram, diary, diary entry, record, meeting minute, note, appointment book, notebook, schedule, tabulation, voucher, account, contract, agreement, change order, purchase order, invoice, progress report, intra and inter-office communication, calendar, desk pad, telephone message slip, draft, working paper, drawing,

microfilm, abstract, summary, index, message, statement, affidavit, instruction, bulletin, circular, pamphlet, slide, photograph, sketch, label, advertisement, chart, graph, map, computer data compilation, data sheet, data processing card, printout, tabulation, statistic, survey, study, speech, tape, tape recording, press release, public statement, public announcement, public or governmental filing, note of interview, and any other writing and other magnetic, photographic, electronic or sound recording.

15. "Florida portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Florida.
16. "Georgia portion of the ACF Basin" means that portion of the ACF Basin that is within the territorial boundaries of the State of Georgia.
17. "Person" or "Persons" means and includes any man, woman, individual, corporation, organization, association, partnership, limited partnership, firm, joint venture, governmental body, agency, governing board, department, division, trust, business trust, or any other entity.
18. "Possession" includes documents, tangible things, and communications in your own possession or that of your agents, successors, assigns, representatives, or dependents, as well as documents, tangible things, and communications in your constructive possession by virtue of your ability to retrieve, request, order, copy, borrow, purchase, or locate it.
19. "You" and "Your" means the City of Wewahitchka, including its departments, agencies, subdivisions, attorneys, officers, directors, employees, agents, representatives, contractors, consultants, and related entities.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All permits in your possession authorizing the withdrawal of water (groundwater and/or surface water for municipal, industrial, or agricultural uses) in your jurisdiction along with documentation relating to the present status (*e.g.*, active/inactive) of each such permit.

REQUEST FOR PRODUCTION NO. 2:

All applications, including any pending applications, in your possession for permits authorizing the withdrawal of water (groundwater and/or surface water for municipal, industrial, or agricultural uses).

REQUEST FOR PRODUCTION NO. 3:

Documents sufficient to show the municipal and industrial water use in your jurisdiction, including: (a) the total volume of water withdrawn from surface water or groundwater sources by month and year; (b) the volume of water withdrawn from surface waters within the ACF Basin by month and year, and the source of any such withdrawal; (c) the volume of groundwater withdrawn by month and year, and the identity of the aquifer and the depth from which it was withdrawn; (d) the volume of finished water produced by month and year; (e) the volume of “lost,” “unaccounted-for water,” or “non-revenue water” by month and year; (f) any analysis of permitted versus actual water withdrawals; and (g) the total population served, including the total number of residential customers and the total number of industrial customers.

REQUEST FOR PRODUCTION NO. 4:

Documents sufficient to show the agricultural water use in your jurisdiction, including: (a) the total volume of water permitted to be withdrawn from groundwater and surface water by month and year; (b) the total volume of water actually withdrawn from the groundwater and

surface water by month and year; (c) the volume of water withdrawn from surface waters within the ACF Basin by month and year, and the source of any such withdrawal; (d) the volume of groundwater withdrawn by month and year, and the identity of the aquifer and the depth from which it was withdrawn; (e) the location of the agricultural use and the number of acres irrigated; (f) the crop type including corresponding irrigation depths and applicable irrigation schedules; (g) any analysis of permitted versus actual water withdrawals; and (h) the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

REQUEST FOR PRODUCTION NO. 5:

All documents relating to (a) the effect of municipal, industrial, or agricultural water withdrawals and uses in your jurisdiction on the environment of the ACF Basin, including surface water flows; groundwater levels; salinity; the inundation of floodplain habitat; the number, density, or condition of oysters in Apalachicola Bay; wildlife, including threatened, endangered, or otherwise protected species; and other recreational or commercial fisheries; and (b) any efforts to address or mitigate any such effects, including the cost and the source of funding for any such efforts.

REQUEST FOR PRODUCTION NO. 6:

All documents relating to (a) the effect of agricultural or silvicultural practices in your jurisdiction on the environment of the ACF Basin, including surface water flows; groundwater levels; salinity; the inundation of floodplain habitat; the number, density, or condition of oysters in Apalachicola Bay; wildlife, including threatened, endangered, or otherwise protected species; and other recreational or commercial fisheries; and (b) any efforts to address or mitigate any such effects, including the cost and the source of funding for any such efforts.

REQUEST FOR PRODUCTION NO. 7:

All documents relating to groundwater or surface water flows from the Georgia portion of the ACF Basin into your jurisdiction, including all documents relating to any changes or reductions in those flows, the causes of any reductions, and the effect of any such reductions.

REQUEST FOR PRODUCTION NO. 8:

Documents sufficient to identify the location of any return flows, including any discharge from any industrial user, water treatment plant, or water reclamation facility, and sufficient to show the source and volume of any such discharge, excluding stormwater runoff, by month and year.

REQUEST FOR PRODUCTION NO. 9:

Documents sufficient to show the costs incurred by you in each calendar year for the operation, maintenance, and replacement of your water supply system.

REQUEST FOR PRODUCTION NO. 10:

Documents sufficient to identify any interbasin transfer of water into or out of the Florida portion of the ACF Basin involving your jurisdiction, and to show (a) the volume of water transferred by month and year; (b) the donor and recipient water source for each such transfer; (c) the purpose for which the transferred water is used; (d) the manner in which volume of water transferred was measured; and (e) any efforts by you to limit, reduce or mitigate the effects of such a transfer.

REQUEST FOR PRODUCTION NO. 11:

Documents sufficient to show your rate structure, including the manner in which your rates may encourage the use of water and/or water conservation.

REQUEST FOR PRODUCTION NO. 12:

Documents sufficient to show the revenue generated through water supply operations in each calendar year.

REQUEST FOR PRODUCTION NO. 13:

Documents sufficient to show your efforts to conserve water, including (a) any conservation plans that have been adopted; (b) any audits or assessments of the efficiency of your water system or the degree to which conservation plans have been implemented; (c) any conservation measures that have been implemented, the date each such measure was implemented, the cost of each such measure and the source of funding, the estimated volume of water saved as a result of each such measure, and the extent to which each such measure has been implemented throughout the relevant service area or geographic area.

REQUEST FOR PRODUCTION NO. 14:

Documents sufficient to show water supply sources available to you to meet current or projected future water needs, including (a) the identity of all sources currently in use and (b) the identity of any new sources that have been identified or suggested, including any analysis of the benefits and costs of developing and operating the source and the total supply potentially available.

REQUEST FOR PRODUCTION NO. 15:

Documents sufficient to identify the location, and to show the size, volume, and water source of any reservoirs or other water storage facilities located within your jurisdiction.

REQUEST FOR PRODUCTION NO. 16:

Any permit authorizing you to discharge pollutants into any waterbody that drains into the ACF Basin or Apalachicola Bay, and all documents in your possession relating to any

unpermitted discharge of pollutants into such a waterbody, including any exceedance of any standard or limitation in any such permit.

REQUEST FOR PRODUCTION NO. 17:

All documents in your possession relating to the establishment of any standard or limitation in any permit issued to you authorizing the discharge of pollutants into a waterbody located in the Florida portion of the ACF Basin.

REQUEST FOR PRODUCTION NO. 18:

All documents relating to the current human population in your jurisdiction, projected future population in your jurisdiction through 2040, and corresponding projected future water supply needs in your jurisdiction.

REQUEST FOR PRODUCTION NO. 19:

All documents relating to projected agricultural water needs in your jurisdiction through 2040.

Dated: March 10, 2015

/s/ Craig S. Primis
Craig S. Primis, P.C.
Sarah Hawkins Warren
K. Winn Allen
KIRKLAND & ELLIS LLP
655 Fifteenth St. NW
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Fax: (202) 879-5200
cprimis@kirkland.com

**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

CERTIFICATE OF SERVICE

This is to certify that GEORGIA'S SUBPOENA FOR PRODUCTION OF DOCUMENTS TO THE CITY OF WEWAHITCHKA has been served on this 10th day of March 2015, in the manner specified below:

<u>For State of Florida</u>	<u>For United States of America</u>
<p><u>By U.S. Mail and Email</u>: SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Allen Winsor Solicitor General Counsel of Record Office of Florida Attorney General The Capital, PL-01 Tallahassee, FL 32399 T: 850-414-3300 allen.winsor@myfloridalegal.com</p>	<p><u>By U.S. Mail and Email</u>: CERTIFICATE OF SERVICE</p> <p>Donald J. Verrilli Solicitor General Counsel of Record Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530 T: 202-514-7717 supremectbriefs@usdoj.gov</p>

<p><u>By Email Only:</u> SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Donald G. Blankenau Jonathan A. Glogau Christopher M. Kise Matthew Z. Leopold Osvaldo Vazquez Thomas R. Wilmoth floridawaterteam@foley.com</p>	<p><u>By Email Only:</u> CERTIFICATE OF SERVICE</p> <p>Michael T. Gray michael.gray2@usdoj.gov</p> <p>James DuBois james.dubois@usdoj.gov</p>
<p><u>For State of Georgia</u></p> <p><u>By Email Only:</u> SUBPOENA AND CERTIFICATE OF SERVICE</p> <p>Samuel S. Olens Nels Peterson Britt Grant Seth P. Waxman Craig S. Primis K. Winn Allen Sarah H. Warren georgiawaterteam@kirkland.com</p>	<p>/s/ Craig S. Primis</p> <hr/> <p>Craig S. Primis <i>Counsel of Record</i> KIRKLAND & ELLIS LLP 655 Fifteenth Street, NW Washington, DC 20005 T: 202-879-5000 craig.primis@kirkland.com</p>

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 PLAN

December 3, 2014

EXHIBIT A

CASE MANAGEMENT PLAN

1. Case Management Orders And Application Of Case Management Plan

The Special Master will issue Case Management Orders (“CMOs”) following conferences with counsel and at such other times as he deems appropriate. This Case Management Plan (“CMP”), together with all CMOs, will apply to and bind all parties, will control the course of the proceedings, and may be modified only by order of the Special Master.

2. Filing Of Papers With The Special Master, Service, And Computation Of Time

2.1 All pleadings, motions and other papers filed with the Special Master, except exhibits, shall bear the proper case number and caption, and contain on the first page a designation of what the document is and the name of the party on whose behalf it is submitted. All such documents should be printed double-spaced on 8-1/2 x 11 inch paper, with the pages numbered at the bottom.

2.2 The parties shall make filings with the Special Master and service upon the other party by email with the document(s) in PDF format, with duplicate copies of any materials transmitted by email also sent by first-class mail. In the event filings are too voluminous, over-sized, or otherwise unsuitable for transmission by email, they shall be filed on disk, or, if of a size or nature that cannot be reviewed reasonably in PDF format, they may be filed by sending a hard copy through some means of overnight delivery. Three copies of each document sent in hard copy shall be filed with the Special Master. A filing shall be deemed made upon sending the email and mailing duplicate copies to the Special Master, or, in the instance of voluminous or over-sized materials, upon mailing for overnight delivery to the Special Master.

2.3 All pleadings, papers, and documents submitted to the Special Master shall be served on counsel for the other party in time for receipt on the same day that the Special Master receives them. Distribution need be made only to counsel shown on the Distribution List attached hereto as Appendix A as it might be updated from time to time. All pleadings, papers and documents submitted to the Special Master must indicate, in the certificate of service or elsewhere, the means by which service or transmittal has been accomplished. Service will be deemed to have occurred on the date sent.

2.4 Fed. R. Civ. P. 6(a)-(c), but not (d), will apply in proceedings before the Special Master.

3. Filing Of Discovery Materials

3.1 General

The parties shall file with the Special Master certificates of service for all discovery requests and discovery responses. In order to keep the record free of discovery material that has not become evidence, and except as otherwise ordered by the Special Master, all interrogatories, requests for production of documents, requests for admissions, responses and replies shall otherwise not be filed with the Special Master unless a party offers a particular sworn discovery response into evidence, uses such a response to support or oppose a dispositive motion, or requires a ruling on a discovery dispute that the parties have been unable to resolve. In such event, only those portions pertinent to the purpose shall be filed.

3.2 Depositions

Except as otherwise ordered by the Special Master, deposition transcripts shall not be filed with the Special Master until offered and admitted into evidence or used to

support or oppose a dispositive motion or to resolve a discovery dispute that the parties have been unable to resolve.

4. Status Reports And Conferences

Beginning on March 6, 2015 and continuing until otherwise ordered by the Special Master, each party will file a progress report with the Special Master on the first Friday of each month. The progress report shall update the status of each party's discovery efforts since the last update and describe any then-unresolved disputes and list any further discovery anticipated during the coming month. In addition, every progress report shall set forth the general status of the matter as it has evolved since the last progress report or conference.

The Special Master will schedule and hold status conferences as he deems necessary. Only parties may participate in status conferences and other case proceedings.

5. Discovery

5.1 General

Discovery will proceed on all issues pursuant to Fed. R. Civ. P. 26-37 and 45, except as otherwise modified herein or by other order of the Special Master. Discovery will commence and be completed in accordance with the schedule stated herein, as modified by any CMOs. (A summary of the schedule stated herein is provided in Appendix B). Further discovery will be allowed beyond the schedule stated herein only upon order of the Special Master. The Special Master will not deviate from the established schedule except upon good cause.

5.2 Federal Rules Of Civil Procedure 26-37, And 45

The Federal Rules of Civil Procedure applicable to discovery, Rules 26-37 and 45, shall govern the proceedings before the Special Master with the following exceptions:

5.2.1 Rule 26(a)(1)

The disclosures required in Rule 26(a)(1) will not apply.

5.2.2 Rule 26(a)(2)

Rule 26(a)(2) will apply, except that all time schedules and deadlines will be set by the Special Master.

5.2.3 Rule 26(c)

Rule 26(c) will apply, except to the extent modified by sections 11-14 of this CMP.

5.2.4 Rule 26(d)

Rule 26(d) will not apply. Rather, the timing and sequence of discovery will be determined by the Special Master. Unless the Special Master, for the convenience of the parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, will not operate to delay any other party's discovery. The parties must apply adequate resources to initiate and complete discovery in an efficient and expeditious manner.

5.2.5 Rule 26(e)

Rule 26(e) will not apply. *See* section 15 of this CMP.

5.2.6 Rule 26(f)

Rule 26(f) will not apply.

5.2.7 Rule 27

Rule 27 will not apply.

5.2.8 Rules 30(a)(2), 30(d)(2), Rule 31(a)(2), Rule 33(a)

The limitations in Rules 30(a)(2), 31(a)(2) and 33(a) on the number and length of depositions and number of interrogatories will not apply. The number and length of depositions and interrogatories will be determined by the Special Master.

5.2.9 Rule 32(a)(4)(B)

The 100-mile rule contained in Rule 32(a)(4)(B) will not apply.

5.2.10 Rule 45

Rule 45 will apply with the exception that the subpoena power of the Special Master will not be limited geographically by the 100-mile rule. The parties shall cooperate with each other in securing the attendance of witnesses for depositions and shall each give reasonable notice to the other party if a witness is recalcitrant and will require a subpoena.

6. Substantive Discovery

This discovery plan provides that substantive discovery shall proceed promptly and shall be concluded as expeditiously as reasonably practicable. All discovery shall be initiated in sufficient time to allow responses to be served and the discovery completed within the deadlines specified in this plan. The goal of this discovery plan is to proceed in an organized fashion that will avoid unnecessary or repetitive discovery efforts.

6.1 Written Discovery

All written discovery may be initiated beginning on February 9, 2015, and shall be completed by no later than April 13, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have ten (10) days from the date of service to serve objections other than objections based on privilege, work product or confidentiality, twenty (20) days from the date of service within which to make remaining objections and to begin producing documents, and thirty (30) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than thirty (30) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have twenty (20) days from the date of service to serve objections and to begin producing documents, and thirty (30) days for full production. If either a party or the non-party anticipates that full production will require more than thirty (30) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to respond.

6.2 Deposition Discovery

Unless they agree to proceed sooner, the parties may schedule depositions to begin on or after April 20, 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 August 21, 2015. Depositions of expert witnesses in their capacity as such shall be completed by September 18, 2015.

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 Expert Disclosures

The parties shall disclose all expert witnesses by no later than April 20, 2015.

7.2 Rebuttal Experts

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

8. Bates Numbering System

All documents produced by the parties shall bear a distinctive Bates number. The parties will also ensure that all documents produced by non-parties shall bear a distinctive Bates number. No party shall use any document that has not been Bates-numbered and produced, except for impeachment or for other good cause shown.

9. Privilege Logs

If a party withholds on the ground of privilege any written information (in hard copy or electronic form) it shall provide a privilege log to opposing counsel. Absent agreement of counsel otherwise, these privilege logs shall set forth the following

information: (a) author's name, place of employment and job title; (b) addressee's name, place of employment and job title; (c) recipient's name, place of employment and job title, if different than that of addressee; (d) general subject matter of document; (e) site of document; and (f) nature of privilege claimed. Thereafter, any privilege log shall be supplemented promptly to include any documents that are subsequently designated privileged by counsel.

10. Confidentiality

10.1 Treatment Of Confidential Documents

All documents, models or other tangible things containing a trade secret or other confidential information may be designated "Confidential," so long as such documents have not been disclosed by the producing party to anyone other than those persons employed or retained by it and are not otherwise available for public inspection under applicable law. Such documents or portions of documents shall be designated, after review by counsel for the producing party, by stamping "Confidential - S. Ct. 142" on each page. Any party may contest the designation of a document as "Confidential" by objecting to the designation, or request that a document not otherwise covered by this CMP be considered confidential. In either event, counsel shall first make a good faith effort to resolve the issue. The party requesting confidentiality shall have the burden of showing that such designation is appropriate. At a deposition, or within ten (10) days after receipt of the transcript, a party may designate as confidential any appropriate information and such designation shall be served on all counsel. Confidentiality objections need not be made at a deposition and they shall not be a ground for a direction or refusal to answer, but counsel may indicate such designation at the time and the parties

shall govern themselves accordingly. Depositions and transcripts will be considered to be confidential until expiration of the ten (10) day period and thereafter as to any part or all so designated. Any individual not authorized by this CMP to be a recipient of confidential information may be excluded from a deposition while such information is being elicited.

Confidential documents or information subject to this CMP may not be disclosed to or used by anyone except those hereby authorized and by them only in the context of this case. Such individuals shall include counsel, the parties' specifically authorized employees, experts, and fact witnesses, together with such others as are approved by the Special Master. Each individual who is permitted to see such confidential documents, or given access to such confidential information, shall be provided a copy of this CMP and shall be bound to observe the provisions thereof with respect to all documents and information produced through these proceedings by signing a Non-Disclosure Agreement in a form agreed upon by the parties or approved by the Special Master if the parties cannot agree. The Non-Disclosure Agreement shall include an agreement to submit to the Special Master's jurisdiction for enforcement of this portion of the CMP and to return all such designated documents and information promptly at the end of the litigation.

10.2 Procedure For Filing Confidential Documents

A document may be filed under seal only upon order of the Special Master, in accordance with the following procedures:

10.2.1 Motion

To obtain an order allowing documents to be filed under seal, a party shall file a motion to seal together with an unredacted version of the

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent’s objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

objecting party shall not be deemed to have withdrawn or waived its objection.

12.2.2 If the Special Master is not available by telephone during the deposition, the dispute shall be noted for the record and the deposition shall proceed with respect to all other issues. Thereafter, the dispute shall be presented to the Special Master as provided in section 11.

13. Disputes Not To End Deposition

Under no circumstances shall any party refuse to continue participating in a deposition because of the unavailability of the Special Master to resolve a dispute telephonically.

14. Motions To Quash Or For Protective Orders

The following procedures are to be employed in situations where subpoenaed persons or entities desire to move to quash a subpoena or seek a protective order from the demand of a subpoena.

14.1 Subpoenaed Parties

If the subpoenaed entity or person is a party or the employee of a party, then the entity or person must seek appropriate relief from the Special Master pursuant to the procedures for resolving written discovery disputes in section 11.

14.2 Subpoenaed Entities Or Persons Who Are Not Parties

When a party subpoenas a person or entity who is not a party, the party issuing the subpoena should serve upon the subpoenaed person or entity, along with the subpoena, a copy of section 11 of this CMP. The subpoenaed person or entity may seek

relief under this CMP, by submitting the dispute to the Special Master pursuant to the procedures for resolving written discovery disputes in section 11.

15. Supplementing Discovery

Recognizing that a party is under a duty seasonably to amend a prior response to an interrogatory, request for production or inspection, or request for admission if the party learns that the response is in some material respect incomplete or incorrect, the parties shall timely supplement their discovery responses. It will satisfy the duty of supplementation if the party identifies only those specific responses that are supplemented. It is not necessary to restate each discovery response if there is no information to supplement, amend or modify. Supplementation of written discovery will not be required to the extent the same information has been provided by subsequent deposition if the fact of supplementation is noted at the time of the deposition. Supplementation of Fed. R. Civ. P. Rule 26(a)(2), expert reports, to the extent that an expert has formed additional opinions or additional grounds to support previous opinions that have not been provided by way of expert report or deposition testimony, will be made only when allowed by order of the Special Master if the deposition of that expert has already been completed. Supplementation of deposition testimony of any witness other than an expert is not required.

16. Dispositive Motions

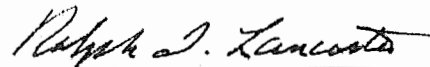
Except as otherwise directed in a case management order, motions to dismiss or motions for summary judgment may be filed at any time on or before October 23, 2015. Oppositions to motions to dismiss or motions for summary judgment shall be filed within ten (10) days after service of the dispositive motion, in no event later than November 2,

2015. Replies to oppositions to motions to dismiss or motions for summary judgment shall be filed within seven (7) days after service of the opposition to the dispositive motion, in no event later than November 9, 2015.

17. **Public Access To Filings**

Fed. R. Civ. P. 5.2 shall apply to these proceedings before the Special Master. All materials filed with the Special Master will be available for public inspection and copying except as provided by Rule 5.2 and by section 10 of this CMP or by order of the Special Master. All publicly available materials filed or issued in PDF form will be available through a link maintained on the home page of the website of Pierce Atwood LLP, at <http://www.pierceatwood.com/floridavgeorgia142original>.

Dated: December 3, 2014



Ralph I. Lancaster
Special Master

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Portland, ME 04101
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APPENDIX A
Florida v. Georgia, No. 142, Original
Distribution List for Service of Documents and Email Filed with the Special Master
December 3, 2014

For State of Florida

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APPENDIX B
Florida v. Georgia, No. 142, Original
Summary of Deadlines
December 3, 2014

December 10, 2014	Deadline for objecting to Case Management Order No. 1 or Case Management Plan
February 2, 2015	Deadline for answering complaint
February 9, 2015	Deadline for Georgia to file a motion based on Fed. R. Civ. P. 12(b)(2)-(5) or (7)
February 9, 2015	Deadline for United States statement of intended participation
February 9, 2015	Written discovery may commence
February 16, 2015	Deadline for objecting to U.S. statement of intended participation
April 13, 2015	Deadline for completion of written discovery responses
April 20, 2015	Deadline for expert disclosures Depositions may commence
August 21, 2015	Deadline for completion of non-expert depositions
September 18, 2015	Deadline for completion of expert witness depositions
October 23, 2015	Deadline for motions to dismiss based on Fed. R. Civ. P. 12(b)(6) and/or motions for summary judgment

The dates set forth above are the outside and final dates for the completion of the listed activity. Every effort should be made to complete each activity in advance of the prescribed deadline.

APPENDIX C
***Florida v. Georgia*, No. 142, Original**
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, “off the record” discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked “Confidential” or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

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. 2

December 19, 2014

CASE MANAGEMENT ORDER NO. 2

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' request as set forth in the Joint Submission of the Parties Requesting Changes to Case Management Plan submitted December 10, 2014, and in a telephonic hearing held on December 15, 2014, and in light of Georgia's representation that its Answer will be filed no later than January 8, 2015, the schedule established in the Case Management Plan is amended as follows.

1. **Amendment of Case Management Plan Section 4**

The first sentence of Section 4 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

Beginning on February 6, 2015, and continuing until otherwise ordered by the Special Master, each party will file a progress report with the Special Master on the first Friday of each month.

2. **Amendment of Case Management Plan Section 6.1**

Section 6.1 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than July 13, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written

approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than one hundred twenty (120) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.2 Requests For Production of Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall

have thirty (30) days from the date of service to serve objections and to begin producing documents, and ninety (90) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than ninety (90) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to respond.

3. Amendment of Case Management Plan Section 6.2

Section 6.2 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 August 28, 2015. Depositions of expert witnesses in their capacity as such shall be completed by November 25, 2015.

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

Section 7 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 August 28, 2015.

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 expert by no later than October 16, 2015.

7.3 **Rebuttal Experts**

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

5. **Amendment of Case Management Plan Section 16**

Section 16 of the Case Management Plan dated December 3, 2014, is amended to read as follows:

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 January 15, 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 February 15, 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 February 29, 2016.

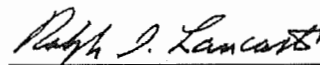
6. Participation of the United States

On or before February 9, 2015, counsel for the United States shall file a statement with the Special Master specifying the nature of its intended current participation in this matter, if any. Any party objecting to that intended current participation shall file a brief explaining its objection within seven (7) days after service of the statement, in no event later than February 16, 2015. Should the United States ultimately seek to intervene, it should not presume that any deadlines in the Case Management Plan will be reset.

7. Summary of Deadlines

A summary of the Case Management Plan schedule, as modified herein, is set forth in Appendix A.

Dated: December 19, 2014



Ralph I. Lancaster
Special Master

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Merrill's Wharf
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APPENDIX A
Florida v. Georgia, No. 142, Original
Summary of Deadlines
December 19, 2014

January 12, 2015	Written discovery may commence
February 9, 2015	Deadline for Georgia to file a motion based on Fed. R. Civ. P. 12(b)(2)-(5) or (7)
February 9, 2015	Deadline for United States statement of intended participation
June 1, 2015	Depositions may commence
July 13, 2015	Deadline for completion of written discovery responses
August 28, 2015	Deadline for completion of non-expert depositions Deadline for disclosure of experts by any party that intends to rely upon expert testimony in support of an issue upon which that party bears the burden of proof
October 16, 2015	Deadline for disclosure of defensive experts
November 25, 2015	Deadline for completion of expert witness depositions
January 15, 2016	Deadline for motions to dismiss based on Fed. R. Civ. P. 12(b)(6) and/or motions for summary judgment

The dates set forth above are the outside and final dates for the completion of the listed activity. Every effort should be made to complete each activity in advance of the prescribed deadline.

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. 4

February 10, 2015

CASE MANAGEMENT ORDER NO. 4

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:


In response to multiple requests for an extension of time by third parties who have received subpoenas in the present proceeding and in light of the consent to an extension by both Florida and Georgia, the schedule established in the Case Management Plan ("CMP") and modified by Case Management Order No. 2 is hereby further modified as set forth herein.

Section 6.1.3 of the CMP is amended to read as follows:

Each party may serve on non-parties requests for production of documents / requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production. If either party or the non-party anticipates that full production will require more than one hundred and twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall inform the non-party of these deadlines.

Florida and Georgia should give notice to any subpoenaed third parties of the foregoing modification to the third parties' deadline for production of documents.

Dated: February 10, 2015



Ralph I. Lancaster
Special Master

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(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. §1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

NOTICE OF DEPOSITION OF CALVIN PERRY

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, and Federal Rules of Civil Procedure 30 and 45, counsel for the State of Florida will take the deposition upon oral examination of Calvin Perry at 9:00 a.m. on or about November 16, 2015 at the office of Carlton Fields Jordan Burt, One Atlantic Center, 1201 West Peachtree Street N.W., Suite 3000, Atlanta, GA 30309-3455, provided that the time, date, and place are mutually agreed upon by the parties and Mr. Perry.

PLEASE TAKE FURTHER NOTICE that the deposition will be recorded by stenographic means by a person authorized to administer oaths, and may also be videotaped. The deposition will continue from day to day until completed. The State of Florida estimates that the deposition of Mr. Perry will take no more than seven (7) hours.

Dated: October 23, 2015

Respectfully submitted,

/s/ John S. Cooper

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Attorneys for the State of Florida

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

**SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION AND FOR
PRODUCTION OF DOCUMENTS**

Pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, in the above-captioned matter, the pertinent portion of which is attached hereto, and Rules 30 and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, Calvin Perry is hereby **ORDERED** to appear at 9:00 a.m. on November 16, 2015 at the office of Carlton Fields Jordan Burt, One Atlantic Center, 1201 West Peachtree Street N.W., Suite 3000, Atlanta, GA 30309-3455, provided that the time, date, and place are mutually agreed upon by the parties and Mr. Perry.

The deposition will continue until completed as provided in the Federal Rules of Civil Procedure, as incorporated and modified by the Case Management Plan, which, in accordance with Appendix C of the Case Management Plan, we estimate will take one day of not more than

seven (7) hours of testimony. The deposition will be recorded by stenographic means by a person authorized to administer oaths, and may be videotaped.

You, or your representatives, must also bring with you to the deposition—or provide to counsel for the State of Florida prior to it by mutually agreed upon alternative means—the documents and electronically stored information identified on Attachment A to the extent they have not been previously produced in this matter. For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Please feel free to contact John Cooper at +1.202.637.1022 or john.cooper@lw.com to coordinate transmittal or inspection of documents.

The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are attached hereto, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure, in Attachment B. This Subpoena is issued pursuant to Rule 45(a)(3)(B) of the Federal Rules of Civil Procedure by John S. Cooper, counsel for the State of Florida, whose address appears below. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

Dated: October 23, 2015

Respectfully submitted,

/s/ John S. Cooper

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Attorneys for the State of Florida

INSTRUCTIONS

1. Pursuant to the Case Management Plan, as modified by Case Management Orders No. 7, you shall have thirty (30) days from the date of service of this subpoena to serve objections and begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production.

2. Pursuant to the Case Management Plan, as modified by Case Management Order No. 7, if you anticipate that full production will require more than one hundred and twenty (120) days from service, you shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened on the issue.

3. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Attachment B. You may seek relief under the Case Management Plan for an unresolved discovery dispute by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.

4. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.

5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

6. No request should be interpreted as an implicit or explicit restriction on any other request for production.

7. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neutral, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

8. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

ATTACHMENT A

DEFINITIONS

1. "And" and "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.
2. "Agricultural water use" means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.
3. "Document" as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description, whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, email, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phonorecords or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.
4. "Model" means any conceptual description or approximation that describes physical systems using mathematical equations, including without limitation analytical and numerical models, any tool for the analysis of hydrology, hydrogeology, the water cycle, water budgets, climate, water levels, river flows, and ecological response. The term "Model" includes all surface water, groundwater, integrated surface water/groundwater, and hydraulic and hydrologic analysis tools. Models should include all mechanistic, deterministic, and statistical models. Mechanistic models include process models that simulate hydrologic processes using engineering or mechanistic relationships. Statistical models include, but are not limited to trend analyses, regression analyses, probabilistic (e.g., Monte Carlo) analyses, and artificial neural network analyses. The term "Model" also includes the use of hydrologic indicators to help characterize and evaluate hydrology and/or the water cycle.
5. "Relate to," "relating to" or "related to" means to contain, constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.
6. "You" or "your" means Calvin Perry.

DOCUMENTS TO BE PRODUCED

1. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all documents, emails, models, model inputs, outputs, and underlying datasets in your possession, custody, or control relating to your work on “Agricultural Water Conservation in the Lower Flint River Basin of Georgia.” See C. Perry & R. Yager, *Irrigation Water Conservation Efforts at the UGA C.M. Stripling Irrigation Research Park* at 2, in Proceedings of the 2011 Georgia Water Resources Conference, Inst. of Ecology, U. Ga., Athens, GA (G. Carroll ed.) [hereinafter the “*Irrigation Conservation Study*”], particularly, but not exclusively, documents that informed the water savings numbers for each type of irrigation method in the study.
2. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all communications between you and the Flint River Basin Partnership regarding irrigation water conservation.
3. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all communications between you and that certain “ten member advisory committee of local individuals offer[ing] continuing guidance on relevant research and education programs,” as mentioned in the *Irrigation Conservation Study* on page 2.
4. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all communications between you and Georgia state officials regarding irrigation conservation methods.
5. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all research, memorandum, models, model inputs, outputs, and underlying datasets in your possession, custody, or control relating to your work on estimates of water savings that can be achieved using irrigation conservation methods, especially in the Flint River Basin.
6. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter all documents, emails, models, model inputs, outputs, and underlying datasets in your possession, custody, or control relating to your work on variable-rate irrigation systems in Georgia.
7. Your current *curriculum vitae*.
8. All documents used or reviewed by you, or supplied to you, to prepare for this deposition.

ATTACHMENT B

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. 7

April 8, 2015

CASE MANAGEMENT ORDER NO. 7

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

1. Amendment of Case Management Plan Section 6.1.

In response to the parties' requests for an extension of time for production of documents and completion of written discovery, and in light of the scope and volume of discovery in this proceeding as well as the parties' discovery efforts, Section 6.1 of the Case Management Plan ("CMP") as subsequently modified is hereby further modified as follows. The parties should expect that further enlargement of the written discovery period will be strongly disfavored.

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than November 10, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product

or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and two hundred forty (240) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than two hundred forty (240) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than one hundred twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

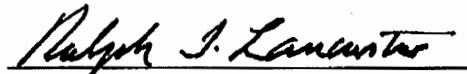
A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of

service to serve objections and forty-five (45) days from the date of service to respond.

2. **Briefing on Joinder of Alabama Under Fed. R. Civ. P. 19**

The parties shall submit briefs addressing the following questions: (1) whether the State of Alabama is a required party that must be joined under Rule 19(a); (2) whether the State of Alabama can be joined under Rule 19(a); and (3) whether the State of Alabama is an indispensable party under Rule 19(b). The parties shall file briefs on these questions on or before May 1, 2015. The parties shall file any responsive briefs on or before May 15, 2015. The United States and the State of Alabama may also submit *amicus curiae* briefs pursuant to the same schedule.

Dated: April 8, 2015



Ralph I. Lancaster
Special Master

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Merrill's Wharf
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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. 10

May 11, 2015

CASE MANAGEMENT ORDER NO. 10

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' requests for an extension of time for depositions and expert discovery, and in light of the prior extension to the parties' deadline for written discovery, the schedule set forth in the Case Management Plan ("CMP") dated December 3, 2014, as subsequently modified, is hereby further modified as follows. The parties should expect that further enlargement of any deadlines will be strongly disfavored.

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 January 15, 2016. Depositions of expert witnesses in their capacity as such shall be completed by April 1, 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

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 PLAN

December 3, 2014

APPENDIX C
***Florida v. Georgia*, No. 142, Original**
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, "off the record" discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked "Confidential" or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent’s objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(1) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(1) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(1) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(1) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(1) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(i) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(1) expressly make the claim; and

(i) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. § 1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

NOTICE OF DEPOSITION OF JAMES HOOK

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, and Federal Rules of Civil Procedure 30 and 45, counsel for the State of Florida will take the deposition upon oral examination of James Hook at 9:00 a.m. on November 11, 2015 at the office of Carlton Fields Jordan Burt, One Atlantic Center, 1201 West Peachtree Street N.W., Suite 3000, Atlanta, GA 30309-3455, provided that the time, date, and place are mutually agreed upon by the parties and Mr. Hook.

PLEASE TAKE FURTHER NOTICE that the deposition will be recorded by stenographic means by a person authorized to administer oaths, and may also be videotaped. The deposition will continue from day to day until completed. The State of Florida estimates that the deposition of Mr. Hook will take no more than seven (7) hours.

Dated: October 8, 2015

Respectfully submitted,

/s/ John S. Cooper

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Attorneys for the State of Florida

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

**SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION AND FOR
PRODUCTION OF DOCUMENTS**

Pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, in the above-captioned matter, the pertinent portion of which is attached hereto, and Rules 30 and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, James Hook is hereby **ORDERED** to appear at 9:00 a.m. on November 11, 2015 at the office of Carlton Fields Jordan Burt, One Atlantic Center, 1201 West Peachtree Street N.W., Suite 3000, Atlanta, GA 30309-3455, provided that the time, date, and place are mutually agreed upon by the parties and Mr. Hook.

The deposition will continue until completed as provided in the Federal Rules of Civil Procedure, as incorporated and modified by the Case Management Plan, which, in accordance with Appendix C of the Case Management Plan, we estimate will take one day of not more than

seven (7) hours of testimony. The deposition will be recorded by stenographic means by a person authorized to administer oaths, and may be videotaped.

You, or your representatives, must also bring with you to the deposition—or provide to counsel for the State of Florida prior to it by mutually agreed upon alternative means—the documents and electronically stored information identified on Attachment A to the extent they have not been previously produced in this matter. For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Please feel free to contact John Cooper at +1.202.637.1022 or john.cooper@lw.com to coordinate transmittal or inspection of documents.

The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are attached hereto, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure, in Attachment B. This Subpoena is issued pursuant to Rule 45(a)(3)(B) of the Federal Rules of Civil Procedure by John S. Cooper, counsel for the State of Florida, whose address appears below. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

Dated: October 8, 2015

Respectfully submitted,

/s/ John S. Cooper

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Attorneys for the State of Florida

INSTRUCTIONS

1. Pursuant to the Case Management Plan, as modified by Case Management Orders No. 7, you shall have thirty (30) days from the date of service of this subpoena to serve objections and begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production.

2. Pursuant to the Case Management Plan, as modified by Case Management Order No. 7, if you anticipate that full production will require more than one hundred and twenty (120) days from service, you shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened on the issue.

3. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Attachment B. You may seek relief under the Case Management Plan for an unresolved discovery dispute by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.

4. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.

5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

6. No request should be interpreted as an implicit or explicit restriction on any other request for production.

7. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neutral, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

8. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

ATTACHMENT A

DEFINITIONS

1. “And” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.
2. “Agricultural water use” means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.
3. “Document” as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description, whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, email, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phonorecords or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.
4. “Model” means any conceptual description or approximation that describes physical systems using mathematical equations, including without limitation analytical and numerical models, any tool for the analysis of hydrology, hydrogeology, the water cycle, water budgets, climate, water levels, river flows, and ecological response. The term “Model” includes all surface water, groundwater, integrated surface water/groundwater, and hydraulic and hydrologic analysis tools. Models should include all mechanistic, deterministic, and statistical models. Mechanistic models include process models that simulate hydrologic processes using engineering or mechanistic relationships. Statistical models include, but are not limited to trend analyses, regression analyses, probabilistic (e.g., Monte Carlo) analyses, and artificial neural network analyses. The term “Model” also includes the use of hydrologic indicators to help characterize and evaluate hydrology and/or the water cycle.
5. “Relate to,” “relating to” or “related to” means to contain, constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.
6. “You” or “your” means James Hook.

DOCUMENTS TO BE PRODUCED

1. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all documents in your possession, custody, or control relating to the work you performed in connection with the *Flint River Basin Regional Water Development and Conservation Plan: Final Report, March 20, 2006*. This request includes, but is not limited to, documents relating to the work you performed in connection with the Technical Advisory Committee of the Steering Committee of the Flint River Basin Plan.

2. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all documents, emails, models, model inputs, outputs, and underlying datasets, in your possession, custody, or control, relating to your work on the following:

- “Agricultural Water Demand: Georgia’s Major and Minor Crops, 2011 through 2050,” see <http://www.nespal.org/sirp/waterinfo/state/awd/agwaterdemand.htm>. The data and reports in connection with this endeavor were prepared under University of Georgia contracts with the Georgia Environmental Protection Division and the Georgia Environmental Facilities Authorities (038952-01 and 038950-01).
- Hook, J.E., K.A. Harrison, G. Hoogenboom, D.L. Thomas 2005. *Agricultural Water Pumping: Final Report of Statewide Monitoring*, Georgia Department of Natural Resources, Project Report 52.
- *Assessing Agricultural Groundwater Needs for the Future: Identifying Irrigated Area and Sources*, 2009 Georgia Water Resources Conference.

3. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all documents, *excluding* emails, and models, model inputs, outputs, and underlying datasets, in your possession, custody, or control, relating to your work on the following:

- *The Potential of a Decision Support System to Simulate Irrigation Scheduling in Southwest Georgia*, 2005 Georgia Water Resources Conference, Panel: Private Wells and Groundwater Protection Irrigation Water Use I and II.
- *Flint River Basin Water Policy and Management: Achieving Sustainability Through Regional Flexibility*, 2003 Georgia Water Resources Conference.

4. To the extent not previously produced in response to the document subpoenas issued in the above-captioned matter, all documents, models, model inputs, outputs, and underlying datasets, in your possession, custody, or control, relating to your work on “The Flint River Study,” an unpublished memorandum you provided to the Georgia Environmental Protection Division, which is reported to concern “detailed studies [you] performed on areas of the Flint River basin.” See *Water Use Data Inventory Report – Surface Water Availability Modeling and Technical Analysis for Statewide Water Management Plan*, Georgia Department of Natural Resources at FN 11, p. 61, March 10, 2010, available at http://giiec.org/documents/Final_WUDI_Report_2010-03-10.pdf.

ATTACHMENT B

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. 7

April 8, 2015

CASE MANAGEMENT ORDER NO. 7

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED

THAT:

1. Amendment of Case Management Plan Section 6.1.

In response to the parties' requests for an extension of time for production of documents and completion of written discovery, and in light of the scope and volume of discovery in this proceeding as well as the parties' discovery efforts, Section 6.1 of the Case Management Plan ("CMP") as subsequently modified is hereby further modified as follows. The parties should expect that further enlargement of the written discovery period will be strongly disfavored.

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than November 10, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product

or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and two hundred forty (240) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than two hundred forty (240) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than one hundred twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

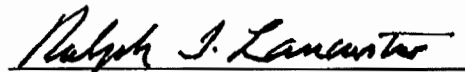
A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of

service to serve objections and forty-five (45) days from the date of service to respond.

2. **Briefing on Joinder of Alabama Under Fed. R. Civ. P. 19**

The parties shall submit briefs addressing the following questions: (1) whether the State of Alabama is a required party that must be joined under Rule 19(a); (2) whether the State of Alabama can be joined under Rule 19(a); and (3) whether the State of Alabama is an indispensable party under Rule 19(b). The parties shall file briefs on these questions on or before May 1, 2015. The parties shall file any responsive briefs on or before May 15, 2015. The United States and the State of Alabama may also submit *amicus curiae* briefs pursuant to the same schedule.

Dated: April 8, 2015



Ralph I. Lancaster
Special Master

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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. 10

May 11, 2015

CASE MANAGEMENT ORDER NO. 10

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' requests for an extension of time for depositions and expert discovery, and in light of the prior extension to the parties' deadline for written discovery, the schedule set forth in the Case Management Plan ("CMP") dated December 3, 2014, as subsequently modified, is hereby further modified as follows. The parties should expect that further enlargement of any deadlines will be strongly disfavored.

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 January 15, 2016. Depositions of expert witnesses in their capacity as such shall be completed by April 1, 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

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 PLAN

December 3, 2014

APPENDIX C
***Florida v. Georgia*, No. 142, Original**
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, "off the record" discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked "Confidential" or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent's objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 28(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. § 1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

CROSS-NOTICE OF RULE 30(b)(6) DEPOSITION OF BLACK & VEATCH

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Sections 5.2, 6.2 and Appendix C of the Case Management Plan, as amended, and Federal Rule of Civil Procedure 30(b)(6), counsel for the State of Georgia will take the deposition upon oral examination of Black & Veatch on October 20, 2015 at 1201 West Peachtree Street NW, Suite 3000, Atlanta, GA through one or more officers, directors, managing agents, or other persons who consent to testify on the Black & Veatch's behalf about information known or reasonably available to it with respect to each of the topics set forth in Attachment A to the attached subpoena.

PLEASE TAKE FURTHER NOTICE that the deposition will be recorded by stenographic means by a person authorized to administer oaths, and may also be videotaped. The deposition will continue from day to day until completed. The State of Georgia estimates that the deposition will take eight (8) hours of testimony.

Dated: October 12, 2015

Respectfully submitted,

/s/ K. Winn Allen

Craig S. Primis, P.C.
K. Winn Allen
KIRKLAND & ELLIS LLP
655 Fifteenth Street, NW
Washington, DC 20005
Tel.: (202) 879-5000
Fax: (202) 879-5200
winn.allen@kirkland.com

Attorneys for the State of Georgia

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

**SUBPOENA TO TESTIFY IN A CIVIL ACTION AND
FOR PRODUCTION OF DOCUMENTS**

Pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, in the above-captioned matter, the pertinent portion of which is attached hereto, and Rules 30(b)(6) and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, Black & Veatch (“you”) is hereby **ORDERED** to appear not later than 9:00 AM on October 20, 2015 at 1201 West Peachtree Street NW, Suite 3000, Atlanta, GA, to testify through one or more officers, directors, managing agents, or other persons who consent to testify on your behalf about information known or reasonably available to you with respect to each of the topics set forth in Attachment A. In accordance with Rule 30(b)(6), you are hereby advised of your duty to designate one or more officers, directors, managing agents, or other persons who consent to testify on your behalf about information known or reasonably available to you.

The deposition will continue until completed as provided in the Federal Rules of Civil Procedure, as incorporated and modified by the Case Management Plan, which, in accordance with Appendix C of the Case Management Plan, we estimate will take one day of not more than eight (8) hours of testimony. The deposition will be recorded by stenographic means by a person authorized to administer oaths, and may be videotaped.

You, or your representatives, must also bring with you to the deposition—or provide to counsel for the State of Florida prior to it by mutually agreed upon alternative means—the documents and electronically stored information identified on Attachment B. Please feel free to contact me at (202) 879-5000 or winn.allen@kirkland.com to coordinate transmittal or inspection.

The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are attached hereto, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure. This Subpoena is issued pursuant to Rule 45(a)(3)(B) of the Federal Rules of Civil Procedure by K. Winn Allen, counsel for the State of Georgia, whose address appears below. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

Dated: October 12, 2015

Respectfully submitted,

/s/ K. Winn Allen

Craig S. Primis, P.C.
K. Winn Allen
KIRKLAND & ELLIS LLP
655 Fifteenth Street, NW
Washington, DC 20005
Tel.: (202) 879-5000
Fax: (202) 879-5200
winn.allen@kirkland.com

Attorneys for the State of Georgia

ATTACHMENT A

DEFINITIONS

1. “ACF Stakeholders” means ACF Stakeholders, Inc., a nonprofit organization incorporated in 2009.
2. “And” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all information, documents, models, modeling files, and other data that might otherwise be construed to be outside its scope.
3. “Climate Change” means a statistically significant change in the measures of climate lasting for an extended period of time, such as changes in temperature, precipitation, or wind patterns, among others, that occur over several decades or longer.
4. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.
5. “You” and “Your” means Black & Veatch.

MATTERS FOR EXAMINATION

1. The work you performed for the ACF Stakeholders, Inc.
2. The models, modeling tools, or other analytical frameworks you created or utilized in performing the work for the ACF Stakeholders, Inc., including but not limited to any inputs and outputs associated with those models, and supporting data, databases, correspondence, and other documents.
3. The work you performed in support of the Georgia State Water Plan, including work performed to support each of the planning councils within the Apalachicola-Chattahoochee-Flint River Basin.
4. The models, modeling tools, or other analytical frameworks you created or utilized in performing the work in support of the Georgia State Water Plan, including but not limited to any inputs and outputs associated with those models, and supporting data, databases, correspondence, and other documents.
5. The work you performed related to validation of water loss audits of Georgia’s water systems.
6. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to the River Basin Planning Tool.

7. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to the ACF Decision Support System (the ACFDSS model), the RES-SIM model, and any other hydrodynamic, statistical, or technical model developed, utilized, or relied on for your work relating to the Apalachicola-Chattahoochee-Flint River Basin, including modeling runs, model inputs, model outputs, and associated data.
8. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to the evaluation or quantification of the historic or current impacts of water consumption in Georgia on the groundwater and surface water flows in the Apalachicola-Chattahoochee-Flint River Basin.
9. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to the evaluation or quantification of the future impacts of water consumption in Georgia on the groundwater and surface water flows in the Apalachicola-Chattahoochee-Flint River Basin. This information includes, but is not limited to, projections of agricultural and municipal and industrial water use, and the associated impacts on groundwater and surface water flows.
10. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to water conservation measures that could be implemented the Chattahoochee and Flint River Basins in Georgia, or quantifying the impacts of water conservation measures on water withdrawals as well as groundwater and surface water flows in the Apalachicola-Chattahoochee-Flint River Basin.
11. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to water demands and returns in the Apalachicola-Chattahoochee-Flint River Basin.
12. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to climate change assessments of the Apalachicola-Chattahoochee-Flint River Basin.
13. Any knowledge you have, the research you performed, and research, reports, and data you collected or received from others, relating to any other work, including on models, that you have performed relating to the Apalachicola-Chattahoochee-Flint River Basin.

ATTACHMENT B

DEFINITIONS

All definitions are identical to the definitions set forth in Attachment A.

DOCUMENTS TO BE PRODUCED

1. Any and all materials in your possession, custody, or control that relate to the subject matter set forth in Attachment A.
2. A curriculum vitae of the person designated to testify pursuant to this subpoena on your behalf, including a full list of publications.
3. A curriculum vitae of all persons who have worked for Black and Veatch related to the subject matter set forth in Attachment A.
4. All documents in your possession, custody, or control related to communications relating to the above topics.
5. All documents reviewed, considered, relied on, used by, and/or supplied to the person designated to testify on your behalf in preparation for this deposition.

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. 7

April 8, 2015

CASE MANAGEMENT ORDER NO. 7

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED

THAT:

1. **Amendment of Case Management Plan Section 6.1.**

In response to the parties' requests for an extension of time for production of documents and completion of written discovery, and in light of the scope and volume of discovery in this proceeding as well as the parties' discovery efforts, Section 6.1 of the Case Management Plan ("CMP") as subsequently modified is hereby further modified as follows. The parties should expect that further enlargement of the written discovery period will be strongly disfavored.

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than November 10, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product

or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and two hundred forty (240) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than two hundred forty (240) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than one hundred twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

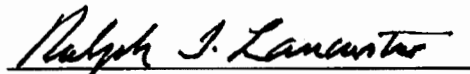
A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of

service to serve objections and forty-five (45) days from the date of service to respond.

2. **Briefing on Joinder of Alabama Under Fed. R. Civ. P. 19**

The parties shall submit briefs addressing the following questions: (1) whether the State of Alabama is a required party that must be joined under Rule 19(a); (2) whether the State of Alabama can be joined under Rule 19(a); and (3) whether the State of Alabama is an indispensable party under Rule 19(b). The parties shall file briefs on these questions on or before May 1, 2015. The parties shall file any responsive briefs on or before May 15, 2015. The United States and the State of Alabama may also submit *amicus curiae* briefs pursuant to the same schedule.

Dated: April 8, 2015



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@pierceatwood.com

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. 10

May 11, 2015

CASE MANAGEMENT ORDER NO. 10

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' requests for an extension of time for depositions and expert discovery, and in light of the prior extension to the parties' deadline for written discovery, the schedule set forth in the Case Management Plan ("CMP") dated December 3, 2014, as subsequently modified, is hereby further modified as follows. The parties should expect that further enlargement of any deadlines will be strongly disfavored.

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 January 15, 2016. Depositions of expert witnesses in their capacity as such shall be completed by April 1, 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

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 PLAN

December 3, 2014

APPENDIX C
***Florida v. Georgia*, No. 142, Original**
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, "off the record" discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked "Confidential" or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. §1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

CROSS-NOTICE OF RULE 30(b)(6) DEPOSITION OF ATKINS GLOBAL

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Sections 5.2, 6.2 and Appendix C of the Case Management Plan, as amended, and Federal Rule of Civil Procedure 30(b)(6), counsel for the State of Georgia will take the deposition upon oral examination of Atkins Global on October 30, 2015 at 1201 West Peachtree NW, Suite 3000, Atlanta, GA through one or more officers, directors, managing agents, or other persons who consent to testify on the Atkins Global's behalf about information known or reasonably available to it with respect to each of the topics set forth in Attachment A to the attached subpoena.

PLEASE TAKE FURTHER NOTICE that the deposition will be recorded by stenographic means by a person authorized to administer oaths, and may also be videotaped. The deposition will continue from day to day until completed. The State of Georgia estimates that the deposition will take eight (8) hours of testimony.

Dated: October 12, 2015

Respectfully submitted,

/s/ K. Winn Allen

Craig S. Primis, P.C.

K. Winn Allen

KIRKLAND & ELLIS LLP

655 Fifteenth Street, NW

Washington, DC 20005

Tel.: (202) 879-5000

Fax: (202) 879-5200

winn.allen@kirkland.com

Attorneys for the State of Georgia

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

**SUBPOENA TO TESTIFY IN A CIVIL ACTION AND
FOR PRODUCTION OF DOCUMENTS**

Pursuant to Sections 6.2 and Appendix C of the Case Management Plan, as amended, in the above-captioned matter, the pertinent portion of which is attached hereto, and Rules 30(b)(6) and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, Atkins Global (“you”) is hereby **ORDERED** to appear not later than 9:00 AM on October 30, 2015 at 1201 West Peachtree NW, Suite 3000, Atlanta, GA to testify through one or more officers, directors, managing agents, or other persons who consent to testify on your behalf about information known or reasonably available to you with respect to each of the topics set forth in Attachment A. In accordance with Rule 30(b)(6), you are hereby advised of your duty to designate one or more officers, directors, managing agents, or other persons who consent to testify on your behalf about information known or reasonably available to you.

The deposition will continue until completed as provided in the Federal Rules of Civil Procedure, as incorporated and modified by the Case Management Plan, which, in accordance with Appendix C of the Case Management Plan, we estimate will take one day of not more than eight (8) hours of testimony. The deposition will be recorded by stenographic means by a person authorized to administer oaths, and may be videotaped.

You, or your representatives, must also bring with you to the deposition—or provide to counsel for the State of Florida prior to it by mutually agreed upon alternative means—the documents and electronically stored information identified on Attachment B. Please feel free to contact me at (202) 879-5000 or winn.allen@kirkland.com to coordinate transmittal or inspection.

The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are attached hereto, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure. This Subpoena is issued pursuant to Rule 45(a)(3)(B) of the Federal Rules of Civil Procedure by K. Winn Allen, counsel for the State of Georgia, whose address appears below. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

Dated: October 12, 2015

Respectfully submitted,

/s/ K. Winn Allen

Craig S. Primis, P.C.
K. Winn Allen
KIRKLAND & ELLIS LLP
655 Fifteenth Street, NW
Washington, DC 20005
Tel.: (202) 879-5000
Fax: (202) 879-5200
winn.allen@kirkland.com

Attorneys for the State of Georgia

ATTACHMENT A

DEFINITIONS

1. “ACF Stakeholders” means ACF Stakeholders, Inc., a nonprofit organization incorporated in 2009.
2. “And” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all information, documents, models, modeling files, and other data that might otherwise be construed to be outside its scope.
3. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.
4. “You” and “Your” means Atkins Global, a firm headquartered in Epsom, United Kingdom under the name WS Atkins plc, with various subsidiaries in the United States named Atkins North America, Inc., Atkins US Holdings, Inc., and WS Atkins, Inc., among other, and offices in the states of Florida and Georgia, among others.

MATTERS FOR EXAMINATION

1. Your research and conclusions related to your ACF Stakeholders work.
2. Data you collected and databases you created in connection to your ACF Stakeholders work.
3. Models, modeling tools, or other analytical frameworks you created or utilized in performing your ACF Stakeholders work, and any inputs and outputs associated with those models.
4. Supporting data, databases, correspondence, and other documents related to the models you created or utilized in connection with your ACF Stakeholders work.
5. Research, reports, models, and data you received from others in connection with your ACF Stakeholders work, including the outputs of any hydrologic, hydrodynamic, or other modeling performed by others.
6. Your communications with others, including but not limited to the ACF Stakeholders, universities, researchers, or modelers, related to your ACF Stakeholders work.
7. The literature you consulted in performing your ACF Stakeholders work.

8. Any knowledge you have, research you performed, models you created, and research, reports, models, and data you collected or received from others related to water in the ACF Basin.

ATTACHMENT B

DEFINITIONS

All definitions are identical to the definitions set forth in Attachment A.

DOCUMENTS TO BE PRODUCED

1. Any and all materials in your possession, custody, or control that relate to the subject matter set forth in Attachment A.
2. A curriculum vitae of the person designated to testify pursuant to this subpoena on your behalf, including a full list of publications.
3. A curriculum vitae of each person from Atkins Global who has performed work related to water the ACF Basin.
4. All documents in your possession, custody, or control related to communications relating to the above topics.
5. All documents reviewed, considered, relied on, used by, and/or supplied to the person designated to testify on your behalf in preparation of this deposition.

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. 7

April 8, 2015

CASE MANAGEMENT ORDER NO. 7

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

1. Amendment of Case Management Plan Section 6.1.

In response to the parties' requests for an extension of time for production of documents and completion of written discovery, and in light of the scope and volume of discovery in this proceeding as well as the parties' discovery efforts, Section 6.1 of the Case Management Plan ("CMP") as subsequently modified is hereby further modified as follows. The parties should expect that further enlargement of the written discovery period will be strongly disfavored.

6.1 Written Discovery

All written discovery may be initiated beginning on January 12, 2015, and shall be completed by no later than November 10, 2015.

6.1.1 Interrogatories

Each party may serve not more than fifty (50) interrogatories, including discrete subparts, on the other party. Without prior written approval of the Special Master, no additional interrogatories may be served. Each party served with interrogatories shall have thirty (30) days from the date of service to serve objections and forty-five (45) days from the date of service to serve answers.

6.1.2 Requests For Production Of Documents/Inspections To Parties

Each party may serve requests for production of documents/inspections on the other party. A party upon which requests for production of documents/inspections are served shall have twenty (20) days from the date of service to serve objections other than objections based on privilege, work product

or confidentiality, thirty (30) days from the date of service within which to make remaining objections and to begin producing documents, and two hundred forty (240) days from the date of service within which to complete full production subject to unresolved objections. If either party anticipates that full production will unavoidably require more than two hundred forty (240) days from service, that party shall notify the Special Master within ten (10) days of service of the requests, and a telephone conference will be convened to discuss the issue.

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred twenty (120) days from the date of service within which to complete full production. If either a party or the non-party anticipates that full production will require more than one hundred twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference may be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

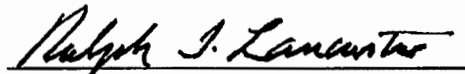
A party may serve requests for admission on the other party. Each party served with requests for admission shall have thirty (30) days from the date of

service to serve objections and forty-five (45) days from the date of service to respond.

2. **Briefing on Joinder of Alabama Under Fed. R. Civ. P. 19**

The parties shall submit briefs addressing the following questions: (1) whether the State of Alabama is a required party that must be joined under Rule 19(a); (2) whether the State of Alabama can be joined under Rule 19(a); and (3) whether the State of Alabama is an indispensable party under Rule 19(b). The parties shall file briefs on these questions on or before May 1, 2015. The parties shall file any responsive briefs on or before May 15, 2015. The United States and the State of Alabama may also submit *amicus curiae* briefs pursuant to the same schedule.

Dated: April 8, 2015



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@pierceatwood.com

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. 10

May 11, 2015

CASE MANAGEMENT ORDER NO. 10

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:

In response to the parties' requests for an extension of time for depositions and expert discovery, and in light of the prior extension to the parties' deadline for written discovery, the schedule set forth in the Case Management Plan ("CMP") dated December 3, 2014, as subsequently modified, is hereby further modified as follows. The parties should expect that further enlargement of any deadlines will be strongly disfavored.

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 January 15, 2016. Depositions of expert witnesses in their capacity as such shall be completed by April 1, 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

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 PLAN

December 3, 2014

APPENDIX C
***Florida v. Georgia*, No. 142, Original**
Deposition Guidelines
December 3, 2014

1. Cooperation

Counsel will cooperate with each other and exercise civility in all aspects of this litigation.

2. Waiver Stipulations

Unless contrary to an order of the Special Master, the parties (and when appropriate, a non-party witness) may stipulate, in a suitable writing, to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for any discovery beyond discovery cutoffs or deadlines set by the Special Master are not valid without approval of the Special Master.

3. Scheduling

Except in extraordinary circumstances, noticing counsel shall consult in advance with counsel for the deponent, if any, and with opposing counsel, so as to schedule depositions at mutually convenient times and places.

4. Attendance

4.1 Who May Be Present

Unless otherwise ordered under Fed. R. Civ. P. 26(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purposes of the deposition, the parties or the representative of a party, including counsel from the offices of the respective attorneys general, counsel for the deponent, and expert consultants or witnesses. During examination of a deponent about any

confidential document or its confidential contents, persons to whom disclosure is not authorized under section 10 of this CMP shall be excluded.

4.2 Cross-Noticing

A party may cross-notice a deposition. The cross-notice shall be served at least seven (7) days prior to the date noticed for the deposition unless otherwise provided for by an applicable rule or Case Management Order.

5. Conduct

5.1 Examination

Ordinarily, each party should designate one attorney to conduct the principal examination of the deponent. Examination by other attorneys should be limited to situations where designated counsel must leave before the deposition is completed or is otherwise incapacitated.

5.2 Objections and Directions Not to Answer

Counsel shall comply with Fed. R. Civ. P. 30(c)(2). When a claim of privilege is made, the witness should nevertheless answer questions relevant to the existence, extent or waiver of the privilege, including the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and the general subject matter of the statement, unless such information is itself privileged.

5.3 Time Limitations

Depositions must be concluded within a reasonable time limit. At the time of notification, the noticing party will estimate the reasonable amount of time needed for the deposition. In the event any other party considers the proposed amount of time to be unreasonable, the dispute, if unresolved, may be referred to the Special Master pursuant to section 11 of this CMP. Except with prior agreement of counsel or written approval of the Special Master, no deposition may last longer than three (3) eight (8) hour days, provided that no such agreement of counsel may extend any discovery deadline.

5.4 Continuation of Deposition

If a deposition is not finished by the end of the business day, it will continue on the following business day and each business day thereafter, subject to the availability of the witness and time limitations otherwise set by agreement or order of the Special Master. The parties may agree to continue or suspend a deposition until a mutually agreed upon later date, provided that the later date is within any discovery deadline set by the Special Master.

6. Documents

6.1 Production of Documents

All documents should be requested and produced pursuant to sections 6.1.2 and 6.1.3 of this CMP. If a non-party witness is believed to have documents not previously produced, a subpoena to produce documents

should be served at least twenty (20) days before the scheduled deposition. Arrangements should be made to permit inspection of the documents by both parties before the deposition begins. Any documents produced in such a manner should be Bates numbered pursuant to section 8 of the CMP.

6.2 Copies

Extra copies of documents about which counsel expects to question the deponent shall be provided to opposing counsel and the deponent at the time of the deposition. Deponents should be shown a document before being examined about it except when counsel are attempting to impeach deponent or test deponent's recollection.

7. Videotaped Depositions

By request in its notice of a deposition, a party may record the deposition as permitted under Fed. R. Civ. P. 30(b)(3) through (5).

7.1 Video Operator

The operator(s) of the videotape recording equipment shall be subject to the provisions of Fed. R. Civ. P. 28(c). At the commencement of the deposition, the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

7.2 Attendance

Each witness and each examining attorney shall be identified on camera at the commencement of the deposition. All others present at the deposition shall be identified off-camera. Thereafter, generally speaking, only the

deponent (and demonstrative materials used during the deposition) shall be videotaped.

7.3 Standards

The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box other than when reviewing or presenting demonstrative materials for which a change in position is needed. The deposition should be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angles, lens setting, and field of view should be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and other materials used during the deposition. Sound levels should be altered only as necessary to record satisfactorily the voices of counsel and the deponent. No eating or smoking by deponents or counsel should occur during the deposition.

7.4 Interruptions

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording shall be suspended during agreed "off the record" discussions.

7.5 Index

The videotape operator shall use a counter on the recording equipment and, after completion of the deposition shall prepare a log, cross-

referenced to counter numbers. The log shall identify on the tape where: examination by different counsel begins and ends; objections are made and examination resumes; record certifications are requested; exhibits are identified; any interruption of continuous tape recording occurs; and the reason for the interruption, whether for recesses, "off the record" discussion, mechanical failure, or otherwise.

7.6 Filing

The operator shall send the original videotape in its original condition to the deposing State party in a sealed envelope. No part of a videotaped deposition shall be released or made available to any member of the public or to any unauthorized person, whether marked "Confidential" or not.

7.7 Objections

Requests for ruling on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. Each issue shall be separately submitted. If needed for a ruling, a copy of the videotape and equipment for viewing the tape (if necessary) shall also be made available to the Special Master.

8. Telephonic Depositions

By stating in the deposition notice that it wants to conduct the deposition by telephone, a party shall be deemed to have moved for an order under Fed. R. Civ. P. 30(b)(4). Notice of a telephonic deposition shall be served at least twenty (20) days before the deposition. Unless an objection is filed and served at least ten (10) days before the deposition, the motion shall be deemed to have been granted. Other parties may

examine the deponent telephonically or in person. All persons present with the deponent shall be identified in the deposition and shall not by word, or otherwise, coach or suggest answers to the deponent.

9. Use

Under the conditions prescribed in Fed. R. Civ. P. 32(a)(1) to (4), as otherwise permitted by the Federal Rules of Evidence, or as agreed to by the parties with approval of the Special Master, depositions may be used against either party.

10. Supplemental Depositions

To the extent a deponent acquires new information, or forms new opinions, or finds new grounds to support previous opinions, any party may move for a supplemental deposition. Such motion shall be made for good cause shown within ten (10) days of a party's learning of the new information, opinion or grounds from supplemental discovery responses provided under section 15 of this CMP or any other source. If permitted, the supplemental deposition shall be treated as the resumption of the deposition previously taken, but shall not exceed one (1) eight (8) hour day in length. Supplemental depositions shall not be repetitive of prior examination and repetition of substantially the same examination as previously conducted may result in imposition of monetary and other sanctions.

11. Rulings

Rulings on objections made during a deposition will be resolved according to the procedure set forth in section 12 of the CMP.

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney’s fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(1) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(1) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(1) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(1) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. §1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.