

**In The  
Supreme Court of the United States**

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STATE OF FLORIDA,

*Plaintiff,*

v.

STATE OF GEORGIA,

*Defendant.*

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Before the Special Master

Hon. Ralph I. Lancaster

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**STATUS REPORT OF THE STATE OF GEORGIA  
FEBRUARY 6, 2015**

This report constitutes the first monthly status report filed by the State of Georgia pursuant to Section 4 of the Case Management Plan.

**I. GENERAL STATUS**

Since the last status conference with the Special Master in December 2014, Georgia has filed its Answer and has dedicated significant resources to the initial phases of discovery, including: cooperative engagement with counsel for Florida on discovery issues; identifying and interviewing potential document custodians; document collection, review, and production; fact development; serving written discovery; and responding to written discovery. Details about these efforts are set forth below in Section II.

The parties have met and conferred regularly on a range of topics including:

- The timing of Georgia's Answer;
- Identification of potential custodians for each state, including the exchange of lists of potential custodians;
- Identification of which entities are third parties, as opposed to entities over which each state has control;
- Parameters of electronic discovery, including working to agree on a set number of email custodians for each side;
- Use of defined search terms for electronic discovery;
- Protocol for Electronically Stored Information;
- Protocol for handling potentially privileged documents through a Clawback Agreement;
- Service of third-party subpoenas;
- The location of depositions;
- The feasibility of completing document production within the Case Management Plan's 120-day deadline;
- The timing of any 12(b)(7) motion.

Georgia will continue to engage in discussion with Florida about discovery in the coming months, especially as document productions begin.

## **II. STATUS OF GEORGIA'S DISCOVERY EFFORTS**

### **A. Georgia Has Actively Engaged in Written Discovery.**

Since the last status call with the Special Master, Georgia agreed to accelerate the filing of its Answer, which was filed almost one month early on January 8, 2015. In addition, Georgia has served the following:

- **Written Discovery:** Georgia served Interrogatories and Requests for Production on January 12, 2015.
- **Responses and Objections to Florida's Requests for Production:** Georgia served responses and objections to Florida's Requests for Production on February 2, 2015.

- **Non-Party Subpoenas:** Georgia served subpoenas on ten non-parties on February 3, 2015:
  - Calhoun County
  - City of Apalachicola
  - City of Carrabelle
  - Florida Sea Grant
  - Franklin County
  - Franklin County Seafood Workers Association
  - Gadsden County
  - Gulf County
  - Jackson County
  - Liberty County

**B. Georgia Has Undertaken Substantial Efforts to Identify Potential Custodians and to Collect Documents.**

To ensure that it identifies documents and data responsive to Florida's discovery requests, Georgia has undertaken extensive efforts to identify potential custodians across multiple state agencies. In early December, attorneys for Georgia met with leaders from agencies in Atlanta and other parts of the state. Georgia then conducted follow-up phone calls with agency personnel to prepare for in-person custodial interviews. Attorneys for Georgia then traveled across the state to meet with agency leaders for interviews and document collection. For example, Georgia has:

- Contacted or met with leaders from at least 8 state agencies;
- Traveled to 5 cities across the state of Georgia to meet with potential custodians;
- Interviewed more than 45 potential custodians in person;
- Conducted at least 5 additional interviews by phone;

- Collected documents, databases, or models from more than 30 potential custodians.

From these dozens of interviews, Georgia has learned that document collection will be complicated by the fact that different state agencies use different types of e-mail, databases, servers, networks, and other electronic systems that may prevent quick assimilation of documents and data into a single database for Georgia's review and ultimate production. In addition, the models and databases Florida has requested are voluminous, unable to be hosted in the same review database as the rest of Georgia's document collection, and in many cases must be viewed through a unique electronic platform or program. Although Georgia continues to collect documents, databases, and models responsive to Florida's requests, these factors have affected Georgia's ability to produce such information quickly, and Georgia anticipates similar issues as discovery moves forward.

With respect to document production, Georgia has hired a document vendor to process and host the data it collects, and is in the process of hiring contract attorneys to complete first-level review of documents.

### **III. ANTICIPATED DISCOVERY**

Pursuant to the deadlines outlined in the Case Management Plan (as modified by Case Management Order No. 2), Georgia expects to complete the following discovery in the next month:

- Begin producing models, databases, and documents by February 11, 2015.
- Serve objections to Florida's Interrogatories by February 11, 2015.
- Serve responses to Florida's Interrogatories by February 26, 2015.

In addition, Georgia:

- Will file any 12(b)(7) motion within 7 days of the Army Corps of Engineers' Statement of Intended Participation.

- Will serve additional non-party subpoenas.
- Will serve additional document requests and interrogatories on Florida;
- May serve supplemental responses and objections<sup>1</sup> to Florida's Requests for Production, as Georgia learns new information about specific documents and data through additional custodial interviews.

#### **IV. UNRESOLVED DISPUTES AND OTHER CONCERNS**

The completion of document production on a 120-day deadline remains a concern for both Georgia and Florida. As the parties explained in their January 22, 2015, letter to the Special Master, each party has requested a broad range of documents and data from the other side. Although Georgia has engaged diligently in document collection and review, the volume and complex nature of the documents, models, and data Florida has requested make it increasingly likely that Georgia will not be able to complete document production within 120 days. Notwithstanding these concerns, Georgia will continue to interview relevant custodians, collect documents, and review documents diligently, and will produce documents and data to Florida on a rolling basis.

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<sup>1</sup> Georgia served responses and objections to Florida's Requests for Production, including objections based on privileged, on February 2, 2015.

Other than the parties' concern about production deadlines, there are no unresolved disputes at this time.

Dated: February 6, 2015

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**CERTIFICATE OF SERVICE**

This is to certify that the FEBRUARY 6, 2015 STATUS REPORT OF THE STATE OF GEORGIA has been served on this 6th day of February 2015, in the manner specified below:

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