

No. 142, Original

In the
Supreme Court of the United States

STATE OF FLORIDA,

Plaintiff,

v.

STATE OF GEORGIA,

Defendant.

Before the Special Master

Hon. Ralph I. Lancaster

**THE STATE OF FLORIDA'S REQUEST FOR MINOR CLARIFICATIONS
REGARDING CASE MANAGEMENT ORDER NO. 19**

In Case Management Order No. 19, the Court instructed the parties to file any objections to the Court's pre-trial schedule by June 30, 2016, noting that the Order may be amended thereafter. *See* Case Management Order No. 19 at 6. The State of Florida has no objections to the provisions in Case Management Order No. 19, but believes it may be helpful to clarify a small number of issues and make certain additions to the Order. Florida has conferred with Georgia regarding each of the proposed clarifications below; Florida believes that the parties are in agreement on most of the proposals, and understands that Georgia will also make a submission today stating its views on these proposed clarifications.

1. **Opening and Closing Statements:** Florida and Georgia share the view that opening and closing statements will assist in framing the presentation of evidence. Florida proposes a seventy-five minute time limit for each party's opening statement, and a similar period for closing.
2. **Deposition Cross-Designations:** The current deadline for exchanging deposition designations is September 9, 2016. Florida and Georgia jointly propose a September 23, 2016 deadline for exchanging deposition cross-designations.
3. **Length of the Parties' Pre-Trial Briefs:** In the most recent status conference, the Court suggested that Georgia's proposal of 50 pages for pre-trial briefs was too long. *See* Status Conf. Tr. at 13:10-13 (June 8, 2016). Florida and Georgia jointly propose a forty (40) page limit on the parties' pre-trial briefs.
4. **Written Objections to Pre-Filed Direct Testimony:** Florida and Georgia agree that it would be helpful for the Pre-trial Order to identify a procedure for filing written objections to pre-filed direct testimony. Georgia believes that such objections should be filed 2-3 weeks after trial. Florida prefers that written objections to pre-filed direct testimony be filed before witnesses testify, and would be prepared to file those written objections 48 hours before witnesses are anticipated to take the stand.

5. Hostile Witnesses: It is possible that Florida will wish to call a relatively small number of hostile witnesses—potentially including a very small number of third party witnesses and possibly certain Georgia personnel. In *Kansas v. Nebraska*, Judge Kayatta allowed direct testimony to be taken of hostile witnesses, and required that a short summary of the expected testimony for such witnesses be submitted in lieu of pre-filed direct testimony. See *Kansas v. Nebraska*, Order on Kansas’ Objection/Request for Confirmation and Modification of CMO No. 5 at 3 (May 18, 2012). Florida is not yet certain that it will need to utilize such a procedure, but proposes that this option be available. Florida also notes that it is in discussions with Georgia regarding the use of deposition designations in lieu of live witness testimony. In its June 6, 2016 Proposed Trial Plan, Georgia wrote:

Georgia also reserves its right to call adversely certain witnesses from the State of Florida and to offer testimony through deposition designations. In particular, Georgia expects to present the testimony of some witnesses (including possibly Georgia witnesses, Florida witnesses, and third-party witnesses) via deposition designation.

State of Georgia’s Proposed Trial Plan at 3-4 (June 6, 2016). Florida hopes to conclude these discussions with Georgia well before the parties exchange witness lists on September 9, 2016.

June 30, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that THE STATE OF FLORIDA'S REQUEST FOR MINOR CLARIFICATIONS REGARDING CASE MANAGEMENT ORDER NO. 19 has been served on this 30th day of June, 2016, in the manner specified below:

<u>For State of Florida</u>	<u>For United States of America</u>
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