

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 AUGUST 2016 PROGRESS REPORT

The State of Florida respectfully submits this Progress Report to the Special Master pursuant to Section 4 of the December 3, 2014 Case Management Plan (the “CMP”), as subsequently amended.

I. MEDIATION

Florida and Georgia continue to engage in a confidential mediation process.

II. EXPERT DISCOVERY PROGRESS

Florida and Georgia have been extremely busy with expert discovery over the past month. The expert discovery period ends today. Florida has encountered a problem with certain data relied upon by Georgia experts. The data set in question was gathered and assembled by a Georgia state agency, and was well within the scope of Florida’s 2015 document requests. But Georgia did not produce the data set until the very end of the period for taking fact witness

depositions and disclosing experts (February 29, 2016), and then still omitted key source materials for the data (shape files).¹ Over the past several months, Florida repeatedly wrote to Georgia seeking additional information regarding the data and source materials – including how they were gathered/assembled and why the source materials had not been provided. For a long period of time, Georgia declined to respond.

On May 20, 2016, Georgia provided expert reports relying upon this data set and related materials. Florida again asked repeatedly for additional information about the data and how it was gathered and utilized. On June 10, 2016, many of the source materials for the data set were produced for the first time. And on July 29, 2016, Georgia provided descriptive material for the first time explaining how Georgia used the data to prepare its expert analysis. But Georgia still declined to provide documents identifying in any detail how the data was gathered and verified. Likewise, Georgia's expert witness testified this week that he did not have details on exactly what the process was for gathering and verifying the data.

Florida will continue to meet and confer with Georgia on these issues next week, and hopes that it can find a solution to this problem. If no solution is forthcoming, Florida may need to seek relief from the Court.

Other challenges have included Georgia's production of supplemental expert opinions for expert witnesses shortly in advance of depositions – pursuant to Case Management Order 15. Florida has persevered, analyzing those opinions in the short periods before depositions commence, and questioning Georgia's experts on that material. At the same time, Florida has also gone out of its way to accommodate requests from Georgia for additional information and material from its experts, even in circumstances where Florida did not have a legal obligation to

¹ Only certain segments of the data and a small subset of the source materials were produced earlier.

do so. For example, Florida received such a request this Wednesday evening (August 3, 2016) from Georgia and responded on Thursday (August 4, 2016).

III. PRETRIAL AND TRIAL PROCEEDINGS

Florida is actively preparing for pre-trial and trial proceedings, consistent with Case Management Orders 19, 20, and 21. Florida expects that the parties will meet and confer regarding pre-trial issues as needed in the coming months.

IV. UNRESOLVED DISPUTES

No disputes are ripe for decision by the Court at this time.

* * * *

August 5, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the STATE OF FLORIDA'S AUGUST 2016 PROGRESS REPORT has been served on this 5th day of August, 2016, in the manner specified below:

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