

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

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



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Special Master

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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.