

In The
Supreme Court of the United States

STATE OF FLORIDA,
Plaintiff,

v.

STATE OF GEORGIA,
Defendant.

Before the Special Master,

Honorable Ralph I. Lancaster

**MOTION BY LAKE LANIER ASSOCIATION, INC.
FOR LEAVE TO FILE AN AMICUS BRIEF**

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MOVANT'S INTEREST AND QUALIFICATIONS

Lake Sidney Lanier is the primary reservoir of the Apalachicola-Chattahoochee-Flint river system, containing approximately 64% of the entire system's water storage while being fed by less than 6% of the ACF watershed. As a result, it is precariously perched atop a hydrologic system that depends heavily on it but whose improper operation can injure or destroy it.

Lake Lanier Association, Inc. ("LLA") is a Georgia not-for-profit corporation chartered in 1966 that represents businesses and citizens who rely on Lake Lanier for their livelihoods and quality of life. LLA seeks to protect Lake Lanier's water level, cleanliness, and safety. LLA was a party to the litigation among Georgia, Florida, and Alabama that culminated in the Eleventh Circuit's Order in *In Re: MDL-1824 Tri-State Water Rights Litigation*, 644 F.3d 1160 (11th Cir. 2011). LLA therefore has a direct interest in the litigation before this Court.

SUMMARY OF THE CONTENTS OF MOVANT'S BRIEF

Lake Lanier is particularly vulnerable to increased minimum flows at the Georgia/Florida state line, and LLA's constituents bear a disproportionate brunt of the impact of any increase in those flows - especially during times of drought. This disproportionate impact differentiates LLA's constituents from other stakeholders in the ACF region. LLA's *amicus* brief would advise the Court regarding the impacts on Lake Lanier and LLA's constituents of any change in the amounts of

water stored in or released from Lake Lanier, seek to provide helpful analysis of the law, protect LLA's special interests in the subject matter of the suit, contribute to the court's understanding, and insure a complete presentation of the issues. *See Bryant v. Better Business Bureau*, 923 F. Supp. 720, 728 (D. Md., 1996).

GROUNDINGS FOR THE MOTION

In its brief in opposition to Georgia's motion to dismiss, Florida asserted that it seeks only a consumption cap and not an increased minimum flow at the state line. But that disclaimer does not change the fact that Florida's Prayer for Relief asks for "any other relief that the Court may deem just and appropriate." As the Special Master has pointed out, "...the type of evidence presented by Florida and the propriety of any particular form of relief is, at this stage, merely conjecture," and "it would be improper to rely on Florida's representation regarding the form of relief it seeks to limit the Court's authority." *Order on State of Georgia's Motion to Dismiss for Failure to Join a Required Party*, 10-11. Therefore, a decree requiring an increased minimum flow remains a potential remedy within the purview of the Court.

Recognizing that Florida has *at this stage of the proceedings* narrowed its request for relief and, presumably, the evidence it intends to produce in pursuit thereof, an *amicus* brief from the LLA *at this time* would not necessarily provide some added value or net benefit to the resolution of this matter that the State of

Georgia cannot provide, nor would it yet be timely. See *United States v. Gotti*, 755 F. Supp. 1157, 1158 (E.D.N.Y. 1991) (evidence for both sides had not been reviewed by the prospective *amicus curiae*); *Yip v. Pagano*, 606 F. Supp. 1566, 1568 (D.N.J.1985) (quoting 3A C.J.S. Amicus Curiae § 3 (1973)), aff'd, 782 F.2d 1033 (3d Cir.), cert. denied, 476 U.S. 1141, 106 S. Ct. 2248, 90 L. Ed.2d 694 (1986). For these reasons and to conserve its limited financial resources, the LLA does not seek to provide the Court *at this time* with an *amicus* brief. However, if increased minimum flow appears to be at issue after presentation of the evidence and argument at trial, that would constitute a new, compelling reason supporting LLA's participation as an *amicus*.

WHEREFORE, the LLA requests that the Special Master grant the LLA leave to file an *amicus* brief at an appropriate time after the close of trial if the evidence and arguments adduced at trial place the issue of increased minimum flow before the Court.

Respectfully submitted, this 16th day of September, 2016.

s/ Clyde Y. Morris, Jr.
Clyde Y. Morris, Jr.
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CERTIFICATE OF SERVICE

This is to certify that the foregoing Motion has been served as follows upon the following parties:

For State of Florida	For United States of America
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This 16th day of September, 2016.

s/ Clyde Y. Morris, Jr.
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