

No. 141, Original

IN THE
SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO AND
STATE OF COLORADO,

Defendants.

OFFICE OF THE SPECIAL MASTER

STATE OF TEXAS'S AUGUST 2019 STATUS REPORT

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August 2, 2019

COMES NOW the State of Texas (Texas) and provides the following status report to the Special Master pursuant to paragraph 5 of the Case Management Plan (CMP), as amended.

Since the filing of Texas's July Status Report, Texas has initiated supplemental ESI collections by and through various custodians of records and custodial agencies pursuant to the parties' electronically stored information (ESI) search term and collection protocol, agreed-upon custodians of records lists, and related discussions. Texas's agencies are currently conducting additional searches for, and reviewing, potentially responsive ESI in accordance with the parties ESI Stipulation, Texas's ESI Search Term and Collection Protocol (Search Term Protocol), New Mexico's Request for Production of Documents, and Texas's obligations under Federal Rule of Civil Procedure (Rule) 26. Texas's counsel have received ESI from various agencies and, consistent with the Search Term Protocol exchanged with the parties, Texas is currently executing ESI searches, reviewing resulting files, and evaluating ESI for responsiveness and/or privilege. The parties have agreed to initiate searching and collection on or before August 5, 2019, and will confer thereafter to propose dates by which to complete responsiveness and privilege review, and to exchange ESI document productions.

Additionally, Texas has been actively engaged in completing depositions of current and former employees of New Mexico and has made significant progress. Texas intends to take approximately five (5) additional depositions of New Mexico non-expert witnesses prior to the close of discovery. These additional depositions were previously scheduled for the September 2019 timeframe. Texas has briefly continued these depositions (new dates to be determined), to permit New Mexico to first proceed with the depositions it desires to complete in advance of New Mexico's October 31, 2019 deadline to disclose its expert witnesses and produce its experts' reports. The Parties continue to confer regarding availability and scheduling of deposition witnesses. Texas and New Mexico have initiated conversations to confer on scheduling the depositions of Texas's expert witnesses.

Further, Texas has served numerous subpoenas for inspections of real property, sampling, and testing, as well as subpoenas for productions of documents to third parties. The proposed inspections are underway and Texas has received numerous responses to its subpoenas for productions of documents, copies of which will be uploaded to the Veritext Vault for all parties and *amici* to access.

The parties continue to participate in bi-weekly discovery teleconferences to address any issues that arise during the course of ongoing discovery, including their collective efforts to coordinate the scheduling of depositions, and to discuss their respective collections and disclosures of documents and ESI responsive to requests for productions of documents and relevant to the subject matter of this original action. The parties meet and confer as needed to discuss additional discovery matters.

The parties and *amici curiae* attended the April 2, 2019 in-person hearing before the Special Master in Denver, Colorado, regarding the various pending motions for judgment on the pleadings and motions addressing previously decided legal issues.

Further, on June 17, 2019, the United States Supreme Court (Court) referred to Special Master Melloy, the motion for leave to intervene filed by Pre-Federal Claimants, the Nathan Boyd Estate, et al. (Movants). In accordance with the Court's decision, the Special Master scheduled oral argument by order of June 17, 2019, and heard arguments from counsel for the Movants and the Parties on July 1, 2019.

Dated: August 2, 2019

Respectfully submitted,

s/ Stuart L. Somach

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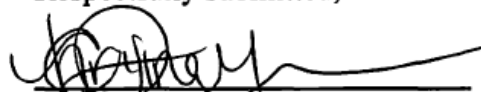
Defendants.

OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 2nd day of August 2019, I caused a true and correct copy of **The State of Texas's August 2019 Status Report** to be served upon all parties and *amici curiae*, by and through the attorneys of record and/or designated representatives for each party and *amicus curiae* in this original action. As permitted by order of the Special Master, and agreement among the parties, service was effected by electronic mail to those individuals listed on the attached service list, which reflects all updates and revisions through the current date.

Respectfully submitted,


Christina Garro

Dated: August 2, 2019

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(Service via E-Mail and U.S. Mail)

Honorable Michael J. Melloy

Special Master
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