

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

*Agreed on to
submit to judge*

UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL ACTION NO. 2262

HARRISON COUNTY, MISSISSIPPI, ET AL

DEFENDANT

PRELIMINARY PRE-TRIAL ORDER

This Court having previously set down the trial of this case to commence on December 14, 1964, and this Court having held a pre-trial conference on November 16, 1964, after notice to all parties,

IT IS HEREBY ORDERED that the following procedures and matters shall control, until further order, the proceedings in this case:

1. Pending Motions. All pending motions have heretofore been or hereby are disposed of by the Court and absent a showing of good cause no further motions will be entertained by the Court prior to the trial on the merits.

2. Pleadings. The trial will proceed upon the Plaintiff's second amended complaint as amplified by the Plaintiff's response to the Court's prior orders requiring a more definite statement. No further amendments are proposed to the pleadings.

3. Severance for Purpose of Trial. The trial commencing on December 14, 1964, will be on all aspects of the Plaintiff's claims against Harrison County, the City of Biloxi, the respective persons named as Defendants in the complaint, or their successors in office, and the individual Defendants asserting ownership of or interest in the beach in controversy which are hereinafter named. Insofar as the final disposition of such claims affect any legal interest of

the various Defendants asserting ownership of or interest in the beach in controversy, the judgment upon this trial will be binding in accordance with law upon the following named Defendants represented by the following counsel:

Kaiser Runnels)	
and)	
Lifetimes Homes, Inc.))	
Howard M. Daniels)	George Estes, Jr.
W. L. Guice)	
Vladimir Mavar)	W. L. Guice
Gulf Park College)	
Roy Duckworth)	Miss City Owen T. Palmer, Jr.
A. C. Suhren and)	
Lydia Cook Suhren)	George Smith, Sr.
William R. Matkin and))	
Laurie S. Matkin)	Morse and Morse

The above designation shall not preclude the designation by subsequent order of this Court, prior to trial, of additional landowner-Defendants, with their counsel, to fully participate in, and be bound by the outcome of, this trial.

The above named counsel and any counsel subsequently added, may fully participate in the trial on behalf of their above named clients. With respect to such other Defendant-landowners, the final judgment will be binding in accordance with law only as to those who may stipulate that the final judgment shall inure to their benefit or shall bind them to the same extent as it would have had they fully participated in the trial. With respect to all other landowner-Defendants their counsel shall be privileged to attend the trial.

4. Pre-Trial Inspection and Copying of Documents. The respective motions of the Plaintiff and of the Defendant, Harrison County, for the inspection and copying of documents under Rule 34, each of which motions are now pending before the Court, will be and the same hereby are granted, and said documents shall be produced for such inspection and copying at all reasonable times upon request of counsel commencing on November 19, 1964.

5. Contentions of Parties. On or before November 25, 1964, counsel for the Plaintiff shall deliver to counsel for each of the various Defendants who will actively participate in the trial of December 14, 1964, a written statement of the broad general factual contentions and a written statements of the broad general legal contentions which it will assert upon the trial of this case. On or before the same date counsel for each Defendant who will actively participate in the trial of December 14, 1964, shall furnish counsel for the Plaintiff similar written statements on behalf of each of such Defendants. The exchange of these contentions will not preclude counsel from offering evidence upon or arguing the law as it may relate to other contentions that may develop during the trial of the case and could not reasonably have been anticipated prior to the trial, or as may be allowed by the Court, nor will such exchange constitute a waiver of any contentions, factual or legal, appearing in the pleadings.

6. Pre-Trial Discovery. Any further pre-trial discovery and response to pre-trial discovery shall be completed no later than November 30, 1964, except as the Court may allow for good cause shown. This limitation shall not apply to the availability of documents and records for inspection and copying pursuant to Item 5 of this order.

7. Substitution of Successors in Interest. Successors to the interest of any of the Defendant landowners and successors to the office of any Defendant official may be substituted as parties at any time upon motion of any party to this case. It having been called to the Court's attention that Edward McDonnell is now Sheriff of Harrison County, he is hereby substituted as a Defendant in the place of former sheriff, Curtis Dedeaux. For the same reason, Rimmer C. Simpson is hereby substituted as Defendant in the place of former Supervisor Roy E. Dedeaux.

8. Conference Between Counsel. On or before December 4, 1964, counsel for all parties who will actively participate in the trial commencing December 14, 1964, shall confer for the purpose of drafting a further pre-trial order and/or stipulation. At such conference, counsel for Plaintiff shall furnish counsel for such Defendants and counsel for such Defendants shall furnish counsel for Plaintiff a list of all exhibits respective counsel expect to offer in evidence upon the trial. The furnishing of such exhibits will not preclude counsel from offering other exhibits in evidence as may become necessary or desirable during the course of the trial of the case and which could not have been reasonably anticipated as important prior to the trial, or such other exhibits as may be allowed by the Court. With respect to documents to be offered in evidence, counsel for Plaintiff shall furnish one copy of each such document for the use of all opposing counsel for Defendants, and counsel for the Defendants shall furnish counsel for the Plaintiff one copy of each document to be offered in evidence on behalf of any Defendant. Such copies, however, need not be exchanged where the original document or a copy thereof is already in the possession of one or more of opposing counsel.

Within five days after said conference counsel shall indicate to opposing counsel which proposed exhibits will be objected to upon the trial. Counsel shall also advise opposing counsel which of the various broad general factual and legal contentions will be contested and which will be uncontested.

In order to facilitate the trial of the case, counsel shall seek to arrive at stipulations regarding undisputed matters of fact and regarding the authenticity of documents to be offered in evidence.

Counsel may prepare and submit to the Court a proposed second pre-trial order encompassing the results of the conference

herein ordered. The results of the conference, together with such proposed pre-trial order, if any, shall be submitted to the Court on or before December 10, 1964.

9. Evidence of Title. It shall not be necessary for any Defendant-landowner actively participating in this trial commencing December 14, 1964, to deraign his title by which he claims ownership of land to the shore of Mississippi Sound as the same may now or hereafter exist.

10. Further Pre-trial Order. After receiving the report of counsel, prior to December 14, 1964, this Court may enter a further pre-trial order to govern the proceedings at the trial.

Ordered this the _____ day of November, 1964.

U. S. DISTRICT JUDGE