

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEOFFREY CALHOUN, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 RICHARD PENNINGTON, et al.,)
)
 Defendants.)
 _____)

**CIVIL ACTION FILE NO.
1:09-CV-3286-TCB**

**SPECIAL MASTER QUARTERLY COMPLIANCE REPORT
DATED SEPTEMBER 29, 2016**

COMES NOW, Joe D. Whitley, the appointed Special Master in the above-referenced case, in furtherance of the duties imposed upon the Special Master by this Court's Order entered June 22, 2016 [Dkt. No. 309] (the "Special Master Order"), and submits this Special Master Quarterly Compliance Report dated September 29, 2016 (the "9/29 Compliance Report"), recommending no further action by the Court at this time beyond entry of the Consent Order Setting Forth Initial Special Master Monitoring, Discovery, and Dispute Resolution Procedures [Dkt. No. 323] (the "Procedures Order"), which was entered September 23, 2016, and deferment of any further action, if any, for the reasons that follow:

PROLOGUE

During the first three months of the Special Master's appointment, the Special Master quickly ascertained that an order setting forth initial monitoring, discovery, and dispute resolution procedures would be critical to accomplishing the parties' shared goals of "develop[ing] a collaborative rather than adversarial relationship between the parties" (Special Master Order, at ¶3(c)) and establishing complete consensus as to the City of Atlanta's compliance with the Court Orders, due, in large part, to mutual communication breakdowns that are not attributable to any one party. This has been the Special Master's primary focus for the first three months of his appointment.

As indicated by the Unopposed Motion for Order Setting Forth Initial Special Master Monitoring, Discovery, and Dispute Resolution Procedures [Dkt. No. 321] (the "Unopposed Motion") and the Procedures Order, significant progress has been made in furtherance of these critical objectives, and the Special Master believes and finds that Plaintiffs and the City of Atlanta (the "City") intend to fully comply with the Court Orders (as defined below), the Procedures Order, and the other applicable rules in an effort to achieve a mutual understanding, agreement, and consensus of complete compliance.

Notwithstanding, the Special Master Order requires the Special Master to issue written quarterly reports on compliance with the Court Orders and electronically file such reports with this Court. Accordingly, this 9/29 Compliance Report sets forth the Special Master's initial, limited findings to date regarding the City's compliance, with the understanding that the Special Master will be further investigating, revisiting, and/or supplementing these findings in the next quarterly compliance report, due December 22, 2016, and those that follow.

METHODOLOGY

In conducting the Special Master's independent investigation and preparing this report, the Special Master has given consideration to (i) relevant pleadings, filings, and discovery in the above-styled case, including, but not limited to, the Court's Orders entered December 8, 2010 [Dkt. No. 265] (the "2010 Order"), December 15, 2011 [Dkt. No. 280] (the "2011 Order"), and May 19, 2015 [Dkt. No. 289] (the "2015 Order") (hereinafter, collectively, the "Court Orders"); (ii) various party and non-party documents, information, and accounts requested and received by the Special Master to date as relevant to the determination of compliance with the Court Orders; and (iii) the parties' direct representations, as officers of the Court, to the Special Master, as an officer of the Court.

Where possible, evidence was reviewed according to a preponderance of the evidence standard to make an initial determination about compliance; however, no formal evidentiary hearing has been held, and, given the recentness of his appointment, the Special Master has not had an opportunity to review all evidence. Additionally, in some instances, the Special Master explicitly finds that additional evidence is needed to formulate a complete opinion on compliance. Therefore, these initial, limited findings are subject to further review and revision, and no party is deemed to have waived any evidentiary rights or objections.

INITIAL FINDINGS

For purposes of these initial findings, the Special Master utilizes the 2015 Order as a road map because it sets forth fourteen (14) paragraphs of discrete requirements that generally articulate the compliance issues presented by the Court Orders. In an effort to create a more readable document, the Special Master paraphrases the requirements of the 2015 Order below. The Special Master has attempted to accurately paraphrase the requirements and understands and acknowledges that compliance with the Court Orders -- not the Special Master's short form interpretations thereof -- is the relevant inquiry. Accordingly, nothing in this 9/29 Compliance Report, including any paraphrased language, is intended to

(nor shall it) modify, alter, or amend any of this Court's prior orders. To the extent there is any conflict, the Court Orders prevail and are controlling.

Paragraph 1 - Requirement to complete in-person training of all sworn APD employees within 90 days, using a format and content acceptable to Plaintiffs, on the topics specified in the 2010 Order.

Based on the Special Master's review of the record, there is no dispute as to whether the City actually conducted "Calhoun" training within the relevant time period; however, disputes do exist as to whether or not Plaintiffs approved (or acquiesced to) the format and content of the training.

The record confirms that the City and Plaintiffs met on June 29, 2015 and again on July 16, 2015 to discuss (among other things) early draft(s) of the "Calhoun" training that were not acceptable to Plaintiffs. While not entirely clear, it appears the parties discussed revisions that would (in theory) make the draft training acceptable and agreed that a five-day period would be sufficient for Plaintiffs' counsel to review and comment on the revised training.

The dispute boils down to a July 17, 2015 email from City counsel to Plaintiffs' counsel ostensibly attaching for review the revised training materials, which incorporated certain revisions discussed at the June 29 and/or July 16 meetings. The record confirms that the City waited five days after sending the

revised training materials on July 17. Then, when no objection (or any other response) was received, the City interpreted Plaintiffs' silence as approval/acquiescence and proceeded with "Calhoun" training despite the lack of an affirmative confirmation regarding the format and content of the training from Plaintiffs' counsel.

The City proceeded with the initial "Calhoun" training from July 28 through August 12, completing the training of every police officer in the APD, with the exception of those on extended leave, on or before August 17, 2015, as required by the timing component of paragraph 1, and as more particularly set forth by the Declaration of Major Darin Schierbaum filed with the Court on August 21, 2015 [Dkt. No. 299-1].

In fact, the format and content of the 2015 "Calhoun" training are not acceptable to Plaintiffs (although Plaintiffs' counsel confirmed the training was much improved), and Plaintiffs' counsel deny receiving the July 17 email enclosing the training materials for their review. Notwithstanding, it appears Plaintiffs knew the City was proceeding with the initial "Calhoun" training and did not intervene to prevent the training in progress.

In lieu of engaging in potentially complex and expensive discovery (including metadata/ESI) to determine whether or not the July 17 email was, in

fact, sent by City counsel and/or received by Plaintiffs' counsel, the Special Master is inclined to take the mere existence of the July 17 email at face value as standing for the proposition that the City did, in fact, attempt to provide the revised training materials to Plaintiffs' counsel prior to conducting the training, and did, in fact, attempt to achieve a format and content acceptable to Plaintiffs (albeit unsuccessfully) through meetings with Plaintiffs' counsel and a good faith revision and review process.

It would be impossible for the Special Master to find complete compliance due to the subjective element of paragraph 1 requiring that the format and content be "acceptable to Plaintiffs." It is not. However, it is also not possible for the City to return to August 2015 to timely ascertain that Plaintiffs did not receive the July 17 email, and it appears clear that the City attempted to comply with (and substantially complied with) the spirit of paragraph 1.

In coming to this conclusion, the Special Master does not condone the City's behavior in moving forward without receiving positive confirmation from Plaintiffs, which would have been, in hindsight, the more prudent course. However, the Special Master gives the City the benefit of the doubt based on the fact that City counsel and Plaintiffs' counsel had exchanged emails previously and continue to do so, with no other known issues.

Further, the City submitted the training to Georgia Peace Officer Standards and Training Council ("POST"), who independently reviewed the training and concluded that although certain aspects of the training could be improved,

"It appears that this training was structured to meet the aspects agreed upon in the consent order. The objectives of the training are clear..."

Finally, a finding of non-compliance would undermine the substantial progress made by the parties in the past 3 months in reaching agreement as to detailed procedures (set forth more fully in the Procedures Order) that will undoubtedly prevent any misunderstanding as to whether the format and content of the training is "acceptable to Plaintiffs" going forward.

Based on the foregoing, the Special Master is inclined to find that the City technically and substantially complied with paragraph 1, provided that the City confirm its good faith through completion of the procedures related to future training set forth by the Procedures Order, which will result in a "Calhoun" training program with content and in a format acceptable to Plaintiffs. This approach is consistent with the parties' prospective focus and approach in the Procedures Order. Accordingly, compliance will be revisited in conjunction with future compliance reports.

Paragraph 2 - Requirement to provide recurrent "Calhoun" training consistent with Section 1 of the 2015 Order every two years.

The recurrent training required by paragraph 2 must be completed by August 2017. Consequently, compliance is not ripe for determination. Further, all "Calhoun" training has been stayed by the Procedures Order pending approval of a "Calhoun" training program with content and format acceptable to Plaintiffs. Compliance will be re-visited when this matter is ripe for determination.

Paragraph 3 - Requirement for City to provide Plaintiffs' counsel with (i) reasonable advance notice of dates and places of proposed training; (ii) copies of proposed training materials sufficiently in advance of training so Plaintiffs' counsel may review and consult with the City; (iii) a video-recording of each training session conducted pursuant to the 2015 Order; and (iv) an affidavit attesting to the names of all officers who attended training and the dates of their attendance.

Additional fact-finding is necessary before the Special Master can make a determination as to compliance with paragraph 3. Accordingly, final findings are withheld or deferred out of necessity, provided this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 4 - Requirements to (a) within 20 days amend any SOP dealing with dress code to require all police officers in uniform to wear a conspicuously visible nametag (except in limited circumstances) and (b) to distribute a Chief of Police Command Memorandum emphasizing certain officer identification requirements set forth more particularly in the 2015 Order.

Documents received from the City of Atlanta confirm, at a minimum, timely partial or technical compliance with paragraphs 4(a) and 4(b) of the 2015 Order.

By way of illustration with respect to paragraph 4(a), ADP.SOP.2010 and ADP.SOP.2130 were signed into effect by Chief of Police George Turner on May 29, 2015 and filed with the Court on June 3, 2015 [Dkt. Nos. 291-2, 291-3], with no objection filed by Plaintiffs. They provide (in relevant part) as follows:

Atlanta Police Department Policy Manual		Standard Operating Procedure
Effective Date June 1, 2015		APD.SOP.2130 Dress Code
Applicable To: All employees		
Approval Authority:		
Signature: <i>George N. Turner</i>	Date Signed: <i>5/29/15</i>	

4.1.2 Employees shall only wear the uniform prescribed for their rank and/or assignment. While on duty and in uniform, other than a rain slicker or a traffic direction vest, employees shall wear a conspicuously visible nametag.

This Section, 4.1.2, may not be deleted, revised, or amended pursuant to the May 19, 2015 Order in Calhoun, et al. v. Pennington, et al. 1:09-CV-3286-TCB. Consult the City of Atlanta Department of Law with any questions or concerns.

Atlanta Police Department Policy Manual		Standard Operating Procedure
Effective Date June 1, 2015 (Triennial Due: August 30, 2016)		APD.SOP.2010 Work Rules
Applicable To: All employees		
Approval Authority: Chief George N. Turner		
Signature: <i>George N. Turner</i>	Date Signed: <i>5/29/15</i>	

4.2.22 Identification Cards

1. While on duty and not in uniform, in Atlanta Police Department facilities, employees shall wear the department's issued photo identification card above the waist.
2. While on duty and not in uniform, outside department's facilities, employees shall have the department issued photo identification card readily available on their person. Employees working undercover assignments are exempt from this requirement.
3. While on duty and in uniform, other than *the sole exceptions* of a rain slicker or a traffic direction vest, employees shall at all times wear a conspicuously visible nametag.

This Subsection, 4.2.22 (3), may not be deleted, revised, or amended pursuant to the May 19, 2015 Order in Calhoun, et al. v. Pennington, et al. 1:09-CV-3286-TCB. Consult the City of Atlanta Department of Law with any questions or concerns.

4.2.23 Giving Identification

1. Employees who are in uniform, who have displayed a badge or have otherwise identified themselves as sworn employees, shall identify themselves by name and badge number upon request while on duty or performing their official duties.
2. Sworn employees at the rank of Investigator or above shall provide, upon request, the badge number that was initially assigned to them at the rank of Officer.

This Section, 4.2.23, may not be deleted, revised, or amended pursuant to the May 19, 2015 Order in Calhoun, et al. v. Pennington, et al. 1:09-CV-3286-TCB. Consult the City of Atlanta Department of Law with any questions or concerns.

With respect to paragraph 4(b), Chief Turner's Command Memorandum was distributed to each APD employee on May 26, 2015, and APD records confirm the date the Command Memorandum was reviewed by each of 1806 APD officers, generally on or before May 29, 2015.

Notwithstanding these initial findings, the Special Master has determined that additional fact finding is necessary before a final finding as to compliance would be appropriate. Accordingly, a final finding of compliance is withheld or deferred out of necessity, pending review of additional evidence by the Special Master, and the issue of complete compliance will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 5 - Requirement to provide Plaintiffs' counsel, on or before May 22, 2015, with a spreadsheet providing certain categories of information set forth more particularly in the 2015 Order with regard to each complaint of

police misconduct and each Office of Professional Standards (OPS) investigation received or commenced after December 8, 2010.

The record confirms that the City did, in fact, provide Plaintiffs with a spreadsheet responsive to paragraph 5 on May 22, 2015. Disputes exist as to whether the spreadsheet provided on May 22 was fully responsive.

The disputes appear to boil down to reasonable, differing opinions regarding the scope of paragraph 5. Plaintiffs' counsel perceives two deficiencies with respect to the City's May 22 production. First, Plaintiffs allege that the spreadsheet lacked identification of "the law, rule, **or** SOP the officer was alleged to have violated" as required by paragraph 5(e) (**emphasis added**). Second, Plaintiffs allege that the spreadsheet (erroneously) omitted internal investigations, which Plaintiffs contend are encompassed by the language including "each Office of Professional Standards (OPS) investigation." The City takes the position that the spreadsheet was fully compliant, and, to the extent it was not, the City has cured any deficiency.

The Special Master finds that the City's spreadsheet was technically compliant with paragraph 5(e) inasmuch as the spreadsheet, without exception, identifies the specific work rule alleged to have been violated. There can be no dispute the paragraph 5(e) requirement is disjunctive.

Further, when Plaintiffs raised the issue, the City did not ignore the request, but treated it as a "section 11" request, and set out to provide the additional information requested, including which SOP was alleged to have been violated. Indeed, by June 19, 2015, the City had provided at least three updated spreadsheets itemizing all internal investigations within the more expansive interpretation of paragraph 5. Additionally, the City represents that it has now provided electronically searchable copies of all responsive OPS files that support the spreadsheets and provide the SOP alleged to have been violated. Finally, the City has committed (in the Procedures Order) to continue providing all OPS files and even more comprehensive OPS spreadsheets with additional categories of information requested by Plaintiffs and the Special Master as necessary to monitor compliance.

Without deciding whether or not the initial production was complete, the Special Master finds that the City has achieved, at a minimum, technical and substantial compliance with paragraph 5 by curing any apparent deficiencies, if any, despite reasonable differing opinions as to scope. Nonetheless, given the ongoing nature of the OPS disclosure requirements and the City's commitments, compliance will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 6 - Requirement to implement within 60 days a form that is acceptable to Plaintiffs' counsel for use in complying with the requirements of Section 4 ("Documentation of Warrantless Seizures") and Section 5 ("Documentation of ID Checks") of the 2010 Order, to provide copies of completed forms upon request for same at no charge, and to maintain the forms as public records.

There is no dispute as to the City's technical compliance with paragraph 6. Documentation confirms that City counsel collaborated with Plaintiffs' counsel to accomplish a mutually acceptable form, which was implemented by the City within the time frame allotted. A declaration confirming the City's compliance was filed with the Court on July 20, 2015 [Dkt. No. 295], with no objection filed by Plaintiffs.

Notwithstanding, Plaintiffs dispute whether the agreed forms are being utilized effectively by APD. Without making a finding as to whether the City's training program has been effective in this regard, the Special Master finds that the City has made good faith efforts to train APD employees how to utilize the required forms. Specifically, the City (by way of example, not an exhaustive list):

- implemented ADP.SOP.3020;

- provided training on ADP.SOP.3020 (more specifically, Section 4.5.11 thereof) in the City's August 2015 training and additional training programs;
- conferred with Plaintiffs' counsel to ascertain what would improve the APD's effectiveness in utilizing the forms; and
- committed to additional actions in furtherance of the strategies proposed by Plaintiffs' counsel, including (i) development of a flow chart for circulation to APD (upon approval by Plaintiffs of same); and (ii) agreement to coordinate with Plaintiffs to develop more effective training programs, as set forth in the Procedures Order.

Based on the foregoing, the Special Master finds that the City of Atlanta has technically and substantially complied with the requirements of paragraph 6. However, due to the ongoing nature of the City's commitments and potential unresolved issues related to the effectiveness of training, compliance will be revisited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 7 - Requirement to amend, within 20 days, APD.SOP.3065 to restore certain language.

Documents received from the City of Atlanta confirm timely compliance with the technical requirements of paragraph 7 of the 2015 Order. Revised

ADP.SOP.3065 was signed into effect by Chief of Police George Turner on May 29, 2015, and provides as follows:

Atlanta Police Department Policy Manual		Standard Operating Procedure
Effective Date June 1, 2015		APD.SOP.3065 Field Interviews
Applicable To: All sworn employees		
Approval Authority: Chief George N. Turner		
Signature: <i>George N. Turner</i>		Date Signed: <i>5/29/15</i>

- 4.1.1 Officers may detain an individual only when they have reasonable articulable suspicion that the individual is involved in criminal activity. If, following the stop, the officer reasonably believes that the person is both armed and presently dangerous, the officer may frisk for weapons.

In addition to technical compliance, the City has taken additional steps to ensure that the operative language is not later removed. See, for example, the below:

- 3.4 PRAU will contact the City of Atlanta Department of Law prior to making any revisions, amendments, or deletions in this Standard Operating Procedure.

****This Subsection, 4.1.1, may not be deleted, revised, or amended pursuant to the May 19, 2015 Order in Calhoun, et al. v. Pennington, et al. 1:09-CV-3286-TCB. Consult the City of Atlanta Department of Law with any questions or concerns.****

Finally, amended ADP.SOP.3065 was filed with the Court on June 3, 2015 [Dkt. No. 291-4], with no objection filed by Plaintiffs.

Based on the foregoing, the Special Master finds that the City timely complied with the technical requirements of paragraph 7. Notwithstanding, due to the ongoing nature of the paragraph 7 requirements (see also, paragraph 8), compliance will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 8 - Requirement that the "Calhoun" related amendments to SOP's pursuant to 2010 Order and 2011 Order shall be permanent; and City shall inform Plaintiffs of any revisions to the affected SOP's within 5 days.

The Special Master has reviewed the APD SOP's and has confirmed that amendments were made to each of the following SOP's in an effort to achieve compliance with the Court Orders: (i) APD.SOP.3020; (ii) APD.SOP.3030; (iii) APD.SOP.3065; (iv) APD.SOP.2010; (v) APD.SOP.2011; (vi) APD.SOP.2130; (vii) APD.SOP.3060; (viii) ADP.SOP.1060; (ix) ADP.SOP.2020; (x) ADP.SOP.2060; (xi) ADP.SOP.2080; (xii) ADP.SOP. 3110; and (xiii) ADP.SOP.3080.

Each of the aforementioned SOP's was signed into effect by Chief of Police George Turner on May 29, 2015, and copies of the amended SOP's were filed with this Court as exhibits to a Notice of Compliance filed June 3, 2015 [Dkt. No. 291], with no objection filed by Plaintiffs. With regard to "Calhoun" related amendments

to the aforementioned SOP's, the City has taken additional steps to ensure that the operative language is not later removed, consistent with its handling of ADP.SOP.3065 (see above). The City has also represented to the Special Master that the amended SOP's remain in effect as of the filing of this 9/29 Compliance Report. Finally, the Procedures Order institutes quarterly review of all SOP's by the Special Master and Plaintiffs' counsel to guarantee and confirm ongoing compliance.

Additional fact finding and scrutiny are necessary before the Special Master can find that the ADP SOP's, as amended, have fully implemented "all [] revisions required by [the Court Orders]." Therefore, and due to the ongoing nature of the paragraph 8 requirements, pending further review, the Special Master believes a finding of compliance eventually will be appropriate and forthcoming, but the Special Master withholds or defers any final finding out of necessity at this time. This issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 9- Requirement to comply with future post-judgment discovery requests pursuant to the requirements of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Georgia, and all Standing Orders of this Court.

Based on the agreement of Plaintiffs and the City to stay all pending post-judgment discovery requests and to deal with these matters as set forth in the Procedures Order, the Special Master finds that compliance or non-compliance with paragraph 9 is not currently ripe for determination. Accordingly, and because additional fact finding would be necessary for the Special Master to formulate an opinion and basis therefor as to compliance, findings are presently withheld or deferred out of necessity, provided this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 10- Requirement to respond to outstanding discovery requests no later than Friday, May 22, 2015.

Based on the agreement of Plaintiffs and the City to stay all pending post-judgment discovery requests and to deal with these matters as set forth in the Procedures Order, the Special Master finds that compliance or non-compliance with paragraph 10 is not currently ripe for determination. Accordingly, and because additional fact finding would be necessary for the Special Master to

formulate an opinion and basis therefor as to compliance, findings are presently withheld or deferred out of necessity, provided this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 11- Requirement to comply within 15 days with any reasonable request made by Plaintiffs' counsel seeking records or documents related to the City's compliance with the Court Orders.

Based on the agreement of Plaintiffs and the City to stay all pending "section 11" requests and to deal with these matters as set forth in the Procedures Order, the Special Master finds that compliance or non-compliance with paragraph 11 is not currently ripe for determination. Accordingly, and because additional fact finding would be necessary for the Special Master to formulate an opinion and basis therefor as to compliance, findings are presently withheld or deferred out of necessity, provided this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 12- Requirement for the City to reimburse Plaintiffs' counsel for any reasonable fees and costs expended to monitor compliance with the Court Orders.

The Special Master has reviewed the record related to paragraph 12 and finds that the City is generally and technically compliant; however, due to the

ongoing nature of the paragraph 12 requirements, a final finding is withheld or deferred out of necessity, and this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

Paragraph 13- Requirement to reimburse Plaintiffs' counsel for fees and costs incurred to bring the contempt proceeding.

The Special Master has reviewed the record related to paragraph 13 and finds that the City fully complied with the requirement of paragraph 13.

Paragraph 14- Providing that the terms of the 2015 Order (with a limited exception) shall expire six years from the date of entry and that the 2015 Order shall have no effect on the terms of the 2010 Order and 2011 Order.

Paragraph 14 sets forth the 6-year timeframe contemplated by the 2015 Order and reiterates that the 2015 Order does not overrule, supersede, or otherwise affect the requirements set forth by the 2010 Order and the 2011 Order. Beyond these general concepts, paragraph 14 does not impose any new or additional requirements on the City.

Due to the ongoing nature of the paragraph 14 requirements (for 6 years) and the overall applicability to the other requirements of the Court Orders, the Special Master finds that compliance with paragraph 14 is not presently ripe for

compliance and that additional fact finding would be necessary for the Special Master to formulate an opinion and basis therefor as to compliance. Accordingly, a final finding is withheld or deferred out of necessity, and this issue will be re-visited, as necessary and appropriate, in conjunction with future quarterly reports.

PRELIMINARY CONCLUSION AND RECOMMENDATION

Generally, except as set forth otherwise above, the Special Master preliminarily finds that the City has complied or attempted in good faith to comply with the requirements of the Court Orders after entry of the 2015 Order, provided the Special Master will re-visit all of the initial findings herein in conjunction with future quarterly reports as additional facts are discovered and evaluated.

Along these lines, the Special Master will continue to develop the record related to compliance through additional discovery within the powers set forth by the Special Master Order and requests that the parties immediately make the Special Master aware of any circumstances that would prevent a finding of compliance, so the Special Master can evaluate the need for an evidentiary hearing in advance of the next quarterly compliance report due December 22, 2016.

In light of the foregoing, Special Master respectfully recommends that the Court adopt this 9/29 Compliance Report and defer any further action (beyond entry of the Procedures Order) at this time.

Respectfully submitted by: /s Joe D. Whitley

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Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have electronically filed the foregoing SPECIAL MASTER QUARTERLY COMPLIANCE REPORT DATED SEPTEMBER 29, 2016 with the Clerk of Court using the Court's CM/ECF system, which will automatically send electronic notification of such filing to all parties through their counsel of record.

This 29th day of September, 2016.

/s/ Joe D. Whitley
Joe D. Whitley
Georgia Bar No. 756150

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