



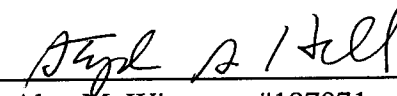
The second significant difference is that defendant seeks to impose a number of restrictions upon how plaintiffs may use their own financial information once it is disclosed to them by defendant. While plaintiffs certainly recognize the government's concern that it not been seen as improperly distributing information that is private to the individual plaintiffs, it does not follow therefrom that defendant should be required to dictate to plaintiffs precisely how plaintiffs use their own private financial information in the course of litigation or that plaintiffs be required to seek defendant's permission to disclose their private financial information to such persons or institutions as they see fit in connection to this litigation.

Plaintiffs proposed order strikes the balance of recognizing the defendant's concern that she comply with the provisions of the Privacy Act and plaintiffs' right to do with their private financial information as they see fit.

Respectfully submitted,

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GUADALUPE L. GARCIA, JR., et al.

Dated: May 5, 2003

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

GUADALUPE L. GARCIA, JR., et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 1:00CV02445
	)	Judge Robertson
	)	
ANN M. VENEMAN, Secretary of the	)	
United States Department of Agriculture,	)	
	)	
Defendant.	)	

**ORDER**

WHEREAS the Court has directed that defendant disclose to plaintiffs and their counsel certain information and materials in response to plaintiffs' interrogatories and requests for production of documents in an expeditious and efficient manner, and

WHEREAS defendant believes that certain of the documents covered by plaintiffs' discovery requests may contain: (a) information covered by certain evidentiary privileges; (b) attorney work product information; and (c) information subject to the nondisclosure provisions of the Privacy Act, 5 U.S.C. § 552a; and

WHEREAS, the Court has instructed defendant to produce FSA loan/benefit application files for inspection without having first conducted a review of such files for possible privileged materials; and

WHEREAS defendant desires to expedite the production of the documents plaintiffs have requested without compromising her ability to assert any appropriate privileges or other objections to disclosure;

NOW, THEREFORE, it is hereby ordered as follows:

1. Pursuant to 5 U.S.C. § 552a(b)(11), defendant is authorized to release to plaintiffs' counsel information subject to the Privacy Act's nondisclosure provisions without obtaining the prior written consent of the individuals to whom the records pertain.

2. Defendant is authorized to permit plaintiffs' counsel to inspect in unredacted form the Farm Service Agency ("FSA") county office files for the 37 named plaintiffs described by defendant at the April 29, 2003 hearing in this matter, without obtaining the prior written consent of the individuals to whom the records pertain. *See* 5 U.S.C. § 552a(a)(4), (a)(5). Plaintiffs' counsel shall identify the portions of those files which they wish to have copied, and defendant is authorized to promptly provide to plaintiffs' counsel copies of those portions of the 37 files.

3. If, pursuant to ¶ 2, above, plaintiffs' counsel receives a copy of a record that contains information defendant subsequently determines to be protected from disclosure by a discovery privilege or that consists of attorney work product, defendant shall notify plaintiffs and provide a list of all such documents identifying precisely the portion or portions thereof that defendant contends contain privileged information. In the event plaintiffs' counsel objects in writing to any such claim, defendant promptly shall, upon her receipt of plaintiffs' counsel's written objection, either withdraw her claim or move for a protective order. Plaintiffs' opposition to any such motion that quotes from, paraphrases, or relies in any way on, information as to which defendant has asserted privilege or made a work product claim must be filed with the Court under seal.

4. Notwithstanding ¶ 6, *infra*, plaintiffs' counsel may not discuss with, or otherwise disclose to, plaintiffs or any other person any information contained in the files disclosed pursuant to ¶ 2, above, as to which defendant has asserted a privilege or made a work product claim until either defendant has withdrawn the claim or the Court has rejected defendant's assertion of privilege or work product claim.

5. In the event the Court upholds any claim by defendant of privilege or work product designation pursuant to ¶ 3, above, plaintiffs' counsel shall make no disclosure of the

information in this or any other case, nor may plaintiffs counsel disclose, use, or rely upon that information for any purpose whatsoever. Plaintiffs' counsel also shall destroy all notes or other records of any kind they made that include or refer to any such privileged information.

6. This Order applies to government documents or information contained in records that are subject to the Privacy Act. 5 U.S.C. §§ 552a(a)(4), (5). Except as otherwise ordered by this Court, defendant may disclose the documents or information covered by this Order only to the following persons: (a) parties and counsel for the parties in this action; (b) partners, associates, secretaries, paralegal assistants, and employees of such counsel to the extent reasonably necessary to render professional services in this case; (c) persons retained by the parties or their counsel to assist in discovery, preparation for any hearing, or to serve as expert witnesses, provided that such disclosure is reasonably and in good faith calculated to aid in litigating this case; (d) persons with factual knowledge relating to this case who may be called as witnesses at any hearing, provided that such disclosure is reasonably and in good faith calculated to aid in litigating this case; and (e) any deponent in this case during his or her deposition.

7. All individuals to whom the documents or information subject to this Order are disclosed by defendant shall be informed of, and shall agree to, the terms of this Order and shall not otherwise disclose the documents or files subject to this Order to the public or to any person or entity, and shall acknowledge their agreement to comply with the provisions of this Order by signing a copy of the attached acknowledgment form. Defendant shall provide and plaintiffs' counsel will retain copies of the acknowledgment forms until such time as this litigation, including all appeals, is concluded. Notwithstanding the foregoing nothing in this paragraph or this Order shall prevent plaintiffs or their counsel from disclosing documents and information subject to this Order to any persons other than those indicated in this paragraph and paragraph 6.

8. Each party reserves the right to move to modify the terms of this Order at any time, and each party reserves the right to oppose any motion to modify the terms of the Protective Order.

9. The documents or information covered by this Order, and all copies thereof, produced to plaintiffs' counsel must be returned by the plaintiffs or other receiving party to the defendant upon the conclusion of this case, including any subsequent appeals, or destroyed. Within thirty days of the conclusion of this case and any subsequent appeals, plaintiffs or plaintiffs' counsel or any other person receiving documents or information covered by this Order must certify in writing that all protected documents, and all copies thereof, have been returned to defendant, or destroyed. Within forty-five days of the termination of this case, including any subsequent appeals, plaintiffs or plaintiffs' counsel or other person receiving protected documents or information must also certify in writing that any documents they or their attorneys or agents have created which contain Privacy Act protected information derived solely from the protected documents have been destroyed or redacted; provided, however, that no party is required to destroy or redact any document that has been filed with this Court or with a court of appeals of competent jurisdiction in connection with this case.

10. Neither the United States Department of Justice, the United States Department of Agriculture, nor any of its officers, employees, or attorneys, shall bear any responsibility or liability for any unauthorized disclosure of any documents obtained by plaintiffs' counsel under this Order, or of any information contained in such documents.

11. This Order does not constitute any ruling on the question of whether any particular document or category of information is properly discoverable and does not constitute any ruling on any potential objection to the discoverability, relevance, or admissibility of any record, other than objections based on the Privacy Act.

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2003.

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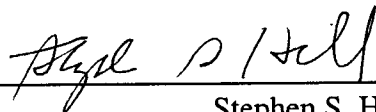
JAMES ROBERTSON  
UNITED STATES DISTRICT JUDGE

## CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2003, a copy of the foregoing Memorandum In Support of Plaintiffs' Proposed Protective Order was served on counsel of record as follows:

### BY HAND DELIVERY:

Lisa A. Olson, Esq.  
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\_\_\_\_\_  
Stephen S. Hill