

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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GUADALUPE L. GARCIA, et al.,)	
)	
Plaintiffs-Appellants,)	
)	No. 04-8008
v.)	
)	(Civ. No. 00-2445 (JR))
ANN VENEMAN, Secretary, UNITED)	
STATES DEPARTMENT OF AGRICULTURE,)	
)	
Defendant-Appellee.)	
_____)	

DEFENDANT'S RESPONSE TO PLAINTIFFS' PETITION FOR PERMISSION
TO TAKE AN INTERLOCUTORY APPEAL UNDER FED. R. CIV. P. 23(f)

INTRODUCTION AND SUMMARY

This case concerns discrimination claims by Hispanic farmers alleging that, over a period of nearly two decades, they were denied credit and benefits in a variety of different farm programs administered by the United States Department of Agriculture ("USDA"). Plaintiffs seek to proceed as a class action under Fed. R. Civ. P. 23, and seek \$20 billion in damages.

On December 2, 2002, the district court denied plaintiffs' motion for class certification. See Garcia v. Veneman, 211 F.R.D. 15 (D.D.C. 2002). However, the court subsequently granted plaintiffs' request for limited discovery to support their motion for class certification. On September 10, 2004, after the completion of discovery, the court again denied class certification. Plaintiffs now seek review of that decision under Fed. R. Civ. P. 23(f).

As explained more fully below, plaintiffs have not satisfied the principal criteria for interlocutory review under Rule 23(f). See In re: Veneman, 309 F.3d 789, 794 (D.C. Cir. 2002). First, the district court's decision denying class certification in this case is correct; it is not "manifestly erroneous." Second, plaintiffs have not even attempted to identify any novel or unsettled question relating to class actions that is likely to evade end-of-case review. Third, the denial of class certification is not the "death knell" for plaintiffs' claims. They will simply have to litigate those claims individually - a task that should pose no great obstacle given plaintiffs' own estimate that each claim is worth \$1 million. See Pl. App. C (Second Amended Complaint), at 57 n.4.

Despite these barriers to review under Rule 23(f), this case may nonetheless present "special circumstances" that warrant the exercise of this Court's discretionary jurisdiction. Notably, this is one of three related cases now pending in district court alleging virtually identical claims against the USDA on behalf of different minority groups that each desire to proceed as a class action. In Love v. Veneman, No. 00-02502 - a case involving female farmers - Judge Robertson recently denied plaintiffs' motion for class certification, while in Keepseagle v. Veneman, No. 99-3119 - a case involving Native American farmers - Judge Sullivan granted plaintiffs' motion to proceed as a class limited

(at least for now) solely to claims for declaratory and injunctive relief under Rule 23(b)(2).

Now that there is an actual conflict in the certification of class actions in virtually identical suits by Hispanic, female, and Native American farmers, review under Rule 23(f) may well be appropriate to provide guidance to the district courts on the propriety of class certification in these cases. However, one of the primary reasons for the varying class certification decisions in these cases is disagreement on an underlying legal issue - whether plaintiffs' claim concerning the USDA's alleged "failure to investigate discrimination complaints" is actionable under either the APA or the ECOA - a legal question that the district court has now certified for review under 28 U.S.C. § 1292(b). Because the viability of such a common "complaint-processing" claim among class members informs any assessment of the propriety of class certification in these cases, and because this Court has held that it lacks authority to address such "merits" questions under Rule 23(f), see Veneman, 309 F.3d at 794-95, the best approach would be for the Court to review the certified question and deny (or hold in abeyance) plaintiffs' Rule 23(f) petition.

STATEMENT

A. Prior Litigation History.

As this Court has noted, this is one of five similar lawsuits that have been filed by different groups of minority

farmers alleging discrimination by the USDA in the administration of various farm credit and benefit programs. See Veneman, 309 F.3d at 400-01. In the first of those suits, Williams v. Glickman, No. 95-1149 (D.D.C. filed June 16, 1995), brought by African-American and Latino farmers, the district court denied class certification. In the second suit, brought by African-American farmers, the district court initially certified a class action under Fed. R. Civ. P. 23(b)(2), and the case ultimately settled. See Pigford v. Veneman, 292 F.3d 918 (D.C. Cir. 2002).

The three suits currently pending in district court - Keepseagle, Love, and this case (Garcia) - involve claims by Native American, female, and Hispanic farmers respectively. In Keepseagle, No. 99-3119, Judge Sullivan certified a class action under Rule 23(b)(2) limited to claims for injunctive relief, but required plaintiffs to notify the court if they intend to seek monetary damages. In Love, No. 00-02502, Judge Robertson denied plaintiffs' motion for class certification on September 29, 2004, see Addendum A, after dismissing the primary legal claim allegedly "common" to all class members: the USDA's alleged failure to process complaints of credit discrimination.

This case - which is assigned to Judge Robertson - involves claims by Hispanic farmers under the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691, et seq., that are virtually identical to the claims asserted by the plaintiffs in Williams, Pigford,

Keepseagle, and Love. As in each of those cases, plaintiffs in this case seek monetary damages under the ECOA for allegedly discriminatory denials of credit and benefits to individual farmers, Pl. App. C (Second Amended Compl.) at 57,¹ and broad declaratory and injunctive relief under the APA based upon the USDA's "acts of denying plaintiffs and Class members credit and other benefits and systematically failing to properly process their discrimination complaints." Ibid. Plaintiffs also seek to proceed as a class action.

B. The Initial Denial of Class Certification.

On December 2, 2002, the district court denied plaintiffs' motion for class certification. See Garcia v. Veneman, 211 F.R.D. 15 (D.D.C. 2002).

The court first held that plaintiffs had not established sufficient commonality among their individual claims of credit discrimination to satisfy Rule 23(a). Id. at 19-22. The court noted that plaintiffs' theory of commonality was predicated on two assertions: (1) that Hispanic farmers were injured by the USDA's alleged failure to investigate discrimination complaints, and (2) that the USDA's process for awarding loans and benefits

¹ Although plaintiffs moved to file a Third Amended Complaint adding new allegations, new subclasses and new requests for injunctive relief, the district court denied that motion in its September 10, 2004 order denying class certification. Pl. App. B, at 23-24. Accordingly, the allegations relevant to class certification are based on plaintiffs' Second Amended Complaint.

was entirely subjective and resulted in discrimination against minority farmers. Id. at 19. The court explained that plaintiffs' first theory of commonality was precluded given its prior ruling "that plaintiffs' allegations of failure to investigate civil rights complaints did not state a claim under the Equal Credit Opportunity Act or the Administrative Procedure Act." Id. at 19 & n.2.² The court also rejected plaintiffs' arguments that the USDA's allegedly subjective decision-making could supply the requisite commonality, because plaintiffs failed to tie any statistical disparity in loans to Hispanic farmers "to any one or more subjective criterion." Id. at 22.

Moreover, the court found that "[c]ommonality is defeated - not only by plaintiffs' inability to correlate the discrimination they allege with subjective loan qualification criteria - but also by the large numbers and geographic dispersion of the decision-makers." Id. at 22. As the court explained, "[t]he thousands of Hispanic farmers plaintiffs seek to represent have dealt with hundreds, if not thousands, of local FSA officials, in more than 2,700 county offices across the country, over a 19-year period." Ibid.

² At plaintiffs' request, the court recently certified its order - holding that plaintiffs' claim concerning the USDA's "failure to investigate discrimination complaints" was not actionable under either the APA or the ECOA - for interlocutory appellate review under 28 U.S.C. § 1292(b). See Addendum B.

In addition, the court held that plaintiffs had not satisfied the prerequisites for class certification under any subdivision of Rule 23(b). Id. at 22-24. First, the court explained that plaintiffs could not satisfy Rule 23(b)(2)'s requirement that injunctive relief predominate over monetary relief. Given the prior dismissal of plaintiffs' claims relating to investigation of discrimination complaints, the court emphasized that plaintiffs were seeking "no injunctive relief at all." Id. at 23. In light of plaintiffs' request for \$20 billion in damages, or \$1 million per class member, the court thus held that "the monetary relief plaintiffs seek predominates under any applicable test." Ibid.

Second, the court held that plaintiffs could not satisfy Rule 23(b)(3)'s requirement that common issues predominate over individual issues. Id. at 23-24. Specifically, the court found that "[t]he instant case, if allowed to proceed as a class action, would quickly devolve into hundreds or perhaps thousands of individual inquiries about each claimant's particular circumstances." Id. at 24. "Even if the presence of classwide discrimination were established," the court concluded, "individual issues would be much more important to any claimant's recovery." Ibid.

Finally, the court held that "hybrid" certification would also be improper. Id. at 24-25. Because certification under

Rule 23(b)(3) "is out of the question," the court explained, the "proposed class would not really be a hybrid but rather a Rule 23(b)(2) class with a different name." Id. at 24. Moreover, the court expressed skepticism that the class "could be certified under Rule 23(b)(2), even temporarily." Id. at 25. Contrary to Rule 23(b)(2)'s requirement for action (or a refusal to act) by a defendant that is generally applicable to the entire class, the court noted that "the decentralization of loan and other benefits decision[s] could negate such a finding of general applicability." Ibid.

Plaintiffs initially petitioned this Court, pursuant to Fed. R. Civ. P. 23(f), to review the district court's denial of class certification. After the district court indicated that it would be willing to provide plaintiffs with an opportunity to conduct limited class discovery, however, plaintiffs withdrew their petition for interlocutory review. Based on the class discovery conducted in this case, plaintiffs submitted a December 5, 2003 memorandum on the issue of class commonality, which the district court treated as a renewed motion for class certification.

C. The Second Denial of Class Certification.

On September 10, 2004, the district again entered an order denying class certification. See Pl. App. B. In that order, the court incorporated by reference its prior decision denying class certification and described the discovery conducted to date. Id.

at 3-4. Addressing each of the arguments in plaintiffs' December 5, 2003 memorandum on commonality, the court concluded that plaintiffs had not established adequate commonality among class members or within any proposed subclasses.

First, the court rejected the argument that, because the USDA allegedly failed to keep adequate records, plaintiffs should be allowed to proceed on a disparate impact theory without ever isolating and identifying specific discriminatory practices. Id. at 7-9. Because that argument "boils down to the proposition that unexplained discrepancies in the distribution of government benefits satisfy the commonality requirement of Rule 23(a)(2) without more," the court found it "untenable." Given the Supreme Court's teaching that plaintiffs must identify specific practices alleged to be discriminatory, see General Telephone Co. of the Southwest v. Falcon, 457 U.S. 147 (1982), the court emphasized that plaintiffs "have not identified a USDA credit or disaster benefit practice established at the national level that comes close in specificity to the example of a common question offered by the Supreme Court in Falcon." Id. at 8.

Turning to plaintiffs' disparate treatment theory, the court also rejected plaintiffs' attempt to demonstrate commonality on the grounds that the Secretary of Agriculture had "acquiesced in and ratified" a pattern of discrimination carried out by local decision-makers. Id. at 9. Noting that this contention was an

effort by plaintiffs to "sidestep" the court's prior conclusion that commonality was defeated by the large numbers and geographic dispersion of USDA's decision-makers, the court assumed for the sake of the argument that a private "pattern and practice" cause of action could be maintained under the ECOA. Id. at 9-11. However, the court concluded that the USDA's alleged acquiescence and ratification in discrimination by local decision-makers was not enough - by itself - to satisfy Rule 23(a)(2)'s commonality requirement, because it would not demonstrate decision-making processes that were "entirely subjective" within the meaning of the Supreme Court's decision in Falcon. Id. at 11-12.

The court next re-examined, and again rejected, plaintiffs' contention that the USDA's process for awarding loans was "entirely subjective." Id. at 12-19. Reciting the eligibility criteria for loans in effect at different times, the court reiterated its prior conclusion that, although certain factors were somewhat subjective, the decision-making process overall was guided by a number of objective factors. Id. at 16-17. Thus, while acknowledging that plaintiffs' arguments "increase the subjectivity quotient of the USDA processes," the court concluded that plaintiffs had not satisfied their burden of demonstrating that the USDA's processes for making loans and giving disaster relief to farmers were "entirely subjective" within the meaning of Falcon. Id. at 18.

In addition, the court rejected plaintiffs' arguments that several of their proposed subclasses "meet the standard for commonality wholly apart from any analysis of subjectivity." Id. at 19. Examining the varied examples provided for different subclasses, the court concluded that "[t]hese are, essentially, thirty-four anecdotes about poor treatment given to individual Hispanic farmers at eight of USDA's 2700 offices." Ibid.

Finally, even assuming plaintiffs' subclasses could satisfy the commonality requirement of Rule 23(a)(2), the court emphasized that plaintiffs could still not satisfy the more demanding requirements for class certification under either Rule 23(b)(2) or 23(b)(3). While acknowledging that plaintiffs had "done what they can to shore up their claim to represent a valid Rule 23(b)(2) class by seeking broad and carefully tailored injunctive relief in their proposed third amended complaint," the court rejected their contention that the USDA had "acted or refused to act on grounds generally applicable to the class," as required by Rule 23(b)(2), for the same reasons it found commonality among class members was lacking. Id. at 21-22.

For purposes of Rule 23(b)(3), the court noted that:

the discovery difficulties that have been encountered in this case and the diversity of the plaintiffs' anecdotal support for their class certification motion underscores my observation in Garcia I that, if this case were permitted to proceed as a class action, it would 'quickly devolve into hundreds or perhaps thousands of individual inquiries about each claimant's particular circumstances,' and that '[e]ven

if the presence of classwide discrimination were established, individual issues would be much more important to any claimant's recovery.

Id. at 22 (quoting Garcia, 211 F.R.D. at 24). In the end, the court explained, "certification of a plaintiff class to resolve decades of disputes about loans made or not made and disaster relief provided or not provided to thousands of individual farmers, working under disparate conditions and submitting applications to hundreds of different decision-makers . . . would be only the beginning of a lengthy and difficult process in which, as it turns out, it is the 'questions affecting only individual members' that predominate." Id. at 22-23.³

DISCUSSION

This Court has held that appellate review under Rule 23(f) is "ordinarily appropriate" in three circumstances: (1) when a questionable class certification decision creates a "death-knell situation" for either the plaintiff or the defendant, (2) when the certification decision presents an "unsettled and fundamental issue of law relating to class actions" that is likely to evade

³ The court also denied plaintiffs' request for additional discovery, because the record to date "does not give rise to probable cause to believe that a searching and expensive discovery program would unearth sufficient evidence of commonality to support class certification." Id. at 23. No economies would be realized from class-wide discovery because, as the court noted, "[t]he examination of individual loan files requested is labor intensive, time consuming, and is no different from the kind of discovery that would be necessary to deal with these cases individually." Ibid.

end-of-case review, and (3) when the certification decision is manifestly erroneous. In re: Lorazepam & Clorazepate Antitrust Litig., 289 F.3d 98, 105 (D.C. Cir. 2002). In addition, this Court has suggested that review under Rule 23(f) may be granted in "special circumstances," but the Court has "cautioned that such review should be 'granted rarely.'" In re: Veneman, 309 F.3d at 794 (quoting Lorazepam, 289 F.3d at 105-06).

This case does not satisfy the stringent criteria for interlocutory review under Rule 23(f). The district court's decision denying class certification is not "manifestly erroneous," plaintiffs have not identified any "unsettled or fundamental" question of law relating to class actions, and they have not established that the denial of class certification is the "death knell" for their claims. As noted, however, the denial of class certification in this case may present "special circumstances" warranting review under Rule 23(f) because this is one of several related cases involving identical claims of discrimination against the USDA by different minority groups. It could therefore conserve judicial resources and promote consistency for this Court to provide guidance to the district courts sooner rather than later on the question whether these cases may properly proceed as class actions. Nonetheless, it is not clear that review under Rule 23(f) is the best mechanism for the Court to provide such guidance.

As outlined in section B infra, any proper assessment of "commonality" among the claims of putative class members may ultimately turn on a "merits" question: whether plaintiffs' claim concerning the USDA's alleged "failure to investigate discrimination complaints" is actionable under either the APA or the ECOA. Thus, given the district court's recent certification of that question for review under 28 U.S.C. § 1292(b), the better course would be for this Court to review that question now rather than granting plaintiffs' petition for review under Rule 23(f), where the Court has held that it lacks authority to address "merits" questions. See Veneman, 309 F.3d at 794 (declining to reach argument that complaint-processing claims is not actionable under the ECOA or the APA because this would "inappropriately mix the issue of class certification with the merits").

A. Plaintiffs Have Not Satisfied The Stringent Criteria For Review Under Rule 23(f).

1. The Denial Of Class Certification Was Not Manifestly Erroneous.

As noted above, plaintiffs nowhere even suggest that the district court's decision denying class certification presents an unsettled or fundamental question of law warranting review under Rule 23(f). Instead, plaintiffs contend primarily that the denial of certification was manifestly erroneous. Pet. 11-19. At bottom, however, plaintiffs' assertions of manifest error rest primarily upon the denial of additional discovery that they claim

was necessary to prove commonality among class members, see Pet. 11-13, and disagreement with the district court on factual questions relating to the degree of subjectivity present in the USDA's criteria for loan eligibility, see Pet. 16 (relying on "overwhelming evidence of the total subjectivity of the lending process"). But the district court's resolution of these difficult issues was well within its considerable discretion as the court "uniquely well situated" to make class certification decisions. See Wagner v. Taylor, 836 F.2d 578, 587 (D.C. Cir. 1987). The court did not abuse its discretion in concluding that there was insufficient commonality among plaintiffs' disparate claims of discrimination and that, in any event, those claims could not proceed under either Rule 23(b)(2) or Rule 23(b)(3).

Among other things, plaintiffs criticize the court for relying "upon a number of cases for the proposition that class certification is inappropriate with respect to claims of disparate treatment involving geographic diversity and supposed multiple decision-makers." Pet. 15. But plaintiffs nowhere explain how the court erred by relying on the common sense proposition that a class action is ill-suited to resolve claims by farmers allegedly subjected to discrimination in different credit and benefit programs, by different decision-makers, at different locations throughout the United States, at different

times over nearly two decades. Instead, plaintiffs suggest that adherence to this proposition would produce absurd results:

One can envision, for example, palpable commonality among large numbers of Holocaust survivors alleging disparate treatment at multiple concentration camps, the commandants of which exercised wholly independent discretion in deciding to carry out the so-called 'final solution,' inasmuch as they were operating pursuant to a single policy bent on annihilation.

Pet. 15 n.21.

Plaintiffs' attempt to draw an analogy between the USDA's farm loan programs and Nazi concentration camps is, of course, wholly inappropriate and patently offensive. Moreover, this hyperbolic argument ignores the fundamental flaws in the class proposed in this case. As the district court found, whatever legal wrongs individual Hispanic farmers may have suffered at the hands of local decision-makers operating different credit and benefit programs, at different locations, at different times over the last twenty years, a class action is not the appropriate remedy absent a "'specific presentation' identifying the questions of law or fact common to the class representative and the members of the class proposed." Hartman v. Duffey, 19 F.3d 1459, 1472 (D.C. Cir. 1994) (quoting Falcon, 457 U.S. at 158).

Plaintiffs' criticism of the district court's Rule 23(b) rulings, Pet. 18-19, is similarly flawed. Among other things, plaintiffs ignore the fact that the district court denied their motion to file a Third Amended Complaint, see Pl. Add. B, at 23-

24, thus making it irrelevant whether they sought more detailed injunctive relief and omitted any explicit references to monetary damages in that complaint. As a result, the court's prior holding - that plaintiffs' request for \$20 billion in damages "predominates under any applicable test," and thus precludes certification under Rule 23(b)(2), 211 F.R.D. at 23 - remains both fully applicable and dispositive. Moreover, plaintiffs offer no new arguments (aside from those considered and rejected in support of commonality) to refute the court's conclusion that they failed to demonstrate that the USDA "has acted or refused to act on grounds generally applicable to the class," as required for certification under Rule 23(b)(2). Pl. Add. B., at 21-22.

Likewise, plaintiffs do not seriously challenge the district court's conclusion that individual issues predominate over common issues and thus preclude certification under Rule 23(b)(3). Instead, they chastize the court for relying on "discovery difficulties" and the history of the Pigford litigation as additional grounds for denying certification under Rule 23(b)(3). Asserting that the only discovery difficulties they have encountered are the result of "defendant's stonewalling" and the court's refusal to permit adequate discovery, and that any problems in Pigford flowed from, among other things, "sabotage by the USDA and the Department of Justice," plaintiffs contend primarily that the court should not "reward such conduct by

permitting defendant to avoid the consequences of its class-wide discrimination." Pet. 19. The district court found, however, that the discovery problems resulted largely from the unwieldy class proposed by plaintiffs. In any event, these unsupported allegations of government misconduct provide no grounds for concluding that the district court's legal analysis concerning the propriety of class certification under Rule 23(b)(3) was manifestly erroneous.⁴

**2. The Denial Of Class Certification
Is Not The "Death Knell" of
Plaintiffs' Claims.**

Plaintiffs also contend that interlocutory review is warranted because the denial of certification "is the death knell to hundreds, if not thousands, of valid claims." Pet. 10. However, plaintiffs nowhere explain why putative class members with individual claims of credit discrimination alleged to be worth \$1 million on average, see Second Amended Complaint (Pl. Add. C) at 57 n.4, would be unable or unwilling to pursue individual lawsuits. Without offering any evidence that class members would be deterred from pursuing individual claims, plaintiffs simply assert that "there is no telling how many

⁴ Because the primary issue before this Court is whether the district court's class certification decision was manifestly erroneous, the government has not attempted here to respond to plaintiffs' many and varied charges of misconduct. However, plaintiffs' barrage of extra-record allegations in this context is both unjustified and improper.

Hispanic farmers will abandon valid claims for fear of retaliation and intimidation by FSA." Pet. 11. But such rank speculation about hypothetical "chill" cannot suffice to demonstrate the "death knell" of claims absent review under Rule 23(f), particularly where, as here, "there is reason to believe individual suits are feasible." Castano v. The American Tobacco Co., 84 F.3d 734, 748 (5th Cir. 1996).⁵

B. Rather Than Granting Review Under Rule 23(f), This Court Should Review The "Merits" Question Certified By The District Court Under 28 U.S.C. § 1292(b), Which Is Critical To The Question of Class Certification.

Despite all the barriers to interlocutory review identified above, this Court may still wish to exercise its discretion to permit review under Rule 23(f), because this is one of three related cases now pending in district court alleging virtually identical claims against the USDA on behalf of different minority groups attempting to proceed as class actions. Now that there is

⁵ Plaintiffs' contention that "thousands of Hispanic farmers will have their valid claims extinguished without ever having received notice of the pending lawsuit" because only eight days remain on the ECOA limitations period in this case, Pet. 11 n.16, is equally unavailing as evidence of a "death knell." It is well established that statutes of limitations are tolled until class certification is denied, see American Pipe and Construction Co. v. Utah, 414 U.S. 538 (1974), and plaintiffs could presumably seek further tolling of the applicable limitations period to provide them with sufficient time to file individual suits. Indeed, in 2002, the district court tolled the ECOA limitations period during the pendency of plaintiffs' petition for review under Rule 23(f). See Addendum C. Plaintiffs have thus long been on notice of the need to file individual suits upon any eventual denial of class certification.

an actual conflict in the certification of class actions in virtually identical suits by Hispanic, female, and Native American farmers, review by this Court may well be appropriate to ensure that similarly-situated minority groups are treated consistently. However, one of the primary reasons for the varying class certification decisions in these cases is disagreement on the underlying legal issue: whether plaintiffs' claim concerning the USDA's alleged "failure to investigate discrimination complaints" is actionable under either the APA or the ECOA. Because the viability of such a common "complaint-processing" claim among class members informs any assessment of the propriety of class certification in these cases, this Court's resolution of that threshold legal question is essential. Thus, particularly given this Court's holding that it lacks authority to address "merits" questions under Rule 23(f), see Veneman, 309 F.3d at 794-95, the best approach would be for the Court to grant review of the legal question certified by the district court under 28 U.S.C. § 1292(b), and to deny (or hold in abeyance) plaintiffs' Rule 23(f) petition.

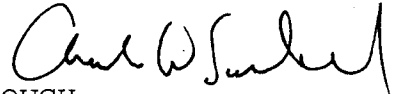
CONCLUSION

For the foregoing reasons, this Court should deny (or hold in abeyance) the petition for review under Rule 23(f), pending resolution of the threshold legal question certified by the district court pursuant to 28 U.S.C. § 1292(b).

Respectfully submitted,

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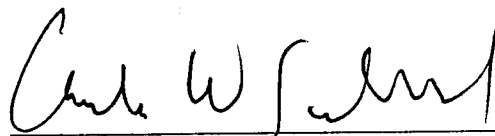
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OCTOBER 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2004, I have caused the Defendant's Response to Plaintiffs' Petition for Permission To Take Interlocutory Appeal Under Fed. R. Civ. P. 23(f) to be served by courier upon the following counsel:

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