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U.S. COURT OF APPEALS  
FOR THE D.C. CIRCUIT

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UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT FILING DEPOSITORY

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GUADALUPE L. GARCIA, <u>et al.</u> ,	)	
	)	
Plaintiffs-Appellants,	)	
	)	
v.	)	Case No. 04-5448
	)	
ANN M. VENEMAN, Secretary of the United	)	
States Department of Agriculture,	)	
	)	
Defendant-Appellee.	)	
_____	)	

**RESPONSE OF PLAINTIFFS-APPELLANTS IN OPPOSITION  
TO THE MOTION OF THE UNITED STATES CHAMBER OF  
COMMERCE FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE**

Pursuant to FRAP 27(a)(3)(A), Guadalupe L. Garcia, et al., plaintiffs-appellants, submit this response in opposition to the motion of the United States Chamber of Commerce (“the Chamber”) for leave to participate as amicus curiae in support of defendant-appellee, Ann Veneman, urging affirmance of the district court’s denial of class certification in this case. Plaintiffs-Appellants submit that the motion should be rejected.

1. This case involves well-documented and, indeed, admitted discrimination on the part the United States Department of Agriculture (“USDA”) in the administration of its farm credit and non-credit farm benefit programs. Moreover, cases involving complaints which the government contends are identical to the complaint in this case have been before this Court on at least three other occasions. See Pigford v. Glickman, 206 F.3d 1212 (D.C. Cir. 2000); In re Veneman, 309 F.3d 789 (D.C. Cir. 2002), petition denied, No. 04-5031, 2004 U.S. App. LEXIS 4219 (D.C. Cir. Mar. 3, 2004). In none of the prior cases did the Court require the assistance of

amici. Indeed, this Court is fully familiar with the well-documented discrimination and the issues presented by this case. See Pigford v. Veneman, 292 F.3d 918, 920 (D.C. Cir 2002)(citing, inter alia, USDA’s “longstanding civil rights problems and the report of the Civil Rights Action Team.”).

2. The United States Department of Justice (“DOJ”) represents the USDA in this matter. With all the resources at its disposal, the DOJ is fully capable of addressing the issues that are before the Court. The Chamber has not suggested that it would bring any unique perspective to the issues presented by this case, nor has it provided any sound, much less convincing, reason why it should be permitted to file an amicus brief. Indeed, the clear abuses of discretion and manifest errors committed by the district court in this case involve primarily clear and straightforward statutory construction and the proper reading of (1) this Court’s precedents such as Hartman v. Duffey, 19 F.3d 1459 (D.C. Cir. 1994) and Wagner v. Taylor, 832 F.2d 578 (D.C. 1987), and (2) the Supreme Court’s decision in Gen. Tel. Co. of the S.W. v. Falcon, 457 U.S. 147 (1982).<sup>1</sup> See Ryan v. CFTC, 125 F.3d 1062, 1063 (7th Cir. 1997)(“An amicus brief should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case ... or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.”); United States of America v. Microsoft Corp., No. 98-1232, 2002 U.S. Dist. LEXIS 26552, at \*17 (D.D.C. Feb. 28, 2002)(quoting Ryan in denying a third party’s motion to file an amicus curiae brief).

3. Being well versed in matters of statutory construction as well as its own precedent and Falcon, this Court does not need the Chamber’s assistance in addressing such issues. Indeed, the parties in this matter are well suited to brief all of the issues before the Court. See Ryan, 125 F.3d at 1064 (“In an era of heavy judicial caseloads and public impatience with the delays and

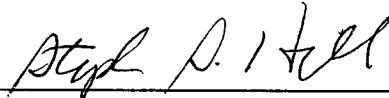
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<sup>1</sup> See Petition of Plaintiffs Guadalupe L. Garcia, Et Al For Permission To Take An Interlocutory Appeal Under Fed. R. Civ. P. 23(f), dated Sept. 22, 2004, at 11-19.

expense of litigation, we judges should be assiduous to bar the gates to amicus curiae briefs that fail to present convincing reasons why the parties' briefs do not give us all the help we need for deciding the appeal."); see also id. at 1063 ("The vast majority of amicus curiae briefs are filed by allies of litigants and duplicate the arguments made in the litigants' briefs, in effect merely extending the length of the litigant's brief. Such amicus briefs should not be allowed. They are an abuse.").

Accordingly, plaintiffs-appellants respectfully request that the Court deny the Chamber's motion to participate as amicus curiae in this case.

Respectfully submitted,



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Dated: March 10, 2005

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing RESPONSE OF PLAINTIFFS-  
APPELLANTS IN OPPOSITION TO THE MOTION OF THE UNITED STATES CHAMBER  
OF COMMERCE FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE were served by  
hand, this 10th day of March, 2005 upon each of the parties listed below:

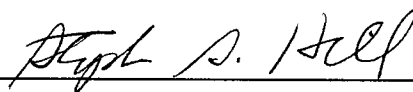
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