

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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GUADALUPE L. GARCIA, JR., et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:00CVO2445
)	Judge Robertson
ANN M. VENEMAN,)	
)	
Defendant.)	

PLAINTIFFS' OPPOSITION TO DEFENDANT'S
MOTION FOR AN EXTENSION OF TIME
IN WHICH TO FURTHER RESPOND TO
PLAINTIFFS' PENDING DISCOVERY REQUESTS

Once again defendant has chosen to ignore the Court's orders. Having thus far done so with impunity, defendant does not even bother to offer an excuse or explanation for failing to comply with the Court's latest procedural schedule. Inasmuch as defendant has offered no reason whatsoever for failing to comply with the Order, defendant's instant motion should be denied.

Normally a party has thirty days in which to respond to discovery requests either by answering the same or interposing objections. The Court initially ordered defendant to respond with specific objections on or before February 14, 2003. Defendant ignored that order and elected to file instead what defendant characterized as general objections. With the Court's indulgence, defendant was ultimately afforded 129 days in which to respond to plaintiffs' discovery requests. Yet, without any explanation whatsoever, defendant, on the 129th day, moved for an extension of time.

Defendant has had more than four times the time mandated by the Federal Rules of Civil Procedure (1) to formulate specific objections to plaintiffs' straight-forward

discovery requests and (2) to respond to discovery requests as to which defendant did not interpose objections. Indeed, defendant had more than three months (98 days) prior to the April 29th hearing to prepare specific objections to plaintiffs' discovery. Simply put, there can be no excuse, and defendant offers none, for failing to comply with the Court's order at least to the extent of submitting specific objections.

While defendant alludes to the fact that "defendant has produced or made available for plaintiffs' inspection, more than 50,000 pages of documents,"¹ plaintiffs have yet to receive any of the copies of the borrower files designated for copying. With the exception of a small box of documents and two diskettes received late last evening, plaintiffs have received three pre-existing diskettes that contain notices, policy statements and guidance relating to loan making that were either previously produced to the Love plaintiffs or part of an ongoing project by the United States Department of Agriculture ("USDA") "to make past agency documents pertaining to the farm loan program available electronically." Letter from Lisa Olson to Stephen S. Hill, Esq. at 2, dated May 12, 2003 ("Olson Letter"). (Attached as Ex. 1.) And while defendant includes in the description of documents heretofore produced or made available to plaintiffs "regulations,"² that assertion is belied by the following statement: "Defendant is not producing copies of regulations that are published in the Code of Federal Regulations since these are publicly available." Olson Letter at 1.

Moreover, while never once offering an explanation for the delay, defendant cavalierly asserts that the delay "will not prejudice either party. . . ." Motion at 2. Clearly, defendant is not prejudiced by the delay. Plaintiffs respectfully submit, however, that the continuous delays are in fact prejudicial to plaintiffs who daily continue to suffer discrimination and harassment by USDA. In addition, these delays have the inevitable

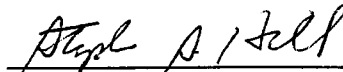
¹ Motion at 1.

² Ibid.

effect of compressing the time in which plaintiffs must review discovery responses, undertake additional discovery such as the Rule 30(b)(6) depositions which defendant proposes to delay until the last two weeks of June, and respond to any objections that plaintiffs believe are not well grounded.

Finally, at some point, enough is enough. Plaintiffs submit that defendant has long since past that point. Defendant should be ordered to produce the remaining responses and specific objections no later than Monday, June 2, 2003 or be deemed to have waived any such objections to plaintiffs' discovery.

Respectfully submitted,



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Dated: May 30, 2003

EXHIBIT 1

**U.S. Department of Justice**

Civil Division
Federal Programs Branch
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Washington, D.C. 20530

Lisa A. Olson
Senior Counsel

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May 12, 2003

BY TELEFACSIMILE

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Re: Garcia v. Veneman, No. 1:00CV02445 (D.D.C. filed Oct. 13, 2000)

Dear Stephen:

Pursuant to Judge Robertson's directive at the April 29 status conference, today defendant is providing a response to your discovery request for all regulations, notices, policy statements, guidance, and the like regarding the farm loan programs of the Farm Service Agency (FSA). Our response includes all of the regulations that were provided to class counsel in Love v. Veneman, as well as some new material. Defendant is not producing copies of regulations that are published in the Code of Federal Regulations since these are publicly available. However, the first page of the document entitled "FmHA Desk Handbook" contains a listing of the published regulations.

The items provided consist of Administrative Notices (ANs), Farm Credit Notices (FCs), and Farm Loan Program Notices (FLPs) on various topics regarding the loan making and loan servicing components of Farmers Home Administration (FmHA) and FSA farm loan programs. Defendant is also supplying materials relating to document retention policy and procedures. These include materials that have been in effect at any point from 1981 to present to the extent they could be located after an exhaustive search.

In addition to the programs implicated in this case, FmHA delivered Rural Housing Loan Programs, Multi-family Housing Programs, Business and Industry Programs, Community Facility Programs, and numerous other programs. Because ANs were delivered consecutively regardless of which program happened to be the subject of the AN issued, but only ANs related to the FmHA (now FSA) Farm Loan Program are now being provided, they are not numbered consecutively. Also, as a result of our effort to be inclusive, there may be some duplication in the ANs.

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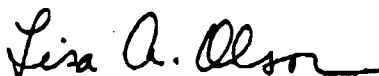
When FmHA Farm Loan Programs became part of FSA in the 1995 USDA reorganization, the conversion to a Handbook system was initiated for the dissemination of certain program information. The FLP conversion to Handbook use is not yet complete. However, Handbooks now applicable to FLP loan making and servicing that are consistent with plaintiff's request are included as follows:

- 1-FLP FLP General and Administrative
- 3-FLP FLP Direct Loan Issues
- 6-FLP FLP Special Servicing
- 1-APP Appeal Rights and Processes
- 25-AS Records Management Issues

The materials are being delivered to you directly from the Department of Agriculture in three compact discs. The disc identified as "PA88" contains all documents that were produced in the Love v. Veneman discovery. The discs identified as "PA86" and "PA87" contain documents that have been compiled as part of a project to make past agency documents pertaining to the farm loan program available electronically. While there is some duplication among the discs, all three are nevertheless being provided in the interest of completeness.

The documents are in .tif format. They can be read by way of Windows Explorer but can be viewed more efficiently through the ACDSee program, which can be downloaded from the web free of charge. The attached sheet provides downloading instructions. If you or your information staff require assistance in reviewing the documents, USDA can provide a technical support contact.

Very truly yours,



Lisa A. Olson
Senior Counsel
Federal Programs Branch
Civil Division

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ORDER

The Court, having fully considered Defendant's Motion for Extension of Time in Which to Further Respond to Plaintiffs' Pending Discovery Requests and Plaintiffs' opposition thereto, finds Defendant's Motion to be not well taken and hereby ORDERS that Defendant's Motion is DENIED. Defendant shall have until 6:00 p.m., June 2, 2003, in which to serve upon Plaintiffs Defendant's specific objections to Plaintiffs' discovery requests or be deemed to waive any and all such objections that have not been made at that time.

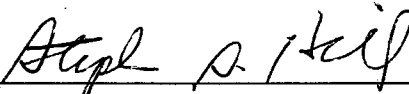
IT IS SO ORDERED, this _____ day of _____, 2003.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Plaintiffs' Opposition To Defendant's Motion For An Extension of Time In Which to Further Respond To Plaintiffs' Discovery Requests was served upon counsel of record, by facsimile and first-class mail, postage prepaid.

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