

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GUADELUPE 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.)	

**DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS**

In accordance with Rule 34 of the Federal Rules of Civil Procedure and the oral order of the Court made at the conference held April 29, 2003, Defendant Ann M. Veneman, Secretary of the United States Department of Agriculture, hereby states her objections and responses to the Plaintiffs First Set of Requests for Production of Documents ("Requests") as follows:

GENERAL STATEMENT AND OBJECTIONS

Defendant makes the following general objections, whether or not separately set forth, in response to each of the Requests, and to the instructions and definitions thereto:

1. Defendant makes the following objections to the plaintiffs' Requests, and the instructions and definitions thereto, subject to, without intending to waive, and expressly preserving any objections as to competency, relevancy, materiality and admissibility of any of the documents to be provided. Defendant further reserves the right to object to other discovery requests involving or relating to the subject matter of the current Requests, and reserves all other rights and privileges to which she is

entitled under the Federal Rules of Civil Procedure and the Local Rules.

2. Defendant objects to the Requests to the extent that they purport to call for the disclosure of documents that contain privileged attorney-client communications, constitute attorney work product, disclose the mental impressions, conclusions, opinions or legal theories of any attorneys or other representatives of the United States Department of Agriculture (“USDA”) or the United States, were prepared in anticipation of litigation, or are otherwise protected from disclosure under the deliberative process privilege, the law enforcement privilege, the investigative files privilege, the national security privilege, the confidential informant privilege, or any other applicable privilege, law or rule. Documents hereafter produced in response to the plaintiffs' Requests will not include information protected by the aforementioned privileges or doctrine, and inadvertent production of same shall not be deemed a waiver of such privilege or doctrine.

3. Defendant objects to the Requests to the extent that they seek any document or information that is (a) unreasonably cumulative or duplicative; (b) already in plaintiffs' possession; (c) obtainable from some other source that is more convenient, less burdensome, or less expensive; (d) publicly available; and/or (e) otherwise available to the plaintiffs.

4. Defendant objects to the plaintiffs' Requests, and the instructions and definitions thereto, to the extent they are vague, unworkable, or unduly burdensome in that they purport to impose obligations beyond those established by the Federal Rules of Civil Procedure and the Local Rules of this Court.

5. Defendant objects to the plaintiffs' Requests, and the instructions and definitions thereto, to the extent they seek any document that does not appear reasonably calculated to lead to the discovery of admissible evidence under Federal Rule of Civil Procedure 26. Defendant further objects to plaintiffs' Requests as beyond the scope of permitted discovery to the extent they seek any document

that is not related to the issue of class certification or where the burden of identifying and producing any responsive, non-privileged documents far outweighs any relevance they might have to the issue of class certification.

6. Defendant does not waive any objection to the plaintiffs' Requests to the extent they seek disclosure of documents derived from systems of records maintained by USDA and its components which are protected by the Privacy Act of 1974, 5 U.S.C. § 552a, but notes that disclosure of any such documents has been specifically authorized by, and is subject to the terms of, the Court's Protective Order, entered May 8, 2003.

Subject to and without waiving any of the foregoing General Objections, which are hereby incorporated into each objection given below, defendant makes the following specific objections and, subject to and without waiving either her general or specific objections, the following responses to the Requests.

REQUESTS

1. Produce all documents produced by you in response to document requests 2, 5, 6, 7, 10, 13, and 14 served upon you by the plaintiffs in Love v. Veneman, Civil Action No. 1:00CV02502.

RESPONSE: Defendant has provided plaintiffs with documents responsive to this request.

2. Produce all documents identified in response to any interrogatory directed to you by plaintiffs or referred to or reviewed by you in connection with responding to any interrogatory directed to you by plaintiffs in this proceeding.

RESPONSE: Defendant has provided plaintiffs with documents responsive to this request.

3. Produce all documents relating to or referring to each individual listed in Appendix A to these requests, including but not limited to, the loan and benefit files of each such individual and for each such

individual with respect to each instance in which he or she applied for farm credit or to participate in a non-credit benefit program, produce the files of every white farmer within the county that applied for farm credit or to participate in a non-credit benefit program during the same year as did the individual listed in Appendix A.

OBJECTION: Defendant objects to the lack of specification in the terms “loan” or “farm credit used in this request, which are not limited to farm loan programs of the type currently administered by FSA. Defendant also objects to the lack of specification in the terms “benefit” and “non-credit benefit programs,” which are not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within plaintiffs’ proposed class definition. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. With respect to the files of white farmers, defendant objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. Defendant also objects to this request because the burden of identifying and producing the requested documents far outweighs any relevance they might have to the issues of class certification.

RESPONSE: Subject to and without waiving the foregoing specific and general objections, defendant has produced for inspection by plaintiffs the borrower files of 35 individuals identified in plaintiffs’ complaint. Defendant also intends to produce disaster benefit files for individuals identified in plaintiffs’ complaint, as available. Moreover, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers.

4. Produce all documents, including any Agency running records or county committee minutes, that reveal or would permit one to determine for each relevant county in each relevant year during the

relevant time period, the number of Hispanic farmers and Hispanic ranchers who:

- a. requested applications for USDA loan programs;
- b. received applications for USDA loan programs;
- c. applied for USDA loans;
- d. received USDA loans;
- e. were rejected for USDA loans;
- f. paid off USDA loans;
- g. requested servicing of USDA loans;
- h. were permitted to have their loans serviced; or
- i. were denied servicing for their USDA loans.

OBJECTION: Except as specified below, defendant objects to the production of the individual FSA files, or documents contained with individual FSA files, of each Hispanic farmer or rancher in the counties plaintiffs have deemed “relevant” on the grounds that plaintiffs’ request is substantially burdensome and that the burden of identifying and producing any responsive, non-privileged documents from these files far outweighs any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the terms “USDA loans” and “USDA loan program” used in this Request, which are not limited to farm loan programs of the type currently administered by FSA.

RESPONSE: Subject to and without waiving the foregoing specific and general objections, defendant responds as follows: As specified in defendant’s responses to Plaintiffs’ Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrower files for 35 individuals identified in plaintiffs’ complaint, and defendant intends to produce disaster benefit files for individuals identified in plaintiffs’ complaint, as available.

5. With respect to each Hispanic farmer or Hispanic rancher who received a USDA loan, produce all documents that reveal or would permit one to determine for each relevant county in each year during the relevant time period:
- a. the total number of days between the time the loan application was received by the farmer or rancher and the date when the farmer was notified that the loan was approved;
 - b. the number of days between the time the loan application was received by the farmer or rancher and the date on which the completed application was submitted to USDA;
 - c. the number of days between the time the completed application was submitted to USDA and the date on which the farmer was notified that the loan was approved;
 - d. the dollar amount of the loan request and the actual dollar amount of the approved loan; and
 - e. the number of approved loans that were placed in supervised accounts or otherwise subject to supervision by USDA officials.

OBJECTION: Except as specified below, defendant objects to the production of the individual FSA files, or documents contained within the individual FSA files, of each Hispanic farmer or rancher in the counties plaintiffs have deemed “relevant” on the grounds that plaintiffs’ request is substantially burdensome and that the burden of identifying and producing any responsive, non-privileged documents from these files far outweighs any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the term “USDA loan” used in this Request, which is not limited to farm loan programs of the type currently administered by FSA.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: As specified in defendant’s responses to Plaintiffs’ Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrowers files for 35 individuals

identified in plaintiffs' complaint, and intends to produce disaster benefit files for individuals identified in plaintiffs' complaint, as available.

6. Produce all documents that reveal or would permit one to determine for each year during the relevant time period and for each relevant county, the number of Hispanic farmers and Hispanic ranchers who:
 - a. received an application to participate in any USDA non-credit farm benefit program;
 - b. participated in any such USDA farm benefit program;
 - c. were rejected for participation in such programs.

OBJECTION: Except as specified above, defendant objects to the production of the individual FSA files, or documents contained within the individual FSA files, of each Hispanic farmer or rancher in the counties plaintiffs have deemed "relevant" on the grounds that plaintiffs' request is substantially burdensome and that the burden of identifying and producing any responsive, non-privileged documents from these files far outweighs any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the terms "USDA non-credit farm benefit programs" and "USDA farm benefit programs" used in this Request, which are not limited to the FSA disaster relief programs that is the only non-credit benefit encompassed within plaintiffs' proposed class definition.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: As specified in defendant's responses to Plaintiffs' Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrowers files for 35 individuals

identified in plaintiffs' complaint, and intends to produce disaster benefit files for individuals identified in plaintiffs' complaint, as available.

7. For each relevant county, produce all documents that record or would permit one to determine for each year during the relevant time period, the number of white male farmers and ranchers who:
- a. received applications for USDA loan programs;
 - b. applied for USDA loans;
 - c. received USDA loans;
 - d. were rejected for USDA loans;
 - e. paid off USDA loans;
 - f. requested servicing for USDA loans;
 - g. were permitted to have their loans serviced; or
 - h. were denied servicing of their USDA loans.

OBJECTION: Defendant objects to the production of the individual FSA files, or documents contained within the individual FSA files, of each white male farmer or rancher in the counties plaintiffs have deemed "relevant" on the grounds that plaintiffs' request is substantially burdensome and, because it relates to the merits of this case, is therefore not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the terms "USDA loans" and "USDA loan program" used in this Request, which are not limited to farm loan programs of the type currently administered by FSA.

RESPONSE: Information contained in the FSA databases, which will be produced in response to Request No. 3 above, will include certain information regarding white farmers.

8. For each relevant county, produce all documents that reveal or would permit one to determine for each year during the relevant time period for each white farmer or white rancher in such county who

received a USDA loan:

- a. the total number of days between the time the loan application was received by the farmer or rancher and the date when the farmer was notified that the loan was approved;
- b. the number of days between the time the loan application was received by the farmer or rancher and the date which the completed application was submitted to USDA;
- c. the number of days between the time the completed application was submitted to USDA and the date on which the farmer was notified that the loan was approved;
- d. the dollar amount of the loan request and the actual dollar amount of the approved loan; and
- e. the number of approved loans that were placed in supervised accounts or otherwise subject to supervision by USDA officials.

OBJECTION: Defendant objects to the production of the individual FSA files, or documents contained within the individual FSA files, of each white male farmer or rancher in the counties plaintiffs have deemed “relevant” on the grounds that plaintiffs’ request is substantially burdensome and, because it relates to the merits of this case, is not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the term “USDA loan” used in this Request, which is not limited to farm loan programs of the type currently administered by FSA.

RESPONSE: Information contained in the FSA database systems, which will be produced in response to Request No. 3 above, will include certain information regarding white farmers.

9. With respect to each relevant county, produce all documents, including any Agency running records or county committee minutes, that reveal or would permit one to determine for each year during the relevant time period, the number of white male farmers and white male ranchers who:
 - a. received applications for USDA farm benefit programs;
 - b. participated in any such USDA programs; or
 - c. were rejected for participation in such programs.

OBJECTION: Defendant objects to the production of the individual FSA files, or documents

contained within individual FSA files, of each white male farmer or rancher in the counties plaintiffs have deemed “relevant” on the grounds that plaintiffs’ request is substantially burdensome and, because it relates to the merits of this case, is not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

Defendant further objects to the lack of specification in the terms “USDA non-credit farm benefit programs” and “USDA farm benefit programs” used in this Request, which are not limited to the FSA disaster relief programs that is the only non-credit benefit encompassed within plaintiffs’ proposed class definition.

RESPONSE: Information contained in the FSA databases, which will be produced in response to Request No. 3 above, will include certain information regarding white farmers.

10. With respect to each relevant county, produce the county office’s sign-in sheets and logs for issuing credit and benefit applications each year during the relevant time period.

RESPONSE: Defendant objects to this request as overbroad, vague, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. The fact that a certain number of persons was “issued” a credit or benefit application during any particular period of time establishes nothing regarding whether that application was ever completed and returned to FSA or processed by FSA. Defendant further objects to the lack of specification in the term “credit” used in this request, which is not limited to farm credit programs of the type currently administered by FSA. Defendant also objects to the lack of specification in the term “benefit” used in this request, which is not limited to FSA disaster relief programs, which are the only

non-credit benefits encompassed within plaintiffs' proposed class definition.

RESPONSE: Subject to and without waiving any of the foregoing general and specific objections, defendant responds as follows: Defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers.

11. Produce all documents relating to, referring to, or concerning discrimination against Hispanic farmers in connection with their participation in USDA loan or farm benefit programs for each year during the relevant time period.

OBJECTION: Defendant objects to this request as overbroad, vague, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. Defendant also objects to this request because the burden of identifying and producing any responsive, non-privilege documents far outweighs any relevance they might have to the issue of class certification. Defendant further objects to the lack of specification of the type of "USDA loan" used in this Request, which is not limited to farm loan programs of the type currently administered by FSA, and to the lack of specification in the term "farm benefit programs," which is not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within the terms of plaintiffs' proposed class definition.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: See Response to Request for Production of Documents No. 13.

12. Produce all documents relating to, referring to or concerning USDA policy, practice or custom with respect to processing applications for farm credit or participate in farm benefit programs for each year during the relevant time period.

OBJECTION: Defendant objects to the lack of specification of the term “farm credit” used in this request, which is not limited to farm loan programs of the type currently administered by FSA, and to the lack of specification in the term “farm benefit programs,” which is not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within plaintiffs’ proposed class definition.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds that she has provided plaintiffs with documents responsive to this request.

13. Produce all documents that refer to, relate to, or concern any audit, investigation or study, white paper or review conducted by any entity, including, but not limited to, you, the USDA or any subdivision thereof, the United States Congress and any committee or subcommittee thereof, the General Accounting Office, the United States Commission on Civil Rights and any consultant vendor hired by USDA, into allegations of discrimination by USDA against any Hispanic farmer or Hispanic rancher concerning the administration and delivery of farm credit and non-credit farm benefit programs.

RESPONSE: Defendant objects to this request to the extent that it seeks documents not in her possession, custody or control. Further, defendant objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification. Defendant also objects to this request because, to the extent it seeks documents relating to USDA’s processing of civil rights complaints, it is overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA’s alleged failure to investigate discrimination complaints “cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court’s] ruling on March 20, 2002, 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.” Dec. 2, 2002, Order, at 9. Defendant

further objects to the lack of specification in the term “farm credit” used in this request, which is not limited to farm loan programs of the type currently administered by FSA, and to the lack of specification in the term “non-credit farm benefit programs,” which is not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within plaintiffs’ proposed class definition.

RESPONSE: Subject to and without waiving the foregoing specific and general objections, defendant responds as follows: Defendant is aware of the following document, which has been produced to plaintiffs: General Accounting Office Report GAO-02-942 entitled “Improvements in the Operations of the Civil Rights Program would Benefit Hispanic and Other Minority Borrowers.” Additionally, a number of OIG audit reports pertaining to minority participation in FSA's farm loan programs have been issued. These audit reports are available on OIG's website at <http://www.usda.gov/oig/rptsauditscr.htm>.

14. Produce all documents showing or constituting communications with or pronouncements to Hispanic farmers and ranchers describing in Spanish USDA farm credit and non-credit farm benefit programs.

RESPONSE: See objection and response to Interrogatory No. 4 and documents provided in response thereto.

15. Produce all operational manuals related to the procedure of processing civil rights complaints regarding the administration and delivery of farm credit and benefit services.

RESPONSE: Defendants objects to this request as overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has

held USDA's alleged failure to investigate discrimination complaints "cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court's] ruling on March 20, 2002, 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." Dec. 2, 2002, Order, at 9. Defendant further objects to the lack of specification in the term "farm credit" used in this request, which is not limited to farm loan programs of the type currently administered by FSA, and to the lack of specification in the term "farm . . . benefit services," which is not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within the terms of plaintiffs' proposed class definition.

16. Produce all documents, including, but not limited to, all databases from or maintained by the USDA's Office of Civil Rights concerning all complaints filed by Hispanic farmers or Hispanic ranchers during the relevant time period.

RESPONSE: Defendants objects to this request as overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA's alleged failure to investigate discrimination complaints "cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court's] ruling on March 20, 2002, 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." Dec. 2, 2002, Order, at 9. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

17. With respect to each relevant county, produce all documents referring to, relating to or

concerning eligibility determinations with respect to Hispanic and white male farmers applying for USDA farm loans or non-credit farm benefits made by: (a) the county committee and the county loan manager during the period January 1, 1981 to 1999; and (b) the county loan manager from 1999 to present.

OBJECTION: Except as specified below, defendant objects to the production of the individual FSA files, or documents contained within individual FSA files, of each Hispanic or white male farmer or rancher in the counties plaintiffs have deemed “relevant” on the grounds that plaintiffs’ request is substantially burdensome and that the burden of identifying and producing any responsive, non-privileged documents from these files far outweighs any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine. Defendant further objects to the lack of specification in the term “USDA loans” used in this Request, which is not limited to farm loan programs of the type currently administered by FSA, and to the use of the term “non-credit farm benefit” which is not limited to the disaster relief benefits that are the only non-credit benefits encompassed within plaintiffs’ class definition.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: As specified in defendant’s responses to Plaintiffs’ Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrowers files for 35 individuals identified in plaintiffs’ complaint, and intends to produce disaster benefit files for individuals identified in plaintiffs’ complaint, as available.

18. For each relevant county, produce all documents referring to the distribution of funds in connection with the farm credit and non-credit farm benefit programs for each year during the relevant time period.

OBJECTION: Defendants object to this request as overbroad, vague and not reasonably calculated to lead to the discovery of admissible evidence related to the issue of class certification in that it would require the production of every document relating to every check or wire transfer made by FSA over the course of twenty years; defendant further objects to this request because the burden of identifying and producing any responsive, non-privileged documents would far outweigh any relevance they might have to the issue of class certification.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, Defendant responds as follows: See Response to Interrogatory No. 5.

19. Produce all personnel files of employees against whom any Hispanic farmer or Hispanic rancher has filed a discrimination complaint.

OBJECTION: Defendants objects to this request as overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA's alleged failure to investigate discrimination complaints "cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court's] ruling on March 20, 2002, 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." Dec. 2, 2002, Order, at 9. Defendant also objects to this request because the burden of identifying and producing any responsive documents far outweighs any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other

applicable doctrine.

20. For each relevant county, produce all records and/or lists containing the names of Hispanic farmers.

OBJECTION: Defendant objects to this request as vague, overbroad, and not calculated to lead to the discovery of admissible evidence in that it would require defendant to produce every piece of paper maintained in each of the county offices that “contain[s]” the name of any Hispanic farmer regardless of the content of the document. Defendant also objects to this request because the burden of identifying and producing any responsive, non-privileged documents far outweighs any relevancy they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

21. Produce all documents (including any issued by the Department of Justice or other government entities), referring to or concerning the processing, settlement, adjudication, payment, or other resolution by USDA of any civil rights complaints filed by Hispanic farmers or ranchers.

OBJECTION: Defendants objects to this request as overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA’s alleged failure to investigate discrimination complaints “cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court’s] ruling on March 20, 2002, 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.” Dec. 2, 2002, Order, at 9. Defendant also objects to this request because the burden of identifying and producing any responsive, non-privileged documents far outweighs any relevancy they might have to the issue of class certification.

Further, defendant objects to this request insofar as it seeks information protected by attorney client, work product, or deliberative process privilege, and to the extent it seeks documents that are not in her possession, custody, or control.

22. Produce all documents referring, relating or reflecting the identities, experience, qualifications and training of USDA representatives who investigated or worked on discrimination complaints filed by Hispanic farmers and ranchers in each relevant county.

RESPONSE: Defendants objects to this request as overbroad, burdensome, and beyond the scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA's alleged failure to investigate discrimination complaints "cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court's] ruling on March 20, 2002, 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." Dec. 2, 2002, Order, at 9. Defendant also objects to this request because the burden of identifying and producing any responsive, non-privileged documents far outweighs any relevancy they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

23. Produce all documents collected by, retrieved by or given to Anthony Califa, a.k.a. Antonio Califa, Team Leader of the Statute of Limitations Office/Program Adjudication Division, USDA Office of Civil Rights, or anyone working with him in connection with any investigation undertaken by Mr. Califa or anyone working with him concerning discrimination claims by Hispanic farmers or ranchers, and any memoranda, reports or notes prepared by Mr. Califa or anyone working on his behalf in connection with the investigation of such claims.

OBJECTION: Defendants objects to this request as overbroad, burdensome, and beyond the

scope of permissible discovery relating to class certification issues in light of the fact that this Court has held USDA's alleged failure to investigate discrimination complaints "cannot serve as the common issue of fact necessary to a Rule 23(a) determination, after [the Court's] ruling on March 20, 2002, 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." Dec. 2, 2002, Order, at 9. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

24. To the extent not produced in response to the foregoing requests, produce all documents that discuss, refer to or relate to the plaintiffs listed in Appendix A to this request.

OBJECTION: Defendant objects to this request as vague, overbroad, burdensome, and, because it relates to the merits of this case, not calculated to lead to the discovery of admissible evidence related to the issue of class certification. Defendant further objects to this request on the ground that the burden of identifying and producing any responsive, non-privileged documents would far outweigh any relevance they might have to the issue of class certification. In addition, defendant objects to this request to the extent that it seeks any information that is protected by privilege or other applicable doctrine.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: As specified in defendant's responses to Plaintiffs' Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrower files for 35 individuals

identified in plaintiffs' complaint, and intends to produce disaster benefit files for individuals identified in plaintiffs' complaint, as available.

25. To the extent not produced in response to the foregoing requests, produce all documents that discuss, refer to or relate to the ability of Hispanic farmers and ranchers to obtain USDA farm credit or to participate in non-credit farm benefit programs including, but not limited to, any document that compares the ability of Hispanic farmers and ranchers to obtain USDA farm credit or to participate in non-credit farm benefit programs with that of white male farmers and ranchers of other racial or ethnic origins.

RESPONSE: Defendant objects to this request as vague, overbroad, burdensome, and because it relates to the merits of this case, not calculated to lead to the discovery of admissible evidence related to the issue of class certification. Defendant further objects to this request on the ground that the burden of identifying and producing any responsive, non-privileged documents would far outweigh any relevance they might have to the issue of class certification. Defendant further objects to the lack of specification in the term "USDA farm credit" used in this request, which is not limited to farm loan programs of the type currently administered by FSA, and to the lack of specification in the term "non-credit farm benefit programs," which is not limited to the FSA disaster relief programs that are the only non-credit benefits encompassed within plaintiffs' proposed class definition.

RESPONSE: Subject to and without waiving the foregoing general and specific objections, defendant responds as follows: As specified in defendant's responses to Plaintiffs' Requests for Production of Documents No. 3, defendant intends to provide certain information from FSA databases, regarding the applications, closed loans, and disaster benefits of Hispanic and non-Hispanic farmers. Defendant has already produced for inspection by plaintiffs the FSA borrowers files for 35 individuals identified in plaintiffs' complaint, and intends to produce disaster benefit files for individuals identified in

plaintiffs' complaint, as available.

25. For each month of the relevant time period, produce all monthly management summaries with respect to all farm credit and non-credit benefit programs including, but not limited to, "FSA-Farm Loan Programs Monthly Management Summary" and any comparable or similar report prepared by FmHA, and "Accelerated Loans to Minority and Women Borrowers – ACL, CAP, FAP" and any comparable or similar report prepared by FmHA, that compare or permit one to compare loan performance or participation in farm credit or non-credit farm benefit programs on the basis of race, ethnicity or gender.

RESPONSE: Defendant has produced to plaintiffs electronic copies of all FSA Farm Loan Program Monthly Management Summaries in its possession on the attached CD. In addition, defendant has provided copies of all Report Code 691, an annual farm loan report showing the distribution of funds by race and national origin. This information was only available beginning in fiscal year 1991, and the data from fiscal year 1998 has not been located after an exhaustive search.

26. Produce all documents that discuss, reflect, refer, or relate to any decision with respect to what information would be included in USDA's centralized databases with respect to farm credit information and non-credit farm benefit program information.

RESPONSE: All documents responsive to this request will be produced in conjunction with the database listings that will be provided to plaintiffs.

27. Produce all documents that discuss, reflect, refer to or relate to any efforts by USDA or discussion within USDA to maintain its records with respect to farm credit and non-credit benefit programs, including, but not limited to, any centralized databases, in such a way as to permit one to audit those records to determine if USDA is complying with applicable civil rights laws, including, but not limited to, the Equal Credit Opportunity Act, 15 U.S.C. §§ 1191, et seq., in its lending practices and in the operation of its non-credit farm benefit programs.

RESPONSE: Defendant has previously provided plaintiffs with copies of all FSA document

retention regulations. See also Responses to Request Nos. 26, supra, and 29, infra.

28. Produce all documents that discuss, reflect, refer to or relate to any action taken or considered by USDA to preserve documents in light of Congress' having enacted a statute extending the statute of limitations with respect to certain claims arising between January 1, 1981 and December 31, 1996 pursuant to the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.

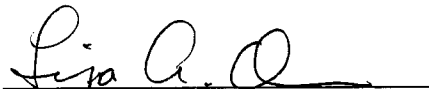
RESPONSE: Defendant has not yet been able to identify any documents responsive to this request.

29. Produce all documents that discuss, reflect, refer to or relate to any instruction or action of any sort to insure the preservation of possibly relevant documents and tangible things once USDA became aware of the filing of this lawsuit.

RESPONSE: Defendant has provided plaintiffs with copies of FSA Administrative Notices AS-2050 and AS-2060, which are responsive to this request.

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Dated: June 5, 2003

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Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that on June 5, 2003, a copy of Defendants' Response to Plaintiffs' First Set of Requests for Production of Documents was served upon counsel of record as follows:

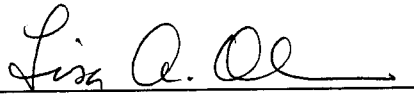
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