

**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 VENEMAN, Secretary of the)	
United States Department of Agriculture,)	
)	
Defendant.)	
)	

**MOTION FOR LEAVE TO FILE A
THIRD AMENDED CLASS ACTION COMPLAINT**

1. Pursuant to Fed. R. Civ. P. 15(a), plaintiffs move for leave to file a Third Amended Class Action Complaint. The purpose of the amendment is to address the concerns raised by the Court in its December 2, 2002, order and to take into account what plaintiffs have learned through limited discovery. As required by LCvR 7.1(m), plaintiffs' counsel conferred with defense counsel concerning this motion. Defense counsel declined to consent to the filing of the proposed Third Amended Complaint. In support of this motion, plaintiffs submit herewith a memorandum of points and authorities.

Respectfully Submitted,



Alan M. Wiseman #187971

Stephen S. Hill #927137

Yolanda Hawkins #477616

HOWREY SIMON ARNOLD & WHITE, LLP

1299 Pennsylvania Ave., N.W.

Washington, D.C. 20004

(202) 783-0800

(202) 383-6610 – Fax

Alexander J. Pires, Jr. #185009

CONLON, FRANTZ, PHELAN & PIRES, LLP

1818 N Street, N.W.

Suite 700

Washington, DC 20036

(202) 331-7050

(202) 331-9306 – Fax

Philip Fraas #211219

3050 K Street, N.W., Suite 400

Washington, DC 20007

(202) 342-8864

(202) 342-8451 - Fax

Of Counsel:

Kenneth C. Anderson #243962

Robert L. Green, Jr. #935775

HOWREY SIMON ARNOLD & WHITE, LLP

1299 Pennsylvania Ave., N.W.

Washington, D.C. 20004

(202) 783-0800

(202) 383-6610

Philip Fraas #211219
3050 K Street, N.W., Suite 400
Washington, DC 20007
(202) 342-8864
(202) 342-8451 -- Fax

Attorneys for Plaintiffs
GUADALUPE L. GARCIA, JR., et al.

Date: December 5, 2003

The proposed Third Amended Complaint seeks to clarify the pending Second Amended Complaint in the following ways:

1. It divides the single class definition set forth in the Second Amended Complaint into five subclasses:

a. Subclass A – those Hispanics whom defendant sought to discourage from availing themselves of USDA farm loan or non-credit benefit programs by refusing to provide either an application form or assistance in completing the application and pursuing the application process;

b. Subclass B – those Hispanics whom defendant sought to discourage from availing themselves of USDA farm loan or non-credit benefit programs by protracted delays in the processing of their applications and the funding of approved loans;

c. Subclass C – those Hispanics whom defendant sought to discourage from availing themselves of the USDA farm loan and non-credit benefit programs by the use of highly subjective criteria to reject their applications;

d. Subclass D – those Hispanics whom defendant sought to discourage from availing themselves of the USDA farm loan or non-credit benefit programs by subjecting Hispanic farmers to supervised bank accounts; and

e. Subclass E – those Hispanic farmers whom defendant sought to discourage from availing themselves of farm credit or non-credit benefit programs by delaying or denying loan servicing.

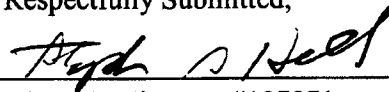
2. Identifies the injunctive relief requested with greater specificity;

3. Streamlines the complaint by omitting unnecessary portions.

The proposed changes do not present any new claims. More importantly, amendment of the complaint will not unduly prejudice the defendant. This case remains in its preliminary stages (e.g., class certification still remains to be determined). The proposed amendments to the complaint “do not radically alter the nature and scope of [the] litigation.” *Childers v. Mineta*, 205 F.R.D. 29, 32-33 (D.D.C. 2001); *see also Lucas v. United States Army Corps of Engineers*, 1991 U.S. Dist. LEXIS 6653. *6 (D.D.C. 1991) (granting plaintiff’s motion to amend because “[t]he case [was] still at an early stage, and courts have allowed amendment of pleadings when it would not unduly increase discovery or delay the case, and when the opponent could not claim surprise”). Justice and fairness dictate that plaintiffs be permitted to amend their definitions of the subclasses in order to clarify the claims and to promote the efficient disposition of this matter.

Accordingly, plaintiffs request that this Court grant their Motion for Leave to File a Third Amended Class Action Complaint.

Respectfully Submitted,



Alan M. Wiseman #187971

Stephen S. Hill #927137

Yolanda Hawkins #477616

HOWREY SIMON ARNOLD & WHITE, LLP

1299 Pennsylvania Ave., N.W.

Washington, D.C. 20004

(202) 783-0800

(202) 383-6610 – Fax

Alexander J. Pires, Jr. #185009

CONLON, FRANTZ, PHELAN & PIRES, LLP

1818 N Street, N.W.

Suite 700

Washington, DC 20036

(202) 331-7050

(202) 331-9306 – Fax

Of Counsel:

Kenneth C. Anderson #243962

Robert L. Green, Jr. #935775

HOWREY SIMON ARNOLD & WHITE, LLP

1299 Pennsylvania Ave., N.W.

Washington, D.C. 20004

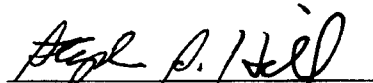
(202) 783-0800

(202) 383-6610

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Plaintiffs' Motion for Leave to file Third Amended Class Action Complaint was served electronically, this 5th day of December, 2003 upon the following:

Lisa Olson, Esquire
UNITED STATES DEPARTMENT OF JUSTICE
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
P.O. Box 833
Washington, DC 20044



Stephen S. Hill