

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GUADALUPE L. GARCIA, JR., <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:00CV02445
)	
ANN VENEMAN, Secretary of)	Judge: James Robertson
Agriculture,)	
)	
Defendant.)	
_____)	

DEFENDANT’S MOTION TO STRIKE

Defendant hereby moves the Court to strike the Submission of Plaintiffs Concerning the Nature of the Injunctive Relief Sought by Plaintiffs' Proposed Third Amended Complaint. Plaintiffs offer their Submission – without leave of Court – in support of a motion they filed last December. See Motion for Leave to File a Third Amended Class Action Complaint. Because they already filed a reply in support of their motion in January, their Submission amounts to a supplemental reply. The local rules provide only for a motion, a response, and a reply brief. Local Rule 7(a), (b), & (d). Accordingly, before filing a supplemental reply, plaintiffs must move for leave of Court, which they have failed to do. Cf. Longwood Village Restaurant, Ltd. v. Ashcroft, 157 F. Supp. 2d 61, 68 n.3 (D.D.C. 2001) (“Before filing a surreply . . . , a party must move the court for leave to file.”). It is especially incumbent upon them to obtain the Court's permission given that the Court has indicated it will be ruling on pending motions within a matter of days.

Moreover, the Submission contains no new arguments, nor does it rely on any case law on point that has been issued since plaintiffs filed their reply. Aside from the fact that the

declaratory and injunctive relief on this wish list is far outside the scope of relief the Court could properly grant given the individualized factual allegations in the complaint, it does not obscure the fact that plaintiffs are seeking hundreds of millions, if not billions, of dollars in damages under the Equal Credit Opportunity Act. Plaintiffs' Submission is nothing but a futile attempt to mask claims that are predominantly monetary, and there is no justification for filing it at this late date. It should therefore be stricken.

Respectfully submitted,

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/s/ Lisa A. Olson

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Dated: Sept. 10, 2004

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_____)	

PROPOSED ORDER

The Court having considered defendant's motion to strike, and good cause having been shown, it is hereby

ORDERED that defendant's motion is granted, and it is further

ORDERED that the Submission of Plaintiffs Concerning the Nature of the Injunctive Relief Sought by Plaintiffs' Proposed Third Amended Complaint shall be stricken from the record.

Dated: _____, 2004

JAMES ROBERTSON
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 10, 2004, Defendant's Motion to Strike and proposed Order were filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon plaintiffs' counsel as follows:

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