

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMIE GANNON and REBECCA GANNON : CIVIL ACTION
: :
vs. : :
: :
UNITED STATES : NO. 03-6626

MEMORANDUM

ROBERT F. KELLY, Sr. J.

OCTOBER 6, 2006

Presently before the Court is Defendant's Motion for a Protective Order with regard to Plaintiffs' Second Request for Admissions. Defendant contends that because of the number of these requests they are abusive, oppressive and unduly burdensome.

On August 16, 2006, Plaintiffs served a Second Request for Admissions consisting of over 300 pages and containing 1,407 requests for admissions, many followed by two or three subparts. Defendant also argues that over 1,250 of the requests relate to harvest numbers which are not identified by their monopool source making it extremely difficult to locate the harvests in the Food and Drug Administration (FDA) records. Defendant contends that to locate the monopool source of approximately 1,219 harvest numbers would require a search of thousands of pages of records, some of which are over 40 years old. This would unreasonably strain the manpower, time and financial resources of the department within the FDA whose job it is to locate and collect the information needed to respond.

As the title of Defendant's Motion indicates this is the second request for admissions filed by Plaintiffs. The first request for admissions filed by Plaintiffs contained only 341 separately numbered requests. The process of responding to Plaintiff's first request took

approximately two months, required hundreds of man hours and cost an estimated \$170,000 in salary alone. See Affidavit of Dennis Strickland attached to Defendant's Motion.

Dennis Strickland is the Acting Director of the Office of Communication, Training, and Manufacturers Assistance ("OCTMA"), Center for Biologics Evaluation and Research ("CBER"), United States Food and Drug Administration ("FDA"), in Rockville, Maryland. In his five page Affidavit Mr. Strickland, in great detail, sets forth the enormous amount of work required in order to obtain the information necessary for Defendant to respond to Plaintiffs' 1,407 requests for admissions.

"Properly used, requests for admissions serve the expedient purpose of eliminating 'the necessity of proving essentially undisputed and peripheral issues of fact.'" *Wigler v. Elect. Data Syst. Corp.*, 108 F.R.D. 204, 205 (D. Md. 1985) (quoting *Syracuse Broadcasting Corp. V. Newhouse*, 271 F.2d 910, 917 (2d Cir. 1959)). However, requests for admissions "'should not be of such great number and broad scope as to cover all issues of a complex case,' and '[o]bviously . . . should not be sought in an attempt to harass an opposing party.'" *Wigler*, F.R.D. at 206-07.

In this case Plaintiffs' Second Request for Admissions contains over 300 pages totaling 1,407 requests, plus subparts. If find that these are grossly excessive in number and are therefore abusive, burdensome and oppressive. The burden and expense of responding to these requests for admissions far outweighs any possible benefit that Plaintiffs may derive from them.

I therefore enter the following Order.

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ORDER

AND NOW, this 6th day of October, 2006, after considering Defendant's Motion for a Protective Order (Doc. No. 77) and Plaintiffs' response thereto, it is hereby **ORDERED** that said Motion is **GRANTED**.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE