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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-FARIAS,	)	NO. CV-05-3061-MWL
et al.,	)	
	)	ORDER GRANTING PLAINTIFFS'
Plaintiffs,	)	MOTION TO COMPEL DISCOVERY
	)	AND FOR SANCTIONS
vs.	)	
	)	
GLOBAL HORIZONS, INC., GREEN	)	
ACRE FARMS, INC., VALLEY	)	
FRUIT ORCHARDS, LLC, and	)	
PLATTE RIVER INSURANCE	)	
COMPANY,	)	
	)	
Defendants.	)	

Before the Court is Plaintiffs' May 1, 2006 motion to compel discovery from Defendants Green Acre Farms, Inc., ("Green Acre") and Valley Fruit Orchards, LLC, ("Valley Fruit") and request for discovery sanctions. (Ct. Rec. 89). Plaintiffs specifically request that Green Acre and Valley Fruit respond to Plaintiffs' First Set of Interrogatories and Requests for Production. (Ct. Rec. 89, 93). Plaintiffs additionally ask the Court to order Defendants Green Acre and Valley Fruit, and the attorneys advising Defendants, Ryan M. Edgley and Paul H. Beattie, to pay Plaintiffs' reasonable expenses, including attorney's fees caused by the failure to timely respond to the discovery requests. (Ct. Rec. 89, 93).

1           The function of interrogatory requests includes obtaining  
2 evidence, information which may lead to evidence and admissions,  
3 and to narrow issues to be tried. *United States v. West Virginia*  
4 *Pulp and Paper Co.*, 36 F.R.D. 250, 252 (S.D. N.Y. 1964) (citing  
5 *United States v. Watchmakers of Switzerland Information Center,*  
6 *Inc.*, 2 F.R.Serv.2d 33.353, Case 3 (S.D. N.Y. 1959)). The party  
7 answering interrogatories must furnish "such information as is  
8 available to the party." Fed. R. Civ. P. 33(a). Fed. R. Civ. P.  
9 33(b)(1) requires an interrogatory to be answered "separately and  
10 fully in writing under oath, unless it is objected to, in which  
11 event the objecting party shall state the reasons for objection  
12 and shall answer to the extent the interrogatory is not  
13 objectionable."

14           Fed. R. Civ. P. 34(b) requires a written response to a  
15 request for production to "state, with respect to each item or  
16 category, that inspection and related activities will be permitted  
17 as requested, unless the request is objected to, in which event  
18 the reasons for the objection shall be stated." A party is  
19 obliged to produce all specified relevant and nonprivileged  
20 documents or other things which are in its "possession, custody or  
21 control" on the date specified in the request. Fed. R. Civ. P.  
22 34(a); *Norman Rockwell Int'l Corp. v. H. Wolfe Iron & Metal Co.*,  
23 576 F.Supp. 511, 512 (W.D. Pa. 1983).

24           Pursuant to the Federal Rules of Civil Procedure, if a party  
25 fails to answer an interrogatory submitted under Fed. R. Civ. P.  
26 33 or fails to respond to a request for production under Fed. R.  
27 Civ. P. 34, the party requesting the discovery may apply for an  
28 order compelling discovery and for appropriate sanctions. Fed. R.

1 Civ. P. 37(a). Pursuant to Fed. R. Civ. P. 37(a)(4), the party  
2 who prevails on a motion to compel is entitled to his or her  
3 expenses, including reasonable attorney's fees incurred in making  
4 the motion, unless the losing party was substantially justified in  
5 making or opposing the motion or other circumstances that make  
6 such an award unjust. The burden is on the losing party to  
7 affirmatively demonstrate that its position was substantially  
8 justified. Fed. R. Civ. P. 37(a)(4), Advisory Comm. Notes (1970).

9 Defendants Green Acre and Valley Fruit failed to provide any  
10 response by the agreed date for responses, failed to contact  
11 Plaintiffs' counsel for additional time to respond and failed to  
12 provide a timely response to the instant motion to compel. (Ct.  
13 Rec. 90, pp. 3-4). On May 24, 2006, Plaintiffs filed a response  
14 to a different motion which indicated that they had still not been  
15 provided with complete discovery responses from Defendants Green  
16 Acre and Valley Fruit to discovery requests propounded on March 8,  
17 2006. (Ct. Rec. 109, pp. 2-3). To date, Defendants Green Acre  
18 and Valley Fruit have not provided a response to Plaintiffs'  
19 motion to compel or otherwise advised the Court as to their  
20 position regarding the motion.

21 Based on the foregoing, the Court finds that Green Acre and  
22 Valley Fruit must be required to provide full responses to  
23 Plaintiffs' First Set of Interrogatories and Requests for  
24 Production.

25 By Defendants' failure to respond to the instant motion,  
26 Defendants and their attorneys have also failed to show good faith  
27 and/or substantial justification for their failure to respond to  
28 Plaintiffs' discovery requests. The evidence before the Court is

1 such that Defendants have clearly failed to timely and adequately  
2 respond to Plaintiffs' discovery requests. Defendants have had  
3 Plaintiffs' discovery requests since March 8, 2006. (Ct. Rec. 90,  
4 p. 2). It appears that, to date, Defendants have failed to  
5 provide Plaintiffs with essential information in violation of Fed.  
6 R. Civ. P. 26, 33 and 34. Accordingly, the Court grants monetary  
7 sanctions against Defendants. Accordingly,

8 IT IS ORDERED as follows:

- 9 1. Plaintiffs' motion to compel discovery responses  
10 from Defendants Green Acre and Valley Fruit and for  
11 sanctions (**Ct. Rec. 89**) is **GRANTED**.
- 12 2. Defendants Green Acre and Valley Fruit shall  
13 provide full responses to Plaintiffs' First Set of  
14 Interrogatories and Requests for Production within  
15 **ten (10) days** from the date of this order.
- 16 3. Defendants Green Acre and Valley Fruit and/or their  
17 attorneys, Ryan M. Edgley and Paul H. Beattie,  
18 shall pay to Plaintiffs the amount of **\$400.00** for  
19 their expenses incurred in bringing this motion.

20 IT IS SO ORDERED.

21 **DATED** this 5<sup>th</sup> day of June, 2006.

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s/Michael W. Leavitt  
MICHAEL W. LEAVITT  
UNITED STATES MAGISTRATE JUDGE